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Chapter 17.02 GENERAL PROVISIONS

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17.02.010 Title.

This title shall be known and cited as the “zoning code of Oregon City, Oregon.” (Prior code §11-1-1)

17.02.020 Purpose.

The purpose of this title is to promote public health, safety and general welfare through standards and regulations designed to provide adequate light and air; to secure safety from fire and other dangers; to lessen congestion in the streets; to prevent the overcrowding of land; to assure opportunities for effective utilization of land; to provide for desired population densities; and to facilitate adequate provision for transportation, public utilities, parks and other provisions set forth in the city comprehensive plan and the Oregon Land Conservation and Development Commission Statewide Planning Goals. (Prior code §11-1-2)

17.02.030 Scope.

This title applies to all public and private lands situated within the boundaries of the city. In interpretation and application, the provisions of this title shall be held to be minimum requirements adopted for the public health, safety and general welfare. Whenever the requirements of this title differ from the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or those imposing the higher standards shall govern. (Prior code §11-1-3)

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17.04.010 Generally.

A. As used in this title, words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; unless the context clearly indicates the contrary, the word “shall” is mandatory and not discretionary; the word “may” is permissive; the masculine gender includes the feminine and neuter; and the term “this title” shall be deemed to include the text of this title and accompanying zoning maps and all amendments hereafter made thereto.

B. Whenever the following words or terms and their derivatives are used in this title, they shall have the meaning herein ascribed to them, unless the context makes such meaning repugnant thereto. (Prior code §11-1-6 (part))

17.04.020 Accessory building.

“Accessory building” means a subordinate use of a building, other structure or tract of land or subordinate building or other structure which meets all of the following requirements:

A. It is clearly incidental to the use of the principal building, other structure or use of land;

B. It is ordinarily used in connection with the principal building, other structure or use of land; and

C. It is ordinarily located on the same lot with the principal building, other structure or use of land.

(Prior code §11-1-6 (part))

17.04.030 Access, vehicular.

“Vehicular access” means an improved roadway, either public or private, providing automobile entrance and/or exit from an approved public street. (Prior code §11-1-6 (part))

17.04.035 Accessway, pedestrian/bicycle.

A “pedestrian/bicycle accessway” or “accessway” means any off-street path or way as described in Title 12, Streets, Sidewalks and Public Places, Chapter 12.24, Pedestrian/Bicycle Accessways, which is intended for the primary use of pedestrians or bicyclists and which provides direct routes within and from new subdivisions and planned developments to residential areas, retail store and office areas, industrial parks, transit streets and neighborhood activity centers where such routes are not otherwise provided by the street system. (Ord. 95-1001 §2 (part), 1995)

17.04.040 Alley.

“Alley” means a public way not more than twenty feet wide affording only secondary means of access to abutting property. (Prior code §11-1-6 (part))

17.04.050 Automobile and trailer sales area.

“Automobile and trailer sales area” means an open, off-street area used for the display, sale or rental of new or used automobiles or trailers where no repair work is done. (Prior code §11-1-6 (part))

17.04.060 Babysitter.

“Babysitter” means any person who gives care to a child during the temporary absence of the parent or legal guardian or custodian. (Prior code §11-1-6 (part))

17.04.070 Basement.

“Basement” means a story partly underground. A basement shall be counted as a story in building height measurement when more than one-half of its height is above the average level of the adjoining ground. (Prior code §11-1-6 (part))

17.04.075 Bed and breakfast inns.

“Bed and breakfast inns” means a building designed as a single-family dwelling which provides overnight accommodations to the public and which may include breakfast in the charge for the room. “Bed and breakfast inns” do not include motels, health or limited care facilities, boarding houses, group quarters, hostels or rescue missions. (Ord. 96-1026 §1, 1996)

17.04.080 Boardinghouse or lodginghouse.

“Boardinghouse or lodginghouse” means a dwelling or part thereof, other than a hotel or motel or multiple-family dwelling, where lodging with or without meals is provided, for compensation, for three or more persons. (Prior code §11-1-6 (part))

17.04.090 Building, compatible.

“Compatible building” means buildings in the Canemah National Register Historic district, which date from 1910 to the 1950’s. These buildings are primarily single-family dwellings. (Prior code §11-1-6 (part))

17.04.100 Building, height of.

“Height of building” means a vertical distance measured from the mean grade of the adjoining curb to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to one-half the vertical distance between the eaves and the highest ridge for a gable, hip or gambrel roof; provided, however, the height of the building may be measured from the average elevation of the finished yard grade along the front of the building. (Prior code §11-1-6 (part))

17.04.110 Building, historic.

“Historic building” means any primary, secondary or compatible building in the Canemah National Register Historic district. (Prior code §11-1-6 (part))

17.04.120 Building of primary historic significance.

“Building of primary historic significance” shall include buildings in the Canemah National Register Historic district shall include buildings dating from prior to 1880 which are primarily one and one-half or two-story frame structures built in the Gothic Revival and Classic Revival styles. These buildings are primarily single-family dwellings. (Prior code §11-1-6 (part))

17.04.130 Building of secondary historic significance.

“Building of secondary historic significance” shall include buildings in the Canemah National Register Historic district dating from 1880 to 1940 which are predominantly rural farm house style and bungalows. These buildings are primarily single-family dwellings. (Prior code §11-1-6 (part))

17.04.140 Cellar.

“Cellar” means a story having more than one-half of its height below the average level of the adjoining ground. A cellar shall not be counted as a story for the purposes of building height measurement. (Prior code §11-1-6 (part))

17.04.150 Church.

“Church” means a permanently located building commonly used for religious worship, fully enclosed with walls (including windows and doors) and having a roof (canvas or fabric excluded) and conforming to applicable legal requirements affecting design and construction. (Prior code §11-1-6 (part))

17.04.160 Citizen involvement committee.

“Citizen involvement committee” means an officially recognized advisory body on citizen involvement with one representative from each neighborhood association. (Prior code §11-1-6 (part))

17.04.170 City.

“City” means the city of Oregon City. (Prior code §11-1-6 (part))

17.04.180 Comprehensive plan.

“Comprehensive plan” means the city of Oregon City comprehensive plan. (Prior code §11-1-6 (part))

17.04.185 Crown cover.

“Crown cover” means the area within the drip line or perimeter of the foliage of a tree. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.190 Cul-de-sac.

“Cul-de-sac” means a street not more than three hundred fifty feet in length having one end open to traffic and being terminated by a vehicle turnaround. The cul-de-sac is measured from the edge of the right-of-way of the intersecting street to the edge of the pavement at the end of the cul-de-sac. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-1-6 (part))

17.04.200 Day care facility.

“Day care facility” means a facility that provides regular day care services to children under thirteen years of age, including a day nursery, nursery school group or similar unit operating under any name. A day care facility shall not include services provided by a physician or nurse, or facilities operated primarily for education or supervised training or instruction, or day care provided by a “babysitter” or “family day care provider” as defined in this chapter. A day care facility caring for ten or more children shall satisfy the certification requirements of the Children’s Services Division. (Prior code §11-1-6 (part))

17.04.205 Development.

“Development” means any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading or site clearing, and grubbing in amounts greater than ten cubic yards on any lot or excavation. (Ord. 03-1014, Att. B3 (part), 2003: Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.208 Direct.

“Direct,” when used in connection with pedestrian or bicycle access, means the shortest practicable connection or access between two points, which in no instance should involve out-of-direction travel

more than fifty percent longer than the straight line distance between two points. (Ord. 95-1001 §2 (part), 1995)

17.04.210 Dwelling unit.

“Dwelling unit” means one room, or a suite of two or more rooms, designed for and used by one family or housekeeping unit for living and sleeping purposes, and having at least one kitchen or kitchenette. (Prior code §11-1-6 (part))

17.04.220 Dwelling apartments, multi-family or condominium.

“Multi-family or condominium dwelling apartment” means a structure located on one tax lot and containing three or more dwelling units in any vertical or horizontal arrangement. (Ord. 04-1016, Att. 1 (part), 2004: prior code §11-1-6 (part))

17.04.240 Dwelling, two-family or duplex.

“Two-family dwelling or duplex” means a building designed or used for residence purposes by not more than two families and containing two dwelling units per lot. (Ord. 04-1016, Att. 1 (part), 2004: prior code §11-1-6 (part))

17.04.250 Entertainment centers and arcades.

“Entertainment centers and arcades” means a place open to minors where three or more mechanical or electronic amusement devices are located as either the primary or a secondary use. (Prior code §11-1-6 (part))

17.04.260 Family.

“Family” means an individual or two or more persons related by blood, legal adoption, guardianship, or marriage, plus not more than five additional persons, including foster and shelter care persons, or up to five unrelated persons, all living together as a single housekeeping unit in a dwelling unit. Every additional group of five or less persons living in such housekeeping unit is considered a separate family. Facilities that are operated for the purpose of providing care that includes a planned treatment or training program, with the exception of foster care of five or fewer persons, are not “families.” (Prior code §11-1-6 (part))

17.04.270 Family day care provider.

“Family day care provider” means a day care provider who regularly provides day care to fewer than

thirteen children, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters. Provisions of day care to thirteen or more children in the home of the provider shall constitute the operations of a "day care facility," as defined in this chapter, and shall be subject to the requirements of this title for day care facilities. A family day care provider to ten or more children shall satisfy the certification requirements of the Children's Services Division. (Prior code §11-1-6 (part))

17.04.273 Front façade.

"Front façade" means the exterior wall/foundation of a building exposed to the front lot line. (Ord. 03-1014, Att. B3 (part), 2003)

17.04.275 Front lot line.

"Front lot line" means a lot line abutting a street. For corner lots, the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot, excluding the unbuildable portion of the pole (see Figure 1, codified at the end of this title). (Ord. 03-1014, Att. B3 (part), 2003; Ord. 91-1020 §1 (part), 1991; prior code §11-1-6 (part))

17.04.280 Frontage.

"Frontage" means that portion of a parcel of property which abuts a dedicated public street or highway or an approved private way. (Prior code §11-1-6 (part))

17.04.285 Gross floor area.

"Gross floor area" means the total enclosed floor area within buildings, measured in square feet, excluding basement areas used for storage or parking. (Ord. 95-1001 §2 (part), 1995)

17.04.290 Home occupation.

"Home occupation" means an occupation carried on solely by the resident or residents of a dwelling unit as a secondary use, in connection with which no assistants are employed, no commodities are sold other than services, no sounds are heard beyond the premises, and there is no display, advertisement or sign board except such signs as by this title may be permitted in the district where the home or occupation is situated, including such occupations as lawyer, public accountant, artist, writer, teacher, musician, home office of a physician, dentist or other practitioner of any of the healing arts, or practices of any art or craft of a nature to be conveniently, unobstructively and inoffensively pursued in a single-family dwelling, and not more than one-half of the floor area of one story is

devoted to such use. The occupation may be carried on in an accessory building of the residence. (Ord. 04-1016, Att. 1 (part), 2004: prior code §11-1-6 (part))

17.04.300 Hotel.

“Hotel” means a building which is designed or used to offer lodging, with or without meals, for compensation, primarily for overnight lodging, for four or more people. (Prior code §11-1-6 (part))

17.04.305 Institutional development.

“Institutional development” includes all public, semi-public and private community facilities and uses, including government office and maintenance facilities, educational facilities, research institutions, correctional institutions, museums, libraries, stadiums, hospitals, residential care facilities, auditoriums and convention or meeting halls, churches, parks and public recreational facilities, automobile parking structures, and other similar facilities and uses. (Ord. 95-1001 §2 (part), 1995)

17.04.310 Landscape area.

“Landscape area” means land set aside and used for planting of grass, shrubs, trees or similar living plants. (Prior code §11-1-6 (part))

17.04.320 Loading space.

“Loading space” means an off-street space, having a paved surface, within a building or on the same lot with a building, for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which has direct access to a street or alley. (Prior code §11-1-6 (part))

17.04.330 Lot.

“Lot” means a unit of land that is created by a subdivision of land. (Prior code §11-1-6 (part))

17.04.340 Lot, corner.

“Corner lot” means a lot abutting upon two or more streets at their intersection. (Prior code §11-1-6 (part))

17.04.345 Lot, depth.

“Lot depth” means the perpendicular distance measured from the mid-point of the front lot lines to the mid-point of the opposite, usually rear, lot line. (Ord. 03-1014, Att. B3 (part), 2003)

17.04.350 Lot, interior.

“Interior lot” means the term shall mean a lot other than a corner lot. (Prior code §11-1-6 (part))

17.04.360 Lot of record.

“Lot of record” means a lot or parcel which has been legally recorded in the office of the county recorder by deed or contract of sale prior to the enactment of an ordinance or regulation by reason of which the lot or parcel no longer meets the dimensional or area requirements of the city. (Prior code §11-1-6 (part))

17.04.370 Lot, through.

“Through lot” means a lot having frontage on two parallel or nearly parallel streets. (Prior code §11-1-6 (part))

17.04.373 Lot, width.

“Lot width” means the perpendicular distance measured between the midpoints of the two principal opposite side lot lines and at approximately right angles to the lot depth. (Ord. 03-1014, Att. B3 (part), 2003)

17.04.375 Main building entrance.

“Main building entrance” means a primary entrance to a building, intended for use by residents, employees, customers, clients, visitors, messengers and members of the public. (Ord. 95-1001 §2 (part), 1995)

17.04.380 Motel.

“Motel” means a building or series of buildings in which lodging is offered for compensation and which may have more than five sleeping rooms or units for this purpose and which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each rental unit designed primarily for automobile tourists and transient persons. The term includes auto courts, tourist courts, tourist homes and motor lodges. (Prior code §11-1-6 (part))

17.04.382 Multiple-family residential units.

“Multiple-family residential unit” means a structure located on one tax lot and containing three or more attached dwelling units in any vertical or horizontal arrangement. (Ord. 03-1014, Att. B3 (part), 2003)

17.04.385 Nearby.

“Nearby,” when used in connection with pedestrian or bicycle access, means uses within one-quarter mile distance which can reasonably be expected to be used by pedestrians, and uses within two miles distance which can reasonably be expected to be used by bicyclists. (Ord. 95-1001 §2 (part), 1995)

17.04.388 Neighborhood activity center.

“Neighborhood activity center” refers to land uses which attract or are capable of attracting a greater than average level of pedestrian use. Neighborhood activity centers include, but are not limited to, parks, schools, retail store and service areas, shopping centers, recreational centers, meeting rooms, theaters, museums and other pedestrian oriented uses. (Ord. 95-1001 §2 (part), 1995)

17.04.390 Neighborhood association.

“Neighborhood association” means a group whose membership is open to residents, property owners and owners of businesses located in the neighborhood. This group makes comments and recommendations on problems, policies and projects in the neighborhood. (Prior code §11-1-6 (part))

17.04.395 Net developable area.

“Net developable area” means the area of a parcel of land or the aggregate of contiguous parcels under the same ownership remaining after deducting any portion of the parcel or aggregate of parcels with one or more of the following characteristics:

- A. Elevation within the one hundred-year floodplain, as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps;
- B. The area within an underlying water resource overlay district governed by Section 17.49 that has been delineated by a water resource determination and decision;
- C. Steep slopes exceeding thirty-five percent. Applicant may make a request for the community development director to determine whether to make further adjustments for slopes above twenty-five percent per Section 17.44.060(H);
- D. Open space; and
- E. Public facilities and rights-of-way. (Ord. 03-1014, Att. B3 (part), 2003)

17.04.400 Nonconforming use.

“Nonconforming use” means a use which lawfully occupied a building or land at the time this title or subsequent amendments became effective and which does not conform with the use regulations of the district in which it is located. (Prior code §11-1-6 (part))

17.04.402 North-south dimension.

“North-south dimension” means the length of a line beginning at the midpoint of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see Figure 3, codified at the end of this title). (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6(part))

17.04.405 Northern lot line.

“Northern lot line” means the lot line that is the smallest angle from a line drawn east/west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two lot lines have an identical angle relative to a line drawn east/west, or if the northern lot line is less than thirty-five feet, then the northern lot line shall be a line thirty-five feet in length within the lot parallel with and at a maximum distance from the front lot line (see Figure 2, codified at the end of this title. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.410 Nursery, day or child care center.

“Nursery, day or child care center” means a commercial enterprise where more than five children are cared for during the day, including a kindergarten. (Prior code §11-1-6 (part))

17.04.420 Office.

“Office” means a place where a particular kind of business is transacted or a service is supplied. (Prior code §11-1-6 (part))

17.04.430 Overlay district.

“Overlay district” means a special zoning district, the restrictions and conditions of which shall be in addition to such restrictions and conditions as may be imposed in the underlying zone. (Prior code §11-1-6 (part))

17.04.440 Parcel.

“Parcel” means a unit of land that is created by a partitioning of land. (Prior code §11-1-6 (part))

17.04.450 Parking area, public.

“Public parking area” means an open off-street area used for the temporary parking of more than three automobiles and available for public use, with or without charge or as an accommodation for clients or customers. (Prior code §11-1-6 (part))

17.04.460 Parking lot.

“Parking lot” means five or more off-street parking spaces. (Prior code §11-1-6 (part))

17.04.470 Parking space.

“Parking space” means an unobstructed off-street area having an all-weather surface for the temporary parking or storage of one automobile. (Prior code §11-1-6 (part))

17.04.480 Partition.

“Partition” means either an act of partitioning land or an area of land partitioned as defined in this chapter. (Prior code §11-1-6 (part))

17.04.490 Partition land.

To “partition land” means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. “Partition land” does not include divisions of land resulting from lien foreclosures, divisions of land resulting from foreclosure of recorded contracts for the sale of real property and divisions of land resulting from the creation of cemetery lots; and “partition land” does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance. “Partition land” does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner. (Prior code §11-1-6 (part))

17.04.495 Pedestrian walkway.

“Pedestrian walkway” means a hard surfaced facility for pedestrians within a development or between developments, distinct from surfaces used for motor vehicles. A pedestrian walkway is distinguished from a sidewalk by its location on private property outside the public right-of-way and from a pedestrian/ bicycle accessway by the function it serves. (Ord. 95-1001 §2 (part), 1995)

17.04.500 Plat.

“Plat” means a final map, diagram, drawing, replat or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision. (Prior code §11-1-6 (part))

17.04.503 Porch.

“Porch” means a roofed open area, which may be screened, attached to or part of and with direct access to or from a building. (Ord. 03-1014, Att. B3 (part), 2003)

17.04.505 Protected solar building line.

“Protected solar building line” means a line on a plat or map recorded with the plat that identifies the location on a lot where a point two feet above may not be shaded by structures or non-exempt trees (see Figure 10, codified at the end of this chapter). (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.510 Public garage.

“Public garage” means any automobile repairs and servicing when enclosed within the building. (Prior code §11-1-6 (part))

17.04.520 Public recycle drop/receiving center.

“Public recycle drop/receiving center” means a facility that receives and temporarily stores separated recyclable waste materials including glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil. Maximum storage for each type of separated recyclable waste shall not exceed six hundred cubic feet. Oil storage shall not exceed six hundred gallons. Preparation of separated materials shall be limited to nonmechanical methods such as baling and glass breaking. (Prior code §11-1-6 (part))

17.04.530 Public recycle warehouse.

“Public recycle warehouse” means a facility that receives and stores and prepares for transport separated recyclable waste material including glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil. Preparation of separated materials, including baling, compacting and glass breaking, may be part of this facility. (Prior code §11-1-6 (part))

17.04.540 Public utilities and services.

“Public utilities and services” means facilities for providing electric power, communication, water, sewers and transportation. (Prior code §11-1-6 (part))

17.04.545 Rear lot line.

“Rear lot line” means a lot line that is opposite to and more distant from the front lot line. In the case of a corner lot, the community development director shall determine the rear lot line. In the case of an irregular or triangular-shaped lot, an imaginary lot line ten feet in length shall be drawn within the lot parallel to and at the maximum distance from the front lot line. A lot line abutting an alley is a rear lot line. (Ord. 03-1014, Att. B3 (part), 2003)

17.04.550 Residential care facility.

A. “Residential care facility” means a housekeeping unit within a dwelling unit operated for the purpose of providing room, board, care and, when appropriate, a planned treatment or training program of counseling, therapy or other rehabilitative social service, for a group of persons of similar or compatible conditions or circumstances,

B. Foster care and shelter care homes for six or more persons are “residential care facilities.” Facilities which provide any planned treatment or training program, or care, requiring regular on-the-premises supervision by a physician or registered nurse are not “residential care facilities.” (Prior code §11-1-6 (part))

17.04.560 Residential zone.

“Residential zone” shall include any of the following zoning districts: R-10 single-family dwelling district, R-8 single-family dwelling district, R-6 single-family dwelling district, R-3.5 dwelling district and R-2 dwelling district. (Ord. 04-1016, Att. 1 (part), 2004: prior code §11-1-6 (part))

17.04.570 Retail store.

“Retail store” means a business establishment where goods are sold in small quantities to the ultimate consumer. (Prior code §11-1-6 (part))

17.04.580 School, commercial.

“Commercial school” means a building where instruction is given to pupils in arts, crafts or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation. (Prior code §11-1-6 (part))

17.04.590 School, primary, elementary, junior high or high.

“School, primary, elementary, junior high or high” shall include public or private schools, but not nursery school, kindergarten or day care centers, except when operated in conjunction with a school. (Prior code §11-1-6 (part))

17.04.600 School, private.

“Private school” means a school not supported by taxes. (Prior code §11-1-6 (part))

17.04.610 School, public.

“Public school” means a free tax-supported school controlled by a local governmental authority. (Prior code §11-1-6 (part))

17.04.620 Service station.

“Service station” means an establishment where bulk sales, fuels, oils or accessories for motor vehicles are dispensed, sold or offered for retail sale and where minor motor vehicle repair service is available. (Prior code §11-1-6 (part))

17.04.621 Shade.

“Shade” means a shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of twenty-one point three degrees and an azimuth ranging from twenty-two point seven degrees east and west of true south. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.622 Shade point.

“Shade point” means the part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of twenty-one point three degrees and an azimuth ranging from twenty-two point seven degrees east and west of true south; except a shadow

caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of three feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the end or the elevation at the midpoint of the front lot line. If the shade point is located at the north end of a ridgeline of a structure oriented within forty-five degrees of a true north-south line, the shade point height computed according to the preceding sentence may be reduced by three feet. If a structure has a roof oriented within forty-five degrees of a true east-west line with a pitch that is flatter than five feet (vertical) in twelve feet (horizontal) the shade point will be the eave of the roof. If such a roof has a pitch that is five feet in twelve feet or steeper, the shade point will be the peak of the roof (see Figures 4 and 5, codified at the end of this title). (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.623 Shade reduction line.

“Shade reduction area” means a line drawn parallel to the northern lot line that intersects the shade point (see Figure 6, codified at the end of this title). (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.624 Shadow pattern.

“Shadow pattern” means a graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of twenty-one point three degrees and an azimuth ranging between twenty-two point seven degrees east and west of true south (see Figure 12 codified at the end of this title.) (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.624.1 Single-family detached residential units.

“Single-family detached residential units” means one dwelling unit per lot that is freestanding and structurally separate from other dwelling units or buildings. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.04.624.2 Single-family attached residential units.

“Single-family attached residential units” means two or more dwelling units attached side by side with some structural parts in common at a common property line and located on separate and individual tax lots. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.04.625 Solar access height limit.

“Solar access height limit” means a series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a solar access permit (see Figure 11 codified at the end of this title.) (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.626 Solar access permit.

“Solar access permit” means a document issued by the city that describes the maximum height that non-exempt vegetation is allowed to grow on lots to which a solar access permit applies. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.627 Solar feature.

“Solar feature” means a device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window or windows that contain(s) at least twenty square feet of glazing oriented within forty-five degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this chapter. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.628 Solar gain line.

“Solar gain line” means a line parallel to the northern property line(s) of the lot(s) south of and adjoining a given lot, including lots separated only by a street, that intersects the solar feature on that lot (see Figure 7 codified at the end of this title). (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.630 Solid waste processing facility.

“Solid waste processing facility” means a place or piece of equipment whereby mixed solid waste is altered in form, condition or content by methods or systems such as, but not limited to, shredding, milling or pulverizing. (Prior code §11-1-6 (part))

17.04.640 Solid waste transfer facility.

“Solid waste transfer facility” means a waste collection and disposal system between the point of collection and a processing facility or a disposal site. (Prior code §11-1-6 (part))

17.04.645 South or south facing.

“South” or “south facing” means true south, or twenty degrees east of magnetic south. (Ord. 91-1020

§1 (part), 1991: prior code §11-1-6 (part))

17.04.650 Stable, private.

“Private stable” means a detached accessory building for the keeping of horses owned by occupants of the premises and which are not kept for remuneration or profit. (Prior code §11-1-6 (part))

17.04.660 Story.

“Story” means that part of a building between the surface of any floor and the surface of the floor next above it or if there be no floor above it, then the space between the floor and the ceiling next above it. (Prior code §11-1-6 (part))

17.04.670 Story, half.

“Half story” means a story which, by reason of a sloping roof, has not more than one-half of the habitable space or room of the floor next below it. (Prior code §11-1-6 (part))

17.04.680 Street or road.

“Street or road” means a public or private way that is created to provide the principal means of ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress and egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes. (Prior code §11-1-6 (part))

17.04.690 Structural alterations.

“Structural alterations” means any change in the supporting members of a building such as bearing walls, columns, beams or girders. (Prior code §11-1-6 (part))

17.04.700 Structure.

“Structure” means anything constructed or built, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which requires location on the ground or is attached to something having a location on the ground, including swimming and wading pools and covered patios, excepting outdoor areas such as paved areas, driveways, walks and fences. (Prior code §11-1-6 (part))

17.04.710 Subdivide land.

“Subdivide land” means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. (Prior code §11-1-6 (part))

17.04.711 Sunchart.

“Sunchart” means one or more photographs that plot the position of the sun between ten-thirty a.m. and 1:30 p.m. on January 21, prepared pursuant to guidelines issued by the planning director. The sun-chart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a forty-five degree and thirty minute northern latitude in ten degree increments and solar azimuth from true south in fifteen degree increments. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.712 Transit stop.

“Transit stop” means any posted bus, light rail or other mass transit stop. (Ord. 95-1001 §2 (part), 1995)

17.04.713 Transit street.

“Transit street” means any street identified as an existing or planned bus or mass transit rail route as shown in the city’s transportation master plan (1989 or as subsequently amended). (Ord. 95-1001 §2 (part), 1995)

17.04.714 Exempt tree or vegetation.

“Exempt tree or vegetation” means the full height and breadth of vegetation that the Planning Director has identified as “solar friendly” that are listed and kept on file in City Hall; and any vegetation listed on a plat map, a document recorded with the plant, or a solar access permit as exempt. (Ord. 95-1001 §1, 1995; Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.715 Non-exempt tree or vegetation.

“Non-exempt tree or vegetation” means vegetation that is not exempt. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.717 Undevelopable area.

“Undevelopable area” means an area that cannot be used practicably for a habitable structure because of natural conditions, such as slopes exceeding twenty percent in a direction greater than forty-five degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area. (Ord. 91-1020 §1 (part), 1991: prior code §11-1-6 (part))

17.04.720 Use.

“Use” means the purpose that land, or a building or a structure now serves or for which is occupied, maintained, arranged or designed. (Prior code §11-1-6 (part))

17.04.730 Yard.

“Yard” means an open space other than a court on the same lot with a building unoccupied or unobstructed from the ground upward except for usual building projections as permitted by this title. (Prior code §11-1-6 (part))

17.04.740 Yard, front.

“Front yard” means a yard extending the full width of the lot, the depth of which is the minimum distance from the front lot line to the main building. (Prior code §11-1-6 (part))

17.04.750 Yard, rear.

“Rear yard” means a yard extending the full width of the lot, the depth of which is the minimum distance from the rear lot line to the main building. (Prior code §11-1-6 (part))

17.04.760 Yard, side.

“Side yard” means a yard extending from the front yard to the rear yard along the side of the main building. The width of such yard is the minimum distance from the side lot line to the main building. (Prior code §11-1-6 (part))

17.04.770 Yard, side, corner.

“Corner side yard” means a yard lot located on a corner which extends from the front yard to the rear

yard along the side of the main building. The width of such yard is the minimum distance from the side lot line abutting the street to the main building. (Prior code §11-1-6 (part))

17.04.780 Yard, side, interior.

“Interior side yard” means a yard extending from the front yard to the rear yard along the side of the main building. The width of such yard is the minimum distance from the side lot line not abutting the street to the main building. (Prior code §11-1-6 (part))

[Title 17 ZONING](#)

Chapter 17.06 ZONING DISTRICT CLASSIFICATIONS

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17.06.010 General provisions.

Except as hereinafter provided:

- A. No building or structure shall be erected, structurally altered, enlarged or moved, nor shall any building, structure or land be used or designated to be used for any use other than is permitted in the district in which such building, structure or land is located and then only after applying for and securing all permits and licenses required by law and this code.
 - B. No building or structure shall be erected, enlarged or structurally altered to exceed the height limit established for the district in which the building or structure is located.
 - C. No building or structure shall be erected, enlarged or moved on a lot unless the building or structure and also the lot conform to the area regulations of the district in which the building or structure is located, except as provided in this title.
1. No parcel of land on record at the time of the adoption of this title shall hereafter be reduced in any manner below the minimum lot area, size or dimensions required by this title.
 2. No lot area shall be so reduced or diminished that the off-street parking area, the yard, open space or total lot area be made smaller than required by this title, nor shall the lot area per family be reduced in any manner except in conformity to the regulations of this title.
 3. No yard or landscaped area now provided for any building or structure or hereafter provided in conformance with the regulations of this title shall be considered as any part of a yard, or landscaped area for any other building or structure.

4. No required yard shall include any land dedicated, reserved or set aside for street purposes, except as provided in this title.

D. Each lot or building site must abut a public street and have a minimum frontage of forty-five feet on a street or thirty feet on a cul-de-sac and meet all other requirements of lot size. An existing lot of record which does not meet the minimum frontage requirement may not be built upon unless adequate frontage for vehicular access is provided. (Prior code §11-2-1)

17.06.020 Classification of zoning districts.

For the purpose of this title and to carry out these regulations, the city is divided into districts, known as:

R-10	Single-family dwelling district
R-8	Single-family dwelling district
R-6	Single-family dwelling district
RD4-MDP	Manufactured dwelling park
R-3.5	Dwelling district
R-2	Multi-family dwelling district
LO	Limited office district
NC	Neighborhood commercial district
HC	Historic commercial district
C	General commercial district
GI	General industrial
CI	Campus industrial
MUC-1	Mixed-use corridor
MUC-2	Mixed-use corridor
MUE	Mixed-use employment
MUD	Mixed-use downtown
I	Institutional district

In addition to the foregoing districts, special overlay districts shall be known as:

H	Historic overlay district
FP	Floodplain overlay district
US	Unstable soils and hillside constraint overlay district
P	Park acquisition overlay district
WRG	Willamette River greenway overlay district
WR	Water resources overlay district

(Ord. 03-1014, Att. B3 (part), 2003; Ord. 94-1001 §1, 1994; Ord. 93-1008 §1, 1993; Ord. 92-1024 §1, 1992; prior code §11-2-2)

17.06.030 Official zoning map.

The foregoing districts and their boundaries are shown on a map entitled “official zoning map” on file in the office of the city recorder. This map and all designations and information shown thereon are made a part of this title, as if the map, designation and information were fully described herein. In addition, special maps shall indicate the overlay districts and their boundaries. (Prior code §11-2-3)

17.06.040 Boundaries of zoning districts.

Where uncertainty exists with respect to any of the boundaries of the districts as shown on the official zoning map, the following uses shall apply:

- A. When the boundaries of the districts designated on the official zoning map are approximately streets or alleys, the certain lines of the streets and alleys shall be construed to be the boundaries of such districts.
- B. Where the boundaries of the districts designated on the official zoning map are approximately lot lines, the lot lines shall be construed to be the boundaries of the districts.
- C. In subdivided property, the district boundary lines of the official zoning map shall be determined by use of the scale contained on the map. (Prior code §11-2-4)

17.06.050 Zoning of annexed areas.

All lands within the urban growth boundary of Oregon City have been classified according to the appropriate city land use designation as noted on the comprehensive plan map (as per the city/county urban growth management area agreement). The planning department shall complete a review of the final zoning classification within sixty days after annexation. The zoning classification shall reflect the city land use classification as illustrated in Table 17.06.050.

Table 17.06.050
City Land Use Classifications

Classification	City Zone
Residential Plan Classification	
Low-density residential	R-10, R-8, R-6
Medium-density residential	R-3.5, RD4-MDP
High-density residential	R-2
General Plan Classification	
General commercial	C
Mixed-use downtown	MUD
Mixed-use corridor	MUC I, MUC 2, LO, NC, HC
Mixed-use employment	MUE
Industrial Plan Classification	
Industrial	CI, GI

A. A public hearing shall be held by both the planning commission and city commission in accordance with the procedures outlined in Chapter 17.68 (except for the provisions of Section 17.68.025) for those instances in which more than one zoning designation carries out a city plan classification.

B. Lands within the urban growth boundary and designated low-density residential on the comprehensive plan map shall, upon annexation, be eligible for manufactured homes (infill of individual lots and subdivisions). In those cases where only a single city zoning designation corresponds to the comprehensive plan designation and thus the rezoning decision does not require the exercise of legal or policy judgment on the part of the community development director, Section 17.68.025 shall control. The decision in these cases shall be a ministerial decision of the planning manager made without notice or any opportunity for a hearing. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 00-1003 §5, 2000; Ord. 94-1014 §1, 1994; Ord. 92-1024 §2, 1992: prior code §11-2-5)

17.06.060 Street and alley vacations.

Whenever any street, alley or public way is vacated by official action, the zoning districts adjoining the side of such public way shall automatically be extended to the side or sides to which such lands

revert, to include the right-of-way thus vacated which shall henceforth be subject to all regulations of the extended district or districts. (Prior code §11-2-6)

17.06.070 Requirements table.

To facilitate public understanding of this title and for the better administration and convenience of use thereof, the following summary of maximum dwelling units per acre, minimum lot area per dwelling unit, maximum building height and maximum setback regulations for the various zoning districts is set forth in the following table. For further information, please review the regulations of each individual zoning district. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 92-1024 §3, 1992; prior code §11-3-1)

Oregon City Standards Residential

Standard	R-10	R-8	R-6	R-3.5	R-2
Minimum Lot Size	10,000 sq. ft.*	8,000 sq. ft.*	6,000 sq. ft.*	3,500 sq. ft.*	2,000 sq. ft.*
Maximum Height	2.5 Stories (35 ft.)*	2.5 Stories (35 ft.)*	2.5 Stories (35 ft.)*	2.5 Stories (35 ft.)*	4 Stories (55 ft.)*
Maximum Building Lot Coverage	40%	40%	40%	NA	NA
Minimum Front Yard Setback	20 ft.	15 ft.	10 ft.	5 ft.	5 ft.*
Minimum Interior Side Yard Setback	10 ft./8 ft.	9 ft./7 ft.	9 ft./5 ft.	Detached -- 5 ft. Attached -- 7 ft.	5 ft.
Minimum Corner Side Yard Setback	15 ft.	15 ft.	15 ft.	10 ft.	10 ft.
Minimum Rear Yard Setback	20 ft.	20 ft.	20 ft.	15 ft.	*

Garage Standards Applicable	Yes*	Yes*	Yes*	Yes*	Yes*
Garage Setbacks	20 ft from ROW 5 ft. from alley	20 ft from ROW 5 ft. from alley	20 ft from ROW 5 ft. from alley	20 ft from ROW 5 ft. from alley	20 ft from ROW 5 ft. from alley

* See district description for further information.

Oregon City Standards Commercial

Standard	C	MUC-1	MUC-2	NC	HC
Maximum Building Height	3 Stories (45 ft)*	3 Stories (45 ft)*	60 ft	2.5 Stories (35 ft.)	3 Stories (35 ft.)
Minimum Building Height			2 Stories (25 ft.)		
Maximum Lot Coverage		Building and Parking Lot -- 80%	Building and Parking Lot -- 90%	Building Footprint -- 10,000 sq. ft.*	Building and Parking Lot -- 80%
Maximum Front Yard Setback	5 ft.*	5 ft.*	5 ft.*	5 ft.*	5 ft.*
Maximum Interior Side Yard Setback		0 - 30 ft.*	0 -- 33 ft.*	0 - 10 ft.*	0-5 ft.*
Maximum Corner Yard Setback	10 ft.*	30 ft.*	20 ft.*	30 ft.*	0-5 ft.*
Maximum Rear Yard Setback	10 ft.*	0 -- 30 ft.*	0 -- 33 ft.*	0 - 10 ft.*	0 - 20 ft.*

* See district description for further information.

Oregon City Standards Employment,

Downtown And Industrial

Standard	MUE	MUD	MUD -- Design District	GI	CI
Maximum Building Height	60 ft./85 ft.*	45 ft/75 ft.*	58 ft.	3 Stories (45 ft.)*	45 ft./85 ft.*
Minimum Building Height		2 Stories (25 ft)*	2 Stories (25 ft.)*		
Maximum Lot Coverage	Building and Parking Lot -- 80%	Building and Parking Lot --90%	Building and Parking Lot -- 100%		
Maximum Front Yard Setback	5 ft.*	20 ft.*	10 ft.*	25 ft.*	25 ft.*
Maximum Interior Side Yard Setback	50 ft.*	0 ft.*	0 ft.*	25 ft.*	25 ft.*
Maximum Corner Yard Setback	5 ft.*	20 ft.*	10 ft.*	25 ft.*	25 ft.*
Maximum Rear Yard Setback	5 - 50 ft.*	*	10 ft*	25 ft.*	25 ft./100 ft*

* See district description for further information.

[Title 17 ZONING](#)

Chapter 17.08 R-10 SINGLE-FAMILY DWELLING DISTRICT

[17.08.010 Designated.](#)

[17.08.020 Permitted uses.](#)

[17.08.030 Conditional uses.](#)

[17.08.040 Dimensional standards.](#)

17.08.010 Designated.

This residential district allows for areas of single-family homes on lot sizes of at least ten thousand square feet. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-2 (part))

17.08.020 Permitted uses.

Permitted uses in the R-10 district are:

- A. Single-family detached residential units;
- B. Publicly-owned parks, playgrounds, playfields and community or neighborhood centers;
- C. Home occupations;
- D. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on site is permitted);
- E. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- F. Accessory uses, buildings and dwellings;
- G. Family day care provider, subject to the provisions of Section 17.54.050. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 94-1014 §2 (part), 1994; Ord. 92-1026 §1 (part), 1992; prior code §11-3-2(A))

17.08.030 Conditional uses.

The following conditional uses are permitted in this district when authorized by and in accordance with the standards contained in Chapter 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises; and
- B. Uses listed in Section 17.56.030. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-2(B))

17.08.040 Dimensional standards.

Dimensional standards in the R-10 district are:

- A. Minimum lot areas: ten thousand square feet.
- B. Minimum lot width: sixty-five feet.
- C. Minimum lot depth: eighty feet.
- D. Maximum building height: two and one-half stories, not to exceed thirty-five feet.
- E. Minimum Required Setbacks.
 - 1. Front yard: twenty feet minimum depth.
 - 2. Attached and detached garage: twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet in residential areas.
 - 3. Interior side yard: ten feet minimum width for at least one side yard; eight feet minimum width for the other side yard.
 - 4. Corner side yard: fifteen feet minimum width.
 - 5. Rear yard: twenty feet minimum depth.
 - 6. Solar balance point: setback and height standards may be modified subject to the provisions of Section 17.54.070.
- F. Garage Standards. See Chapter 17.20, Residential Design Standards.
- G. Maximum Building Coverage. See Chapter 17.20, Residential Design Standards. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 91-1020 §2 (part), 1991; prior code §11-3-2(C))

[Title 17 ZONING](#)

Chapter 17.10 R-8 SINGLE-FAMILY DWELLING DISTRICT

[17.10.010 Designated.](#)

[17.10.020 Permitted uses.](#)

[17.10.030 Conditional uses.](#)

[17.10.040 Dimensional standards.](#)

17.10.010 Designated.

This residential district allows for single-family homes on lot sizes of eight thousand square feet minimum. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-3 (part))

17.10.020 Permitted uses.

Permitted uses in the R-8 district are:

- A. Single-family detached residential units;
- B. Publicly-owned parks, playgrounds, playfields and community or neighborhood centers;
- C. Home occupations;
- D. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on site is permitted);
- E. Temporary real estate offices in model homes located and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- F. Accessory uses, buildings and dwellings;
- G. Family day care provider, subject to the provisions of Section 17.54.050. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 94-1014 §2 (part), 1994; Ord. 92-1026 §1 (part), 1992; prior code §11-3-3(A))

17.10.030 Conditional uses.

The following conditional uses are permitted in this district when authorized by and in accordance with the standards contained in Chapter 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises; and
- B. Uses listed in Section 17.56.030. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-3(B))

17.10.040 Dimensional standards.

Dimensional standards in the R-8 district are:

- A. Minimum lot area: eight thousand square feet.
- B. Minimum lot width: sixty feet.
- C. Minimum lot depth: seventy-five feet.
- D. Maximum building height: two and one-half stories, not to exceed thirty-five feet.
- E. Minimum Required Setbacks.
 - 1. Front yard: fifteen feet minimum depth.
 - 2. Attached and detached garage: twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet in residential areas.
 - 3. Interior side yard: nine feet minimum for at least one side yard; seven feet minimum for the other side yard.
 - 4. Corner side yard: fifteen feet minimum width.
 - 5. Rear yard: twenty feet minimum depth.
 - 6. Solar balance point: setback and height standards may be modified subject to the provisions of Section 17.54.070.
- F. Garage Standards. See Chapter 17.20, Residential Design Standards.
- G. Maximum Building Coverage. See Chapter 17.20, Residential Design Standards. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 92-1030 §1, 1992; Ord. 91-1020 §2 (part), 1991; prior code §11-3-3(C))

[Title 17 ZONING](#)

Chapter 17.12 R-6 SINGLE-FAMILY DWELLING DISTRICT

[17.12.010 Designated.](#)

[17.12.020 Permitted uses.](#)

[17.12.030 Conditional uses.](#)

[17.12.040 Dimensional standards.](#)

17.12.010 Designated.

This residential district allows for single-family homes on lot sizes of six thousand square feet minimum. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-4 (part))

17.12.020 Permitted uses.

Permitted uses in the R-6 district are:

- A. Single-family detached residential units;
- B. Publicly-owned parks, playgrounds, playfields and community or neighborhood centers;
- C. Home occupations;
- D. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on site is permitted);
- E. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- F. Accessory uses, buildings and dwellings;
- G. Family day care provider, subject to the provisions of Section 17.54.050. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 94-1014 §2 (part), 1994; Ord. 92-1026 §1 (part), 1992; prior code §11-3-4(A))

17.12.030 Conditional uses.

The following conditional uses are permitted in this district when authorized by and in accordance

with the standards contained in Chapter 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises; and
- B. Uses listed in Section 17.56.030. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-4(B))

17.12.040 Dimensional standards.

Dimensional standards in the R-6 district are:

- A. Minimum lot areas: six thousand square feet.
- B. Minimum lot width: fifty feet.
- C. Minimum lot depth: seventy feet.
- D. Maximum building height: two and one-half stories, not to exceed thirty-five feet.
- E. Minimum Required Setbacks.
 - 1. Front yard: ten feet minimum depth.
 - 2. Attached and detached garage: twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet in residential areas.
 - 3. Interior side yard: nine feet minimum width for at least one side yard; five feet minimum width for the other side yard.
 - 4. Corner side yard: fifteen feet minimum width.
 - 5. Rear yard: twenty feet minimum depth.
 - 6. Solar balance point: setback and height standards may be modified subject to the provisions of Section 17.54.070.
- F. Garage Standards. See Chapter 17.20, Residential Design Standards.
- G. Maximum Building Coverage. See Chapter 17.20, Residential Design Standards. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 91-1020 §2 (part), 1991; prior code §11-3-4(C))

[Title 17 ZONING](#)

Chapter 17.16 R-3.5 DWELLING DISTRICT*

[Note to Chapter 17.16](#)

[17.16.010 Designated.](#)

[17.16.020 Permitted uses.](#)

[17.16.030 Conditional uses.](#)

[17.16.040 Dimensional standards.](#)

[17.16.050 Single-family attached residential units and duplex units.](#)

Note to Chapter 17.16

* Prior history: Ords. 99-1027, 94-1014, 92-1024, 91-1020 and prior code §11-3-6.

17.16.010 Designated.

This residential district allows single-family attached and detached residential units and two-family dwellings. (Ord. 03-1014, Att. B3 (part), 2003)

17.16.020 Permitted uses.

Uses permitted in the R-3.5 district are:

- A. Two-family dwellings (duplexes);
- B. Single-family detached residential units;
- C. Single-family attached residential units (row houses with no more than six dwelling units may be attached in a row);
- D. Publicly-owned parks, playgrounds, playfields and community or neighborhood centers;
- E. Home occupations;
- F. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;

G. Accessory uses, buildings and dwellings;

H. Family day care provider, subject to the provisions of Section 17.54.050. (Ord. 03-1014, Att. B3 (part), 2003)

17.16.030 Conditional uses.

The following conditional uses are permitted in this district when authorized by and in accordance with the standards contained in Chapter 17.56:

A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises; and

B. Uses listed in Section 17.56.030. (Ord. 03-1014, Att. B3 (part), 2003)

17.16.040 Dimensional standards.

Dimensional standards in the R-3.5 district are:

A. Minimum Lot Area.

1. Residential uses: three thousand five hundred square feet per unit.

2. Non-residential uses: zero minimum.

B. Minimum lot width: twenty-five feet.

C. Minimum lot depth: seventy feet.

D. Maximum building height: two and one-half stories, not to exceed thirty-five feet.

E. Minimum Required Setbacks.

1. Front yard: five feet minimum depth.

2. Interior Side Yard.

a. Detached unit: five feet minimum depth.

b. Attached unit: seven feet minimum depth on the side that does not abut a common property line.

3. Corner side yard: ten-foot minimum width.

4. Rear yard: fifteen-foot minimum depth.

5. Solar balance point: setback and height standards may be modified subject to the provisions of Section 17.54.070.

6. Attached and detached garages: twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet.

F. Garage Standards: See Chapter 17.20, Residential Design Standards. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.16.050 Single-family attached residential units and duplex units.

The following standards apply to single-family dwellings, in addition to the standards in Section 17.16.040.

A. Maintenance Easement. Prior to building permit approval, the applicant shall submit a recorded mutual easement that runs along the common property line. This easement shall be ten feet in width. A lesser width may be approved by the community development director if it is found to be sufficient to guarantee rights for maintenance purposes of structure and yard.

B. Conversion of Existing Duplexes. Any conversion of an existing duplex unit into two single-family attached dwellings shall be reviewed for compliance with the requirements in Title 16 for partitions, Section 17.16 and the state of Oregon One and Two Family Dwelling Specialty Code prior to final recordation of the land division replat. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.18 R-2 MULTI-FAMILY RESIDENTIAL DISTRICT*

[Note to Chapter 17.18](#)

[17.18.010 Designated.](#)

[17.18.020 Permitted uses.](#)

[17.18.030 Conditional uses.](#)

[17.18.035 Pre-existing industrial use.](#)

[17.18.040 Dimensional standards.](#)

[17.18.050 Single-family attached dwellings.](#)

Note to Chapter 17.18

* Prior history: Ord. 91-1020 and prior code §11-3-7.

17.18.010 Designated.

The purpose of this residential district is to allow for single-family attached residential units, two-family and multi-family residential units. (Ord. 03-1014, Att. B3 (part), 2003)

17.18.020 Permitted uses.

Permitted uses in the R-2 district are:

- A. Multi-family residential units;
- B. Two-family dwellings;
- C. Single-family attached residential units;
- D. Publicly-owned parks, playgrounds, playfields and community or neighborhood centers;
- E. Home occupations;

- F. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- G. Accessory buildings;
- H. Family day care provider, subject to the provisions of Section 17.54.050; and
- I. Management and associated offices and building necessary for the operations of a multi-family residential development. (Ord. 03-1014, Att. B3 (part), 2003)

17.18.030 Conditional uses.

The following conditional uses are permitted in this district when authorized and in accordance with the standards contained in Chapter 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Uses listed in Section 17.56.030; and
- C. Mobile home parks. (Ord. 03-1014, Att. B3 (part), 2003)

17.18.035 Pre-existing industrial use.

Tax lot 700, located on Clackamas County Map #32E16B has a special provision to permit the current industrial use and the existing incidental sale of the products created and associated with the current industrial use on the site. This property may only maintain and expand the current use, which are the manufacturing of aluminum boats and the fabrication of radio and satellite equipment, internet and data systems and antennas. (Ord. 03-1014, Att. B3 (part), 2003)

17.18.040 Dimensional standards.

Dimensional standards in the R-2 district are:

- A. Minimum Lot Area.
 - 1. Residential units: two thousand square feet per unit.
 - 2. Nonresidential uses: no minimum lot area is required.
- B. Minimum lot width: twenty feet.
- C. Minimum lot depth: seventy feet.
- D. Maximum building height: four stories, not to exceed fifty-five feet.
- E. Minimum Required Setbacks.
 - 1. Front yard: five feet minimum depth (may be reduced to zero through site plan and design review).
 - 2. Side yard: five feet minimum width.
 - 3. Corner side yard: ten feet minimum width.
 - 4. Rear Yard.

- a. Residential units prior to adoption of this chapter: ten feet minimum depth.
 - b. Nonresidential and multiple-family residential units: ten feet minimum depth.
 - c. Single-family attached residential units and duplex development after adoption of this chapter: twenty feet minimum depth.
5. Buffer Area. If a multi-family residential unit in this district abuts R-10, R-8, or R-6 use, there shall be required a landscaped yard of ten feet on the side abutting the adjacent zone in order to provide a buffer area and landscaping thereof shall be subject to site plan review. The community development director may waive any of the foregoing requirements if it is found that the requirement is unnecessary on a case-by-case basis.
6. Solar balance point: setback and height standards may be modified subject to the provisions of Section 17.54.070.
7. Attached and detached garages: twenty feet minimum depth from the public right-of-way where access is taken, except for alleys. Garages on an alley shall be setback a minimum of five feet.
- F. Garage Standards. See Chapter 17.20, Residential Design Standards. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.18.050 Single-family attached dwellings.

The following standards apply to single-family attached residential units and duplex units.

- A. Maintenance Easement. Prior to building permit approval, the applicant shall submit a recorded mutual easement that runs along the common property line. This easement shall be ten feet in width. A lesser width may be approved by the community development director if it is found to be sufficient to guarantee rights for maintenance purposes of structure and yard.
- B. Conversion of Existing Duplexes. Any conversion of an existing duplex unit into two single-family attached residential units shall be reviewed for compliance with the requirements of this chapter and the state of Oregon One and Two Family Dwelling Specialty Code prior to final recordation of the land division replat. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.20 RESIDENTIAL DESIGN STANDARDS

[17.20.010 Purpose.](#)

[17.20.020 Applicability.](#)

[17.20.030 Residential design options.](#)

[17.20.040 Residential design elements.](#)

[17.20.050 Main entrances.](#)

[17.20.060 Maximum lot coverage.](#)

[17.20.070 Exceptions.](#)

17.20.010 Purpose.

These design standards are intended to:

- A. Enhance Oregon City through the creation of attractively designed housing and streetscapes.
- B. Ensure that there is a physical and visual connection between the living area of the residence and the street.
- C. Improve public safety on the public way and the front yards by providing “eyes on the street.”
- D. Promote community interaction by designing the public way, front yards and open spaces so that they are attractive and inviting for neighbors to interact.
- E. Prevent garages from obscuring or dominating the main entrance of the house.
- F. Provide guidelines for good design at reasonable costs and with multiple options to achieve the purposes of this chapter. (Ord. 04-1016, Att. 1 (part), 2004)

17.20.020 Applicability.

The standards in Sections 17.20.030 through 17.20.050 apply to the street-facing facades of all new single-family dwellings and two-family dwelling units (duplexes) with or without a garage. Dwellings on an irregular lot, as defined in Section 17.20.070, shall meet at least seven of the residential design elements in Section 17.20.040(A). Additions and alterations that add less than fifty percent to

the existing floor area of the house are exempt from section 17.20.030 through 17.20.050. Additions or alterations that are not visible from the street side of the home are exempt. The standards in Section 17.20.060, Maximum lot coverage, shall apply to all new and existing homes in the R-10, R-8 and R-6 single-family dwelling districts. (Ord. 04-1016, Att. 1 (part), 2004)

17.20.030 Residential design options.

There are six options outlined in Section 17.20.030 for complying with the residential design standards. Homes on corner lots and through lots shall comply with one of the six options below for the front of the lot. The “non-front” side of the lot shall have windows for a minimum of fifteen percent of the façade and comply with three of the residential design elements in Section 17.20.040(A). The garage width shall be measured based on the location of the interior garage walls. The Community Development Director may approve an alternative measurement location if the exterior façade screens a section of the garage or better accomplishes the goals of this section.

- A. The garage may be up to fifty percent of the length of the street-facing façade if:
 - 1. The garage is not closer to the street than the street-facing façade; and
 - 2. Four of the residential design elements in Section 17.20.040(A) are provided.
- B. The garage may be up to sixty percent of the length of the street-facing-façade if:
 - 1. The garage is recessed two feet or more from the street-facing façade; and
 - 2. Five of the residential design elements in 17.20.040(A) are provided.
- C. The garage may be up to sixty percent of the length of the street-facing façade and extend up to four feet in front of the street-facing façade if:
 - 1. Six of the residential design elements in 17.20.040(A) are provided; and
 - 2. One of the two options in Section 17.20.040(B) is provided.
- D. The garage may be up to fifty percent of the length of the street-facing façade and extend up to eight feet in front of the street-facing façade if:
 - 1. Seven of the residential design elements in 17.20.040(A) are provided; and
 - 2. One of the two options in 17.20.040(B) is provided.
- E. The garage may be side-orientated to the front lot line and extend up to thirty-two feet in front of the street-facing facade if:
 - 1. Windows occupy a minimum of fifteen percent of the street-facing wall; and
 - 2. Four of the residential design elements in 17.20.040(A) are provided.
- F. Where the street-facing façade of the building is less than twenty-four feet wide, the garage may be up to twelve feet wide if:
 - 1. The garage does not extend past the street-facing façade; and
 - 2. Six of the residential design elements in 17.20.040(A) are provided; and
 - 3. One of the following is provided:
 - a. Interior living area above the garage is provided. The living area must be set back no more than four feet from the street-facing garage wall; or

b. A covered balcony above the garage is provided. The covered balcony must be at least the same length as the street-facing garage wall, at least six feet deep and accessible from the interior living area of the dwelling unit. (Ord. 04-1016, Att. 1 (part), 2004)

17.20.040 Residential design elements.

A. The residential design elements below shall be provided as required in Section 17.20.030 above.

1. Dormers, which are projecting structures built out from a sloping roof housing a vertical window.
2. a. Gable roof, which is a roof sloping downward in two parts from a central ridge, so as to form a gable at each end; or
b. Hip roof, which is a roof having sloping ends and sides meeting at an inclined projecting angle.
3. Building face with two or more offsets of sixteen inches or greater or a roof overhang of sixteen inches or greater
4. Recessed entry at least two feet behind the front façade and a minimum eight feet wide.
5. Minimum sixty square-foot covered front porch that is a minimum five feet deep.
6. Bay window that extends a minimum of twelve inches outward from the main wall of a building and forming a bay or alcove in a room within.
7. Windows and main entrance doors that occupy a minimum of fifteen percent of the front façade (not including the roof and excluding any windows in a garage door).
8. Window trim (minimum four inches).
9. Window grids on all front façade windows (excluding any windows in the garage door or front door).
10. Front facing balcony that projects from the wall of the building and is enclosed by a railing or parapet.
11. Shakes, shingles, brick, stone or other similar decorative materials shall occupy a minimum of sixty square feet of the street façade.
12. Maximum nine-foot wide garage doors or a garage door designed to resemble two smaller garage doors and/or windows in the garage door.
13. A third garage door that is recessed a minimum of two feet.
14. The garage is part of a two-level façade that has a window (minimum twelve square feet) with window trim (minimum four inches).

B. The residential design elements, subsections (B)(1) and (B)(2) below, shall be provided as required in Section 17.20.030 above in addition to the residential design elements required in Section 17.20.040(A) above.

1. Minimum sixty square-foot covered front porch that is a minimum five feet deep; or
2. The garage is part of a two-level façade. The second level façade shall have a window (minimum twelve square feet) with window trim (minimum four inches). (Ord. 04-1016, Att. 1 (part), 2004)

17.20.050 Main entrances.

The main entrance for each structure shall:

- A. Face the street; or
- B. Be at an angle up to forty-five degrees from the street; or
- C. Open onto a covered porch that is at least sixty square feet with a minimum depth of five feet on the front or, in the case of a corner lot, the side of the residence. (Ord. 04-1016, Att. 1 (part), 2004)

17.20.060 Maximum lot coverage.

The maximum lot coverage for the R-10, R-8 and R-6 single-family dwelling districts shall be forty percent of the lot area. Accessory building two hundred square feet or less are exempt from the maximum lot coverage calculation. (Ord. 04-1016, Att. 1 (part), 2004)

17.20.070 Exceptions.

A lot shall be considered irregular for the purposes of this section of the Oregon City Municipal Code and shall comply with seven of the Residential Design Elements in Section 17.20.040(A) if one or more of the following apply:

- A. The lot has five or more sides; or
- B. A natural uphill slope within the building setbacks of fifteen percent or greater from the front property line to the rear property line; or
- C. An R-10, R-8 or R-6 single-family dwelling district lot with a front property line that is thirty percent or less of the depth of the lot. The lot depth is the perpendicular distance measured from the mid-point of the front lot line to the mid-point of the opposite, usually rear, lot line. (Ord. 04-1016, Att. 1 (part), 2004)

[Title 17 ZONING](#)

Chapter 17.24 NC NEIGHBORHOOD COMMERCIAL DISTRICT*

[Note to Chapter 17.24](#)

[17.24.010 Designated.](#)

[17.24.020 Permitted uses.](#)

[17.24.025 Conditional uses.](#)

[17.24.030 Limited uses.](#)

[17.24.040 Dimensional standards.](#)

Note to Chapter 17.24

* Prior history: Ord. 92-1007 and prior code §11-3-10.

17.24.010 Designated.

The neighborhood commercial district allows for small-scale commercial and mixed-uses designed to serve a convenience need for residents in the surrounding low-density neighborhood. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.24.020 Permitted uses.

Permitted uses in the NC district are neighborhood commercial uses, as defined as:

Antique shops;

Apparel shops;

Art gallery, store, supplies;

Bakery, retail;

Banks without a drive thru;

Barbershop;

Beauty parlor;
Bicycle sales, service, rental;
Bookstore;
Candy store;
Coffee shop without a drive thru;
Computer or audio equipment sales;
Craft store;
Custom dressmaking and tailoring;
Dry cleaners;
Dry cleaners, self-service;
Dry cleaning agencies;
Delicatessen store;
Drug stores;
Dry good stores;
Florist shops;
Gift shops;
Grocery, fruit or vegetable store;
Hardware store;
Ice-cream store;
Interior decoration, including drapery and upholstery;
Jewelry store;
Laundromat, self-service;
Laundry agencies;
Locksmith;
Music store;
Plant or garden shop;
Printing and copy service (no audible sounds beyond the premises);
Restaurants without a drive thru;
Seasonal sales, subject to the provisions of Section 17.54.060;
Shoe sales, repair;
Stationery store;
Studio for art, dance, music, photo; and
Watch and clock repair shop. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.24.025 Conditional uses.

The following conditional uses are permitted when approved in accordance with the process and standards contained in Chapter 17.56.

A. Any use permitted in the neighborhood commercial district that has a building footprint in excess of ten thousand square feet. (Ord. 04-1016, Att. 1 (part), 2004)

17.24.030 Limited uses.

Dwelling units are permitted above the ground floor if in conjunction with a permitted use as identified in Section 17.24.020 or conditional use as identified in Section 17.24.025. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.24.040 Dimensional standards.

Dimensional standards in the NC district are:

- A. Maximum building height: two and one half stories, not to exceed thirty-five feet.
- B. Maximum building footprint: ten thousand square feet.
- C. Minimum required setbacks if not abutting a residential zone: none.
- D. Minimum required interior and rear yard setbacks if abutting a residential zone: ten feet.
- E. Maximum Allowed Setback.
 - 1. Front yard: five feet (may be extended with Site Plan and Design Review Section 17.62.055).
 - 2. Interior yard: none.
 - 3. Corner side yard abutting a street: thirty feet, provided the site plan and design review requirements of Section 17.62.055 are met.
 - 4. Rear yard: none. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.26 HC HISTORIC COMMERCIAL DISTRICT

[17.26.010 Designated.](#)

[17.26.020 Permitted uses.](#)

[17.26.030 Conditional uses.](#)

[17.26.040 Historic building preservation.](#)

[17.26.050 Dimensional standards.](#)

17.26.010 Designated.

Historic commercial district allows for limited commercial use in National Register Historic districts. Allowed uses should facilitate the re-use and preservation of existing buildings and the construction of architecturally compatible new ones. (Prior code §11-3-11(part))

17.26.020 Permitted uses.

- A. Uses permitted in the MUC-1, mixed-use corridor district;
- B. Residential units, single-family detached. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-11(A))

17.26.030 Conditional uses.

The following conditional uses and their accessory uses are permitted in this district when authorized by and in accordance with the standards contained in Chapter 17.56:

- A. Conditional uses listed in the MUC-1, mixed-use corridor district. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 96-1026 §2, 1996; prior code §11-3-11(B))

17.26.040 Historic building preservation.

Existing historic buildings (defined as primary, secondary or compatible buildings in a National Register Historic District or are in Oregon City's Inventory of Historic Buildings) shall be used for

historic commercial or residential use. If, however, the owner can demonstrate to the planning commission that no economically feasible return can be gained for a particular structure and that such structure cannot be rehabilitated to render such an economic return, the planning commission may grant an exception to the historic building preservation policy. Such an exception shall be the minimum necessary to allow for an economic return for the land, while preserving the integrity of the historic building preservation policy in other structures in the area. The planning commission may condition the grant of any such application to these ends. The members of the historic review board shall be notified of the application and may request a delay in the decision or the planning commission, of its own volition, may delay a decision on such an application subject to consideration by the historic review board as provided in Chapter 17.40. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-11(C))

17.26.050 Dimensional standards.

A. Residential unit, single-family detached:

1. Dimensional standards required for the R-6 single-family dwelling district.

B. All other uses:

1. Minimum lot area: none.

2. Maximum building height: thirty-five feet or three stories, whichever is less.

3. Minimum required setbacks if not abutting a residential zone: none.

4. Minimum required rear yard setback if abutting a residential zone: twenty feet.

5. Minimum required side yard setbacks if abutting a single-family residential use: five feet.

6. Maximum front yard setback: five feet (may be extended with Site Plan and Design Review Section 17.62.055).

7. Maximum interior side yard: none.

8. Maximum rear yard: none.

9. Minimum required landscaping (including landscaping within a parking lot): twenty percent. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-11(D))

[Title 17 ZONING](#)

Chapter 17.29 MUC MIXED-USE CORRIDOR DISTRICT

[17.29.010 Designated.](#)

[17.29.020 Permitted uses--MUC-1.](#)

[17.29.025 Permitted uses--MUC--2.](#)

[17.29.030 Conditional uses--MUC-1 and MUC-2 zones.](#)

[17.29.040 Prohibited uses--MUC-1 and MUC-2 zones.](#)

[17.29.050 Dimensional standards--MUC-1.](#)

[17.29.060 Dimensional standards--MUC-2.](#)

[17.29.070 Explanation of certain standards.](#)

17.29.010 Designated.

The mixed-use corridor (MUC) district is designed to apply along selected sections of transportation corridors such as Molalla Avenue, 7th Street and Beaver Creek Road and along Warner-Milne Road. A mix of high-density residential, office and small-scale retail uses are encouraged in this district. Commercial uses are only allowed in conjunction with mixed-use office and residential developments, except for small stand-alone buildings. Moderate density (MUC-1) and high density (MUC-2) options are available within the MUC zoning district. The area along 7th Street is an example of MUC-1 and the area along Warner-Milne Road is an example of MUC-2. (Ord. 03-1014, Att. B3 (part), 2003)

17.29.020 Permitted uses--MUC-1.

Permitted uses in the MUC-1 district are defined as:

- A. Banquet, conference facilities and meeting rooms;
- B. Bed and breakfast and other lodging facilities for up to ten guests per night;
- C. Child care facilities;

- D. Health and fitness clubs;
- E. Medical and dental clinics, outpatient; infirmary services;
- F. Museums, libraries and cultural facilities;
- G. Offices, including finance, insurance, real estate and government;
- H. Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;
- I. Postal services;
- J. Publicly-owned parks, playgrounds, play fields and community or neighborhood centers;
- K. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;
- L. Residential units, single-family detached residential existing prior to adoption of this chapter;
- M. Residential units, single-family and two-family attached;
- N. Residential units, multi-family;
- O. Restaurants, eating and drinking establishments without a drive through;
- P. Retail services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- Q. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores and any other use permitted in the neighborhood commercial, historic commercial or limited commercial districts, provided the maximum footprint for a stand alone building with a single store does not exceed sixty thousand square feet;
- R. Senior housing, including congregate care, residential care and assisted living facilities; nursing homes and other types of group homes;
- S. Studios and galleries, including dance, art, photography, music and other arts;
- T. Utilities: basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers.
- U. Veterinary clinics or pet hospitals, pet day care. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.29.025 Permitted uses--MUC--2.

Permitted uses in the MUC-2 district are those uses allowed in Section 17.29.020 with the following exception:

- A. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores and any other use permitted in the neighborhood, historic or limited commercial districts, provided the maximum footprint for a stand alone building with a single store does not exceed sixty thousand square feet. (Ord. 03-1014, Att. B3 (part), 2003)

17.29.030 Conditional uses--MUC-1 and MUC-2 zones.

The following uses are permitted in this district when authorized and in accordance with the process and standards contained in Chapter 17.56:

- A. Clubs/lodges;
- B. Car washes;
- C. Drive-in or drive-through facilities for a permitted or conditional use;
- D. Emergency and ambulance services;
- E. Motor vehicle service, parts sales, repair, or equipment rental;
- F. Museums and cultural facilities;
- G. Outdoor markets that do not meet the criteria of Section 17.29.020(H);
- H. Public utilities and services such as pump stations and substations;
- I. Religious institutions;
- J. Retail trade, including gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores and any other use permitted in the neighborhood, historic or limited commercial districts that have a footprint for a stand alone building with a single store in excess of sixty thousand square feet in the MUC-1 or MUC-2 zone;
- K. Schools, including trade schools and technical institutes; and
- L. Vehicle fuel sales. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.29.040 Prohibited uses--MUC-1 and MUC-2 zones.

The following uses are prohibited in the MUC district:

- A. Bulk retail or wholesale uses;
- B. Commercial or industrial laundry;
- C. Contractor's equipment yard;
- D. Foundry casting lightweight nonferrous metals;
- E. Frozen food lockers;
- F. Heavy equipment service, repair, sales, storage or rental;*
- G. Hotels and motels, commercial lodging;
- H. Hospitals;
- I. Ice or cold storage plant;
- J. Kennels;
- K. Motor vehicle sales or storage;
- L. Outdoor sales or storage;**
- M. Retail feed, fuel or lumber yard; and
- N. Self-service storage facilities. (Ord. 03-1014, Att. B3 (part), 2003)

* Heavy equipment includes but is not limited to construction equipment and machinery and farming equipment.

** Except secured areas for overnight parking or temporary parking of vehicles used in the business.

17.29.050 Dimensional standards--MUC-1.

- A. Minimum lot areas: none.
- B. Maximum building height: forty-five feet or three stories, whichever is less.
- C. Minimum required setbacks if not abutting a residential zone: none.
- D. Minimum required interior and rear yard setbacks if abutting a residential zone: twenty feet, plus one-foot additional yard setback for every one-foot of building height over thirty-five feet.
- E. Maximum Allowed Setbacks.
 - 1. Front yard: five feet (may be extended with Site Plan and Design Review Section 17.62.055).
 - 2. Interior side yard: none.
 - 3. Corner side yard abutting street: thirty feet provided the site plan and design review requirements of Section 17.62.055 are met.
 - 4. Rear yard: none.
- F. Maximum lot coverage of the building and parking lot: eighty percent.
- G. Minimum required landscaping (including landscaping within a parking lot): twenty percent. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.29.060 Dimensional standards--MUC-2.

- A. Minimum lot area: none.
- B. Minimum floor area ratio: 0.30.
- C. Minimum building height: twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.
- D. Maximum building height: sixty feet.
- E. Minimum required setbacks if not abutting a residential zone: none.
- F. Minimum required interior and rear yard setbacks if abutting a residential zone: twenty feet, plus one foot additional yard setback for every two feet of building height over thirty-five feet.
- G. Maximum Allowed Setbacks.
 - 1. Front yard: five feet (may be expanded with Site Plan and Design Review Section 17.62.055).
 - 2. Interior side yard: none.
 - 3. Corner side yard abutting street: twenty feet provided the site plan and design review

requirements of Section 17.62.055 are met.

4. Rear yard: none.

H. Maximum site coverage of building and parking lot: ninety percent.

I. Minimum landscaping requirement (including parking lot): ten percent. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.29.070 Explanation of certain standards.

A. Floor Area Ratio (FAR).

1. Purpose. Floor area ratios are a tool for regulating the intensity of development. Minimum FARs help to achieve more intensive forms of building development in areas appropriate for larger-scale buildings and higher residential densities.

2. Standards.

a. The minimum floor area ratios contained in Sections 17.29.050 and 17.29.060 apply to all non-residential and mixed-use building development, except stand-alone commercial buildings less than ten thousand square feet in floor area.

b. Required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.

c. An individual phase of a project shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, that the required density for the project will be achieved at project build-out.

B. Other Standards. See OCMC Chapter 17.62 for additional details on building setbacks, building orientation and primary entrances and ground floor window requirements. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.31 MUE MIXED-USE EMPLOYMENT DISTRICT

[17.31.010 Designated.](#)

[17.31.020 Permitted uses.](#)

[17.31.030 Limited uses.](#)

[17.31.040 Conditional uses.](#)

[17.31.050 Prohibited uses.](#)

[17.31.060 Dimensional standards.](#)

[17.31.070 Explanation of certain standards.](#)

17.31.010 Designated.

The MUE zone is designed for employment-intensive uses such as large offices and research and development complexes. Some commercial uses are allowed, within limits. The county offices and Willamette Falls Hospital are examples of such employment-intensive uses. (Ord. 03-1014, Att. B3 (part), 2003)

17.31.020 Permitted uses.

Permitted uses in the MUE district are defined as:

- A. Auditoriums, exhibition halls;
- B. Banks, savings, credit union, stocks and mortgages;
- C. Banquet, conference facilities and meeting rooms;
- D. Child care facilities;
- E. Clinics, outpatient; infirmary services;
- F. Distributing, wholesaling and warehousing;
- G. Employment training and business services;
- H. Health and fitness clubs, including tennis courts and swimming pools, but exclusive of spectator

sports facilities;

I. Hospitals, medical centers and emergency service facilities;

J. Industrial uses limited to the design, light manufacturing, processing, assembly, packaging, fabrication and treatment of products made from previously prepared or semi-finished materials;*

K. Offices; including finance, insurance, real estate and government;

L. Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;

M. Postal services, public and private;

N. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo processing, photo engraving;

O. Public utilities and services, including pump stations and substations;

P. Publicly-owned parks, play fields and community or neighborhood centers;

Q. Research and development offices and laboratories, related to scientific, educational, electronics and communications endeavors;*

R. Residential units, single-family detached residential existing prior to adoption of this chapter;

S. Software development;

T. Transit and passenger rail center and station, exclusive of transit storage areas;

U. Utilities. Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, water tanks, telephone exchange and cell towers. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

* These uses shall have no, or minimal, off-site impacts, e.g. noise, glare, odor and vibration and all activities shall be conducted wholly within an enclosed building.

17.31.030 Limited uses.

The following permitted uses, alone or in combination, shall not exceed twenty percent of the total gross floor area of all of the other permitted and conditional uses within the MUE development site or complex. The total gross floor area of two or more buildings may be used, even if the buildings are not all on the same parcel or owned by the same property owner, as long as they are part of the same development site, as determined by the community development director.

A. Art stores, galleries, photography studios and shops;

B. Bakeries, retail;

C. Barber shops, beauty shops and other personal services;

D. Custom dressmaking, tailoring;

E. Drug stores, pharmacies;

F. Dry cleaners;

- G. Grocery, fruit or vegetable stores;
- H. Office equipment (sales and service);
- I. Restaurants, eating and drinking establishments;
- J. Specialty retail shops, including but not limited to florist, music, gifts, confectionery, books, stationery, hobby, jewelry, bath and kitchen ware, shoes, linen, furniture, hardware, garden supply, appliances and electronics stores, delicatessens, provided the maximum footprint for a stand alone building with a single store does not exceed sixty thousand square feet;
- K. Trade schools and technical and professional institutes, business schools, job training, vocational rehabilitation, exclusive of elementary, secondary and full curricula colleges and universities. (Ord. 03-1014, Att. B3 (part), 2003)

17.31.040 Conditional uses.

The following conditional uses are permitted when authorized and in accordance with the process and standards contained in Chapter 17.56:

- A. Ambulance services;
- B. Building materials, sales and supplies (as described in OCMC Section 17.31.080(A) and not including outdoor storage or outdoor display and sales of building materials;
- C. Correctional, detention and work release facilities;
- D. Drive-in or drive-through facilities for banks, restaurants, pharmacies and other commercial uses;
- E. Hotels, motels and commercial lodging;
- F. Museums and cultural institutions;
- G. Outdoor markets that do not meet the criteria of Section 17.31.020(M);
- H. Private clubs and lodges;
- I. Public facilities, such as sewage treatment plants, water towers, pumps stations, recycling and resource recovery centers;
- J. Religious institutions, such as churches, mosques and synagogues;
- K. Veterinary or pet hospital, dog daycare;
- L. Schools: elementary, secondary and full curricula colleges and universities. (Ord. 03-1014, Att. B3 (part), 2003)

17.31.050 Prohibited uses.

The following uses are prohibited in the MUE district:

- A. Bulk fuel dealerships and storage yards, including card locks;
- B. Concrete mixing and sale;
- C. Contractors equipment yard;

- D. Draying, trucking and automobile freighting yard;
- E. Entertainment centers and facilities, outdoor;
- F. Foundry casting lightweight non-ferrous metals;
- G. Ice or cold storage plant;
- H. Junk yards, salvage yards, wrecking yards, storage yards and recycling centers;
- I. Kennels;
- J. Machinery, equipment or implement sales, service or rental relating to farming and construction (heavy equipment);
- K. Motor vehicle, travel trailer, recreation vehicle, motorcycle, truck, manufactured home and boat sales, leasing, rental or storage;
- L. Recreational vehicle (RV) parks, including sites established or maintained for travel trailers, truck campers, camping trailers and self-propelled motor homes;
- M. Self-storage facilities;
- N. Storage yard for contractor's equipment, transit vehicles and related vehicle or equipment maintenance activities. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.31.060 Dimensional standards.

- A. Minimum lot areas: none.
- B. Minimum floor area ratio: 0.25.
- C. Maximum building height: except as otherwise provided in subsection (C)(1) of this section building height shall not exceed sixty feet.
 - 1. In that area bounded by Leland Road, Warner-Milne Road and Molalla Avenue and located in this zoning district, the maximum building height shall not exceed eighty-five feet in height.
- D. Minimum required setbacks: no side or rear yard setbacks are required, except that a fifty-foot setback shall be required wherever the MUE zone directly abuts any type of commercial or residential zone and at least twenty-five feet of the setback must be a landscaped buffer.
- E. Maximum allowed setbacks: no maximum limit provided the site plan and design review requirements of Section 17.62.055 are met. Development of a campus with an approved master plan in the MUE zone is exempt from Section 17.62.055(D)(1) of Site Plan and Design Review. All other standards are applicable.
- F. Maximum site coverage of the building and parking lot: eighty percent.
- G. Minimum landscape requirement (including the parking lot): twenty percent.
 - 1. The design and development of the landscaping in this district shall:
 - a. Enhance the appearance of the site internally and from a distance;
 - b. Include street trees and street side landscaping;
 - c. Provide an integrated open space and pedestrian way system within the development with appropriate connections to surrounding properties;

- d. Include, as appropriate, a bikeway, walkway or jogging trail;
- e. Provide buffering or transitions between uses;
- f. Encourage outdoor eating areas appropriate to serve all the uses within the development; and
- g. Encourage outdoor recreation areas appropriate to serve all the uses within the development. (Ord. 03-1014, Att. B3 (part), 2003)

17.31.070 Explanation of certain standards.

A. Floor Area Ratio (FAR).

1. Purpose.

a. Floor area ratios are a tool for regulating the intensity of development. Minimum FARs help to achieve more intensive forms of building development in areas appropriate for larger-scale buildings and higher residential densities.

2. Standards.

a. The minimum floor area ratios contained in Sections 17.29.050 and 17.29.060 apply to all non-residential and mixed-use building development, except stand-alone commercial buildings less than ten thousand square feet in floor area.

b. Required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.

c. An individual phase of a project shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, that the required density for the project will be achieved at project build-out.

B. Other Standards.

1. See OCMC Chapter 17.62 for additional details on building setbacks, building orientation and primary entrances and ground floor window requirements. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.32 C GENERAL COMMERCIAL DISTRICT

[17.32.010 Designated.](#)

[17.32.020 Permitted uses.](#)

[17.32.030 Conditional uses.](#)

[17.32.040 Dimensional standards.](#)

17.32.010 Designated.

Uses in the general commercial district are designed to serve the city and the surrounding area.
(Prior code §11-3-13(part))

17.32.020 Permitted uses.

A. Permitted uses in the C district are all general commercial uses which are defined as:

- Art stores;
- Bakery, retail;
- Banks, building and loan associations, loan companies;
- Barber shops;
- Beauty shops;
- Book stores;
- Car wash;
- Circus or other transient amusements;
- Clothes pressing shops;
- Confectionery stores;
- Custom dressmaking shops;
- Delicatessen stores;
- Department stores, retail only;
- Drug stores;
- Dry cleaners, if fire proof vault is not required for dry cleaning equipment;

Dry cleaners, self-service;
Dry cleaning agencies;
Dry goods stores;
Entertainment centers and arcades;
Florist shops;
Food lockers;
Garden supply stores;
Gift shops;
Grocery, fruit or vegetable stores;
Hardware stores;
Indoor shooting gallery;
Jewelry stores;
Hotels and motels;
Laundromats, self-service;
Laundry agencies;
Lawnmower and garden equipment sales and repair;
Meat markets;
Millinery shops;
Music shops;
Offices, business or professional and clinics;
Passenger terminals (water, auto, bus, train);
Photography studios and shops;
Radio and television repair shops;
Restaurants;
Seasonal sales, subject to the provisions of Section 17.54.060;
Service stations or public garages;
Shoe repair and sales shops;
Stationery stores;
Studios;
Tailor shops;
Tattoo shop;
Theaters;
Variety stores;
Wearing apparel shops; and

Uses permitted in the R-2 multi-family dwelling district.

B. The following uses may occupy a building or yard space other than required setbacks and such occupied yard space shall be enclosed by a sight-obscuring wall or fence outside the required setback of sturdy construction and uniform color or an evergreen hedge not less than six feet in height located outside of the required yard, further provided that such wall or fence shall not be used for advertising purposes:

Retail feed or fuel yard; and

Retail lumber yard and building yard, excluding concrete mixing. (Editorially amended, Supp. No. 5; Ord. 92-1007 §1(part), 1992; Ord. 91-1018 §1, 1991; prior code §11-3-13(A))

17.32.030 Conditional uses.

The following conditional uses are permitted when authorized and in accordance with the standards contained in Chapter 17.56:

A. Uses listed in Section 17.56.030;

B. Public recycle drop/receiving center. (Prior code §11-3-13(B))

17.32.040 Dimensional standards.

A. Minimum Lot Area. Buildings hereafter built wholly or used partially for dwelling purposes shall comply with the dimensional standards in the R-2 multi-family dwelling district; otherwise, no minimum lot area is required;

B. Maximum building height not to exceed forty-five feet;

C. Minimum Required Setbacks.

1. Front yard: ten feet minimum depth.

2. Interior side yard: no minimum.

3. Corner side yard: ten feet minimum width.

4. Rear yard: ten feet minimum depth. (Ord. 04-1016, Att. 1 (part), 2004: editorially amended, Supp. No. 5; prior code §11-3-13(C))

[Title 17 ZONING](#)

Chapter 17.34 MUD MIXED-USE DOWNTOWN DISTRICT*

[Note to Chapter 17.34](#)

[17.34.010 Designated.](#)

[17.34.020 Permitted uses.](#)

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[17.34.040 Prohibited uses.](#)

[17.34.050 Pre-existing industrial uses.](#)

[17.34.060 Mixed use downtown dimensional standards--Properties located outside of the downtown design district.](#)

[17.34.070 Mixed use downtown dimensional standards--Properties located within the downtown design district.](#)

[17.34.080 Explanation of certain standards.](#)

Note to Chapter 17.34

* Prior history: Ords. 92-1007, 91-1017 and prior code §11-3-14.

17.34.010 Designated.

The mixed-use downtown (MUD) district is designed to apply within the traditional downtown core along Main Street and includes the “north-end” area, generally between 5th Street and Abernethy Street and some of the area bordering McLoughlin Boulevard. A mix of high-density residential, office and retail uses are encouraged in this district, with retail and service uses on the ground floor and office and residential uses on the upper floors. The emphasis is on those uses that encourage pedestrian and transit use. This district includes downtown design district overlay for the historic downtown area. Retail and service uses on the ground floor and office and residential uses on the upper floors are encouraged in this district. The design standards for this sub-district require a

continuous storefront façade featuring streetscape amenities to enhance the active and attractive pedestrian environment. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.34.020 Permitted uses.

Permitted uses in the MUD district are defined as:

- A. Any use permitted in the neighborhood, historic, limited or MUC--2 zone districts, unless otherwise restricted in Sections 17.34.030 or 17.34.040;
- B. Banquet, conference facilities and meeting rooms;
- C. Child care facilities;
- D. Clubs/lodges;
- E. Health and fitness clubs;
- F. Hotel and motel, commercial lodging;
- G. Indoor recreational facilities, including theaters;
- H. Marinas;
- I. Medical and dental clinics, outpatient and infirmary services;
- J. Museums and cultural facilities;
- K. Office uses;
- L. Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;
- M. Postal services;
- N. Publicly-owned parks, play fields and community or neighborhood centers;
- O. Religious institutions, such as churches, mosques and synagogues;
- P. Repair shops, for office equipment, bicycles, electronic equipment, shoes and small appliances;
- Q. Residential units, single-family detached residential existing prior to adoption of this chapter;
- R. Residential units, single-family and two-family attached;
- S. Residential Units, multi-family;
- T. Restaurants, eating and drinking establishments;
- U. Retail services, including professional, educational and financial services; laundry and dry-cleaning;
- V. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores provided the maximum footprint of a free standing building with a single store does not exceed sixty thousand square feet (a free standing building over sixty thousand square feet is allowed as long as the building contains multiple stores);
- W. Senior housing, including congregate care, residential care and assisted living, nursing homes and other types of group homes;
- X. Studios and galleries, including dance, art, photography, music and other arts; and

Y. Utilities. Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.34.030 Conditional uses.

The following uses are permitted in this district when authorized and in accordance with the process and standards contained in Chapter 17.56.

- A. Drive-through facilities (drive-through car washes are prohibited);
- B. Emergency services;
- C. Hospitals;
- D. Outdoor markets that do not meet the criteria of Section 17.34.020(L);
- E. Outdoor recreational facilities;
- F. Parking structures and lots not in conjunction with a primary use;
- G. Repairs shop for small engines, such as lawnmowers, leaf blowers and construction-related equipment;
- H. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies and specialty stores in a free standing building with a single store exceeding a foot print of sixty thousand square feet;
- I. Public facilities such as sewage and water treatment plants, water towers and recycling and resource recovery centers;
- J. Public utilities; and
- K. Wholesale and bulk retail uses. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.34.040 Prohibited uses.

The following uses are prohibited in the MUD district:

- A. Drive through car wash;
- B. Kennels;
- C. Outdoor storage and sales, not including outdoor markets allowed in Section 17.34.030; and
- D. Self-service storage. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003)

17.34.050 Pre-existing industrial uses.

Tax lots 100 and 200 located on Clackamas County Tax Assessors Map #22E30DD and Tax lot 700 located on Clackamas County Tax Assessors Map #22E29CB have special provisions for industrial

uses. These properties may maintain and expand their industrial uses on existing tax lots. A change in use is allowed as long as there is no greater impact on the area than the existing use. (Ord. 03-1014, Att. B3 (part), 2003)

17.34.060 Mixed use downtown dimensional standards--Properties located outside of the downtown design district.

- A. Minimum lot area: none.
- B. Minimum floor area ratio: 0.30.
- C. Minimum building height: twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.
- D. Maximum building height: seventy-five feet, except for the following locations where the maximum building height shall be forty-five feet:
 - 1. Properties between Main Street and McLoughlin Boulevard and 11th and 16th streets;
 - 2. Property within five hundred feet of the End of the Oregon Trail Center property; and
 - 3. Property within one hundred feet of single-family detached or detached units.
- E. Minimum required setbacks, if not abutting a residential zone: none.
- F. Minimum required interior side yard and rear yard setback if abutting a residential zone: fifteen feet, plus one additional foot in yard setback for every two feet in height over thirty-five feet.
- G. Maximum Allowed Setbacks.
 - 1. Front yard: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
 - 2. Interior side yard: no maximum.
 - 3. Corner side yard abutting street: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
 - 4. Rear yard: no maximum.
 - 5. Rear yard abutting street: twenty feet provided the site plan and design review requirements of Section 17.62.055 are met.
- H. Maximum site coverage including the building and parking lot: ninety percent.
- I. Minimum landscape requirement (including parking lot): ten percent. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.34.070 Mixed use downtown dimensional standards--Properties located within the downtown design district.

- A. Minimum lot area: none.
- B. Minimum floor area ratio: 0.5.
- C. Minimum building height: twenty-five feet or two stories except for accessory structures or

buildings under one thousand square feet.

D. Maximum building height: fifty-eight feet.

E. Minimum required setbacks, if not abutting a residential zone: none.

F. Minimum required interior and rear yard setback if abutting a residential zone: twenty feet, plus one foot additional yard setback for every three feet in building height over thirty-five feet.

G. Maximum Allowed Setbacks.

1. Front yard: ten feet provided the site plan and design review requirements of Section 17.62.055 are met.

2. Interior side yard: no maximum.

3. Corner side yard abutting street: ten feet provided the site plan and design review requirements of Section 17.62.055 are met.

4. Rear yard: no maximum.

5. Rear yard abutting street: ten feet provided the site plan and design review requirements of Section 17.62.055 are met.

H. Parking Standards. The minimum number of off-street vehicular parking stalls required in Chapter 17.52 may be reduced by fifty percent.

I. Maximum site coverage of the building and parking lot: one hundred percent.

J. Minimum Landscape Requirement. Development within the downtown design district overlay is exempt from required landscaping standards in Section 17.62.050(A)(1). However, landscaping features or other amenities are required, which may be in the form of planters, hanging baskets and architectural features such as benches and water fountains that are supportive of the pedestrian environment. Where possible, landscaped areas are encouraged to facilitate continuity of landscape design. Street trees and parking lot trees are required and shall be provided per the standards of Chapter 12.08 and Chapter 17.52. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003)

17.34.080 Explanation of certain standards.

A. Floor Area Ratio (FAR).

1. Purpose.

a. Floor area ratios are a tool for regulating the intensity of development. Minimum FARs help to achieve more intensive forms of building development in areas appropriate for larger-scale buildings and higher residential densities.

2. Standards.

a. The minimum floor area ratios contained in Sections 17.34.060 and 17.34.070 apply to all non-residential and mixed-use building developments.

b. Required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.

c. An individual phase of a project shall be permitted to develop below the required minimum floor

area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, that the required density for the project will be achieved at project build-out.

B. Building Height.

1. Purpose.

a. The Masonic Hall is currently the tallest building in downtown Oregon City, with a height of fifty-eight feet measured from Main Street. The maximum building height limit of fifty-eight feet will ensure that no new building will be taller than the Masonic Hall.

b. A minimum two-story (twenty-five feet) building height is established for the historic downtown overlay sub-district to ensure that the traditional building scale for the downtown area is maintained.

C. Other Standards. See OCMC Chapter 17.62 for additional details on building setbacks, building orientation and primary entrances and ground floor window requirements. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.36 GI GENERAL INDUSTRIAL DISTRICT*

[Note to Chapter 17.36](#)

[17.36.010 Designated.](#)

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Note to Chapter 17.36

* Prior history: Ords. 00-1003, 93-1022 and prior code §11-3-15.

17.36.010 Designated.

The general industrial district is designed to allow uses relating to manufacturing, processing and distribution of goods. The uses permitted on the general industrial lands are intended to protect existing industrial and employment lands to improve the region's economic climate and protect the supply of sites for employment by limiting new and expanded retail commercial uses to those appropriate in type and size to serve the needs of businesses, employees and residents of the industrial areas. (Ord. 03-1014, Att. B3 (part), 2003)

17.36.020 Permitted uses-Within buildings.

A. In the GI district, the following uses are permitted if enclosed within a building:

1. Carpenter shop or wood product, pulp, paper and paperboard manufacturing and processing;
2. Commercial or industrial laundry;
3. Distributing, wholesaling and warehousing, excluding explosives and substances which cause an undue hazard to the public health, welfare and safety;
4. Electroplating, machine or welding shop;

5. Foundry casting lightweight nonferrous metals;
 6. Frozen food lockers;
 7. Heavy equipment service, repair, sales, rental or storage;*
 8. Ice or cold storage plant;
 9. Photo engraving;
 10. Veterinary or pet hospital, kennel or hatchery;
 11. Necessary dwellings for caretakers and watchmen (all other residential uses are prohibited);
 12. Retail sales and services, including eating establishments for employees (i.e. a café or sandwich shop), located in a single building or in multiple buildings that are part of the same development shall be limited to a maximum of twenty thousand square feet or five percent of the building square footage, whichever is less and the retail sales and services shall not occupy more than ten percent of the net developable portion of all contiguous industrial lands;
- B. The following uses may occupy a building or yard space other than required setbacks and such occupied yard space shall be enclosed by a sight-obscuring wall or fence of sturdy construction and uniform color or an evergreen hedge not less than six feet in height located outside the required yard, further provided that such wall or fence shall not be used for advertising purposes:
1. Storage facilities;
 2. Concrete mixing and sales;
 3. Contractor's equipment yard;
 4. Draying, trucking and automobile freighting yard;
 5. Heavy equipment service, repair, sales, rental or storage;*
 6. Retail feed or fuel yard;
 7. Retail lumberyard and building material yard;
 8. Small boat yard for the building or repair of boats not exceeding sixty-five feet in length. (Ord. 03-1014, Att. B3 (part), 2003)

* Heavy equipment includes but is not limited to construction equipment and machinery and farming equipment.

17.36.030 Conditional uses.

The following conditional uses are permitted in this district when authorized and in accordance with the standards contained in Chapter 17.56:

- A. Public recycle drop/receiving center;
- B. Public recycle warehouse;
- C. Railroad terminal and railroad freighting facilities;
- D. Solid waste transfer facility;

- E. Solid waste processing facility;
- F. Plants or facilities engaged in resource recovery as defined in Section 8.20.020;
- G. Industrial uses, defined as all uses not permitted or conditional in the GI general industrial zone provided that such uses do not present an undue hazard to the public health, welfare and safety;
- H. Uses listed in Section 17.56.030. (Ord. 03-1014, Att. B3 (part), 2003)

17.36.035 Prohibited uses.

Wrecking yards. (Ord. 03-1014, Att. B3 (part), 2003)

17.36.040 Dimensional standards.

Dimensional standards in the GI district are:

- A. Minimum lot area: minimum not required.
- B. Maximum building height: three stories, not to exceed forty feet.
- C. Minimum Required Setbacks.
 - 1. Front yard: ten feet minimum depth.
 - 2. Interior side yard: no minimum width.
 - 3. Corner side yard: ten feet minimum width.
 - 4. Rear yard: ten feet minimum depth.
- D. Buffer Zone. If a use in this zone abuts or faces a residential or commercial use, a yard of at least twenty-five feet shall be required on the side abutting or facing the adjacent residential use and commercial uses in order to provide a buffer area and sight obscuring landscaping thereof shall be subject to site plan review. The community development director may waive any of the foregoing requirements if he/she determines that the requirement is unnecessary in the particular case. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.37 CI CAMPUS INDUSTRIAL DISTRICT*

[Note to Chapter 17.37](#)

[17.37.010 Designated.](#)

[17.37.020 Permitted uses.](#)

[17.37.030 Conditional uses.](#)

[17.37.040 Dimensional standards.](#)

[17.37.050 Development standards.](#)

Note to Chapter 17.37

* Prior ordinance history: Ords. 99-1026 and 93-1022.

17.37.010 Designated.

The campus industrial district allows a mix of clean, employee-intensive industries and offices serving industrial needs. These areas provide jobs that strengthen and diversify the economy. The uses permitted on campus industrial lands are intended to improve the region's economic climate and to protect the supply of sites for employment by limiting incompatible uses within industrial and employment areas and promoting industrial uses, uses accessory to industrial uses, offices for industrial research and development and large corporate headquarters. (Ord. 03-1014, Att. B3 (part), 2003)

17.37.020 Permitted uses.

The following uses may occupy up to one hundred percent of the total floor area of the development, unless otherwise described:

- A. Experimental, film or testing laboratories;
- B. Industries that manufacture from, or otherwise process, previously prepared materials;
- C. Printing, publishing, bookbinding, graphic or photographic reproduction, blueprinting or photo

processing;

D. Trade schools including technical, professional, vocational, business schools and college or university programs serving industrial needs;

E. Corporate or government headquarters or regional offices with fifty or more employees;

F. Computer component assembly plants;

G. Information and data processing centers;

H. Software and hardware development;

I. Engineering, architectural and surveying services;

J. Non-commercial, educational, scientific and research organizations;

K. Research and development activities;

L. Industrial and professional equipment and supply stores, which may include service and repair of the same;

M. Retail sales and services, including eating establishments for employees (i.e. a café or sandwich shop), located in a single building or in multiple buildings that are part of the same development shall be limited to a maximum of twenty thousand square feet or five percent of the building square footage, whichever is less and the retail sales and services shall not occupy more than ten percent of the net developable portion of all contiguous industrial lands;

N. Financial, insurance, real estate or other professional offices, as an accessory use to a permitted use, located in the same building as the permitted use and limited to ten percent of the total floor area of the development. Financial institutions shall primarily serve the needs of businesses and employees within the development and drive-through features are prohibited. (Ord. 03-1014, Att. B3 (part), 2003)

17.37.030 Conditional uses.

The following conditional uses may be established in a campus industrial district subject to review and action on the specific proposal, pursuant to the criteria and review procedures in Chapters 17.50 and 17.56:

A. Distribution or warehousing;

B. Any other use which, in the opinion of the planning commission, is of similar character of those specified in Sections 17.37.020 and 17.37.030. In addition, the proposed conditional uses:

1. Will have minimal adverse impact on the appropriate development of primary uses on abutting properties and the surrounding area considering location, size, design and operating characteristics of the use;

2. Will not create odor, dust, smoke, fumes, noise, glare, heat or vibrations which are incompatible with primary uses allowed in this district;

3. Will be located on a site occupied by a primary use, or, if separate, in a structure which is compatible with the character and scale or uses allowed within the district and on a site no larger than necessary for the use and operational requirements of the use; and

4. Will provide vehicular and pedestrian access, circulation, parking and loading areas which are

compatible with similar facilities for uses on the same site or adjacent sites. (Ord. 03-1014, Att. B3 (part), 2003)

17.37.040 Dimensional standards.

Dimensional standards in the CI district are:

A. Minimum lot area: no minimum required.

B. Maximum building height: except as otherwise provided in subsection (B)(1) of this section building height shall not exceed forty-five feet.

1. In that area bounded by Leland Road, Warner-Milne Road and Molalla Avenue and located in this zoning district, the maximum building height shall not exceed eighty-five feet in height.

C. Minimum Required Setbacks.

1. Front yard: twenty feet minimum depth.

2. Interior side yard: no minimum width.

3. Corner side yard: twenty feet minimum width.

4. Rear yard: ten feet minimum depth.

D. Buffer Zone. If a use in this zone abuts or faces a residential use, a yard of at least twenty-five feet shall be required on the side abutting or facing the adjacent residential or commercial zone in order to provide a buffer area and landscaping thereof shall be subject to site plan review.

E. If the height of the building exceeds forty-five feet, as provided in subsection (B)(1) of this section for every additional story built above forty-five feet, an additional twenty-five foot buffer shall be provided. (Ord. 03-1014, Att. B3 (part), 2003)

17.37.050 Development standards.

All development within the CI district is subject to the review procedures and application requirements under Chapter 17.50 and the development standards under Chapter 17.62. Multiple building developments are exempt from the setback requirements of Section 17.62.055. In addition, the following specific standards, requirements and objectives shall apply to all development in this district. Where requirements conflict, the more restrictive provision shall govern.

A. Landscaping. A minimum of fifteen percent of the developed site area shall be used for landscaping. The design and development of landscaping in this district shall:

1. Enhance the appearance of the site internally and from a distance;

2. Include street trees and street side landscaping;

3. Provide an integrated open space and pedestrian system within the development with appropriate connections to surrounding properties;

4. Include, as appropriate, a bikeway, pedestrian walkway or jogging trail;

5. Provide buffering or transitions between uses;

6. Encourage outdoor eating areas conveniently located for use by employees; and

7. Encourage outdoor recreation areas appropriate to serve all the uses within the development.

B. Parking. No parking areas or driveways, except access driveways, shall be constructed within the front setback of any building site or within the buffer areas without approved screening and landscaping.

C. Fences. Periphery fences shall not be allowed within this district. Decorative fences or walls may be used to screen service and loading areas, private patios or courts. Fences may be used to enclose playgrounds, tennis courts, or to secure sensitive areas or uses, including but not limited to, vehicle storage areas, drainage detention facilities, or to separate the development from adjacent properties not within the district. Fences shall not be located where they impede pedestrian or bicycle circulation or between site areas.

D. Signs. One ground-mounted sign may be provided for a development. Other signage shall be regulated by Title 15.

E. Outdoor Storage and Refuse/Recycling Collection Areas.

1. No materials, supplies or equipment, including company-owned or operated trucks or motor vehicles, shall be stored in any area on a lot except inside a closed building, or behind a visual barrier screening such areas so that they are not visible from the neighboring properties or streets. No storage areas shall be maintained between a street and the front of the structure nearest the street.

2. All outdoor refuse/recycling collection areas shall be visibly screened so as not to be visible from streets and neighboring property. No refuse/recycling collection areas shall be maintained between a street and the front of the structure nearest the street. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.39 I INSTITUTIONAL DISTRICT

[17.39.010 Designated.](#)

[17.39.020 Permitted uses.](#)

[17.39.030 Accessory uses.](#)

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[17.39.060 Relationship to master plan.](#)

[17.39.070 Changes to the I district boundary.](#)

17.39.010 Designated.

The purpose of this district is to facilitate the development of major public institutions, government facilities and parks and ensure the compatibility of these developments with surrounding areas. The I zone is consistent with the public/quasi-public and park designations on the comprehensive plan map. (Ord. 03-1014, Att. B3 (part), 2003)

17.39.020 Permitted uses.

Permitted uses in the institutional district are:

- A. Colleges and universities;
- B. Public and private schools;
- C. Parks, playgrounds, playfields and community or neighborhood community centers; and
- D. Public facilities and services including courts, libraries and general government offices and maintenance facilities. (Ord. 03-1014, Att. B3 (part), 2003)

17.39.030 Accessory uses.

The following uses are permitted outright if they are accessory to and related to the primary institutional use:

- A. Offices;
- B. Retail (not to exceed ten percent of total gross floor area of all building);
- C. Child care centers or nursery schools;
- D. Group living (dorms, hospice, etc.);
- E. Stadiums, arenas and auditoriums;
- F. Scientific, educational, or medical research facilities and laboratories;
- G. Religious institutions; and
- H. Museums. (Ord. 03-1014, Att. B3 (part), 2003)

17.39.040 Conditional uses.

Uses requiring conditional use permit are:

- A. Any uses listed under Section 17.39.030 that are not accessory to the primary institutional use;
- B. Boarding and lodging houses, bed and breakfast inns and assisted living facilities for senior citizens;
- C. Cemeteries, crematories, mausoleums and columbariums;
- D. Correctional facilities;
- E. Helipad in conjunction with a permitted use, excluding residential districts;
- F. Nursing homes;
- G. Parking lots not in conjunction with a primary use;
- H. Private clubs and lodges, excluding residential districts;
- I. Public utilities, including sub-stations (such as buildings, plants and other structures);
- J. Welfare institutions and social service organizations, excluding residential districts; and
- K. Fire stations. (Ord. 03-1014, Att. B3 (part), 2003)

17.39.050 Dimensional standards.

Dimensional standards in the I district are:

- A. Maximum building height: within one hundred feet of any district boundary, not to exceed thirty-five feet; elsewhere, not to exceed seventy feet.
- B. Minimum required setbacks: twenty-five feet from property line except when the development is adjacent to a public right-of-way. When adjacent to a public right-of-way, the minimum setback is zero feet and the maximum setback is five feet. (Ord. 03-1014, Att. B3 (part), 2003)

17.39.060 Relationship to master plan.

A. A master plan is required for any development within the I district on a site over ten acres in size that:

1. Is for a new development on a vacant property;
2. Is for the redevelopment of a property previously used an a non-institutional use; or
3. Increases the floor area of the existing development by ten thousand square feet over existing conditions.

B. Master plan dimensional standards that are less restrictive than those of the institutional district require adjustments. Adjustments will address the criteria of Section 17.65.070 and will be processed concurrently with the master plan application.

C. Modifications to other development standards in the code may be made as part of the phased master plan adjustment process. All modifications must be in accordance with the requirements of the master plan adjustment process identified in Section 17.65.070. (Ord. 03-1014, Att. B3 (part), 2003)

17.39.070 Changes to the I district boundary.

The I district boundary may be amended through Chapter 17.68, Zoning Changes and Amendments. (Ord. 03-1014, Att. B3 (part), 2003)

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Chapter 17.40 H HISTORIC OVERLAY DISTRICT

[17.40.010 Purpose.](#)

[17.40.020 Definitions.](#)

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[17.40.040 Citizen involvement.](#)

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[17.40.060 Exterior alteration and new construction.](#)

[17.40.065 Historic preservation incentives.](#)

[17.40.070 Demolition and moving.](#)

17.40.010 Purpose.

It is declared as a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this chapter is to:

- A. Effect and accomplish the protection, enhancement and perpetuation of such improvements and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;
- B. Safeguard the city's historic, aesthetic and cultural heritage as embodied and reflected in such improvements and districts;
- C. Complement any National Register Historic districts designated in the city;
- D. Stabilize and improve property values in such districts;
- E. Foster civic pride in the beauty and noble accomplishments of the past;
- F. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
- G. Strengthen the economy of the city;

H. Promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing and public welfare of the city; and

I. Carry out the provisions of LCDC Goal 5. (Prior code §11-3-17(A))

17.40.020 Definitions.

For the purpose of this section, the following terms are defined as indicated:

“Alteration” means the addition to, removal of or from, or physical modification or repair of, any exterior part or portion of a landmark or structures in an historic or conservation district. In an historic district any physical change shall be considered a form of alteration and shall be treated as such, except repair and maintenance or change of copy.

“Architectural significance” means that the structure or district:

1. Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style;
2. Embodies those distinguishing characteristics of an architectural-type specimen;
3. Is the work of an architect or master builder whose individual work has influenced the development of the city; or
4. Contains elements of architectural design, detail, materials or craftsmanship which represents a significant innovation.

“Board” means the historic review board.

“Demolish” means to raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of the designated landmark or structure in an historic or conservation district.

“District” means the area within a designated historic district, conservation district or historic corridor as provided by the zoning maps of the city.

“Exterior” means any portion of the outside of a landmark building, structure, or site in a district or any addition thereto.

“Historical significance” means that the structure of district:

1. Has character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation;
2. Is the site of an historic event with an effect upon society;
3. Is identified with a person or group of persons who had some influence on society; or
4. Exemplifies the cultural, political, economic, social or historic heritage of the community.

“Historic corridor” means that portion of a parcel of land that is a part of a designated linear historic feature such as the route of the Oregon Trail-Barlow Road.

“Historic site” means the structure and the property surrounding a landmark, a structure in an historic district, or a designated structure in a conservation district.

“Major public improvements” means the expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of lands or the making of public improvements within a district, except for the repair or maintenance of public or private

improvements within a district.

“New construction” means an additional new building or structure separate from the existing building mass that is larger than two hundred square feet on all properties located within a historic overlay district. Any building addition that is thirty percent or more in area (be it individual or cumulative) of the original structure shall be considered new construction. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-17(B))

17.40.030 Designated.

A. The historic overlay district shall apply to the following:

1. Historic districts, upon designation in accordance with this section;
2. Conservation districts designated in accordance with this section;
3. Landmarks as designated by this section; and
4. Historic corridors designated in accordance with this section.

B. The boundaries of the historic districts, the boundaries of conservation districts, historic corridors, the location of buildings and structures in conservation districts and the location of landmarks shall be designated on a special city zoning map or maps.

C. The following are designated within the historic overlay district:

1. The Canemah Historic District; the minimum boundaries of which are those designated by the United States Department of the Interior on the National Register of Historic Places as indicated in the city comprehensive plan.
2. The McLoughlin Conservation District; the surveyed buildings indicated by map in the comprehensive plan shall constitute the designated structures in the McLoughlin Conservation District, along with any structures designated since initial adoption of the comprehensive plan on March 13, 1980.
3. The Oregon Trail-Barlow Road Historic Corridor: properties identified as the original primary route or as the alternate route in the May, 1988 inventory of the Barlow Road by the county.
4. Designations undertaken pursuant to Section 17.40.050. The established historic overlay district shall allow for the designation of two types of districts so that areas with a high concentration of historic structures are designated historic districts and areas with a lower concentration are designated conservation districts. Also allowed is the designation of structures of historic or architectural significance not located in an historic or conservation district to be designated as landmarks. (Prior code §11-3-17(C))

17.40.040 Citizen involvement.

A. The planning department shall be authorized to incur expenses in holding public workshops in the historic districts and conservation districts, distribute written information, show slides and answer questions on remodeling and rehabilitation of older buildings and to educate the public in the need to comply with state and federal laws protecting or encouraging protection of antiquities and other related matters concerning historic preservation.

B. Citizens making applications for district or landmark designations or for exterior alterations or new construction in an historic or conservation district and historic corridor or on a landmark site may consult with and receive advice from the planning department staff concerning their applications. (Prior code §11-3-17(D))

17.40.050 Designation procedure--Application--Review.

A. Institution of Proceedings. The city commission, the planning commission, the historic review board, a recognized neighborhood group or any interested person may initiate the proceedings for designation of an historic or conservation district, landmark, or historic corridor as follows:

1. The city commission or the historic review board may initiate designation proceedings by sending a written proposal or application to the planning staff. Such proposal is not subject to any minimal information requirements other than a description of the boundaries of the area to be designated.
2. Any interested person or recognized neighborhood group may start designation proceedings by sending a written application to the planning staff.

B. Application Information. The planning staff may specify the information required in an application and may from time to time change the content of that information, but at all times the planning staff shall require the following information:

1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. A description of the boundaries of the proposed district or a description of the proposed landmark;
4. A map illustrating the boundaries of the proposed district or the location of the proposed landmark;
5. A statement explaining the following:
 - a. The reasons why the proposed district or landmark should be designated,
 - b. The reason why the boundaries of the proposed district are adequate and suitable for designation,
 - c. The positive and negative effects, if any, which designation of the proposed district or landmark would have on the residents or other property owners of the area.

C. The planning staff shall deliver a proposal or an application for the designation to the historic review board within thirty days after the day on which a proposal or application is received. The historic review board shall review the proposal on the application and prepare a written recommendation or decision approving or rejecting the proposed designation.

D. In preparing the recommendation or decision, the historic review board shall limit its review to:

1. Whether the proposed district or landmark would serve the purpose of the historic overlay district as stated in Section 17.40.010; and
2. Conformity with the purposes of the city comprehensive plan.

E. City Commission Review of District.

1. The historic review board shall deliver a copy of its recommendation to the city commission within thirty days.
2. The city commission shall hold a public hearing pursuant to procedures contained in Chapter 17.68.

3. After the hearing, the city commission may engage in one of the following actions:
 - a. Refuse to designate the proposed district; or
 - b. Designate the proposed district by a duly enacted ordinance; or
 - c. Remand the matter to the historic review board for additional consideration of a specific matter or matters.
4. The city commission may limit itself to the proposed district and as so modified, approve it. Enlargement of the proposed district shall require additional notice and public hearing. The commission may hold such hearing or hearings.
5. The approval or disapproval of the designation by the city commission shall be in writing and shall state the reasons for approval or disapproval.
6. Amendment or Rescission. The district designation may be amended or rescinded after the board and city commission have utilized the same procedures required by this title for establishment of the designation. The board shall give priority to designation of potential districts and landmarks indicated in the city comprehensive plan. (Prior code §11-3-17(E))

17.40.060 Exterior alteration and new construction.

- A. Except as provided pursuant to subsection I of this section, no person shall alter any historic site in such a manner as to affect its exterior appearance, nor shall there be any new construction in an historic district, conservation district, historic corridor, or on a landmark site, unless a certificate of appropriateness has previously been issued by the historic review board. Any building addition that is thirty percent or more in area of the historic building (be it individual or cumulative) shall be considered new construction in a district. Further, no major public improvements shall be made in the district unless approved by the board and given a certificate of appropriateness.
- B. Application for such a certificate shall be made to the planning staff and shall be referred to the historic review board. The application shall be in such form and detail as the board prescribes.
- C. 1. The historic review board, after notice and public hearing held pursuant to Chapter 17.50, shall approve the issuance, approve the issuance with conditions or disapprove issuance of the certificate of appropriateness.
 2. The following exterior alterations to historic sites may be subject to administrative approval:
 - a. Construction of foundations for structures on historic sites, subject to HRB Policy-1 established by the board;
 - b. Addition of storm windows to structures on historic sites, subject to HRB Policy-2 established by the board;
 - c. Repair of siding, subject to HRB Policy-3 established by the board.
- D. For exterior alterations of historic sites in an historic district or conservation district or individual landmark, the criteria to be used by the board in reaching its decision on the certificate of appropriateness shall be:
 1. The purpose of the historic overlay district as set forth in Section 17.40.010;
 2. The provisions of the city comprehensive plan;

3. The economic use of the historic site and the reasonableness of the proposed alteration and their relationship to the public interest in the structure's or landmark's preservation or renovation;
4. The value and significance of the historic site;
5. The physical condition of the historic site;
6. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used with the historic site;
7. Pertinent aesthetic factors as designated by the board;
8. Economic, social, environmental and energy consequences; and
9. Design guidelines adopted by the historic review board.

E. For construction of new structures in an historic or conservation district, or on an historic site, the criteria to be used by the board in reaching its decision on the certificate of appropriateness shall include the following:

1. The purpose of the historic conservation district as set forth in Section 17.40.010;
2. The provisions of the city comprehensive plan;
3. The economic effect of the new proposed structure on the historic value of the district or historic site;
4. The effect of the proposed new structure on the historic value of the district or historic site;
5. The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure;
6. Economic, social, environmental and energy consequences;
7. Design guidelines adopted by the historic review board.

F. For construction of new structures in an historic corridor, the criteria to be used by the board in reaching its decision on the certificate of appropriateness shall include the following:

1. The purpose of the historic overlay district as set forth in Section 17.40.010;
2. The policies of the city comprehensive plan;
3. The impact on visible evidence of the trail;
4. The impact on archaeological evidence when there exists documented knowledge of archeological resources on the property;
5. The visual impact of new construction within the historic corridor; and
6. The general compatibility of the site design and location of the new construction with the historic corridor considering the standards of subsection G of this section.

G. The following standards apply to development within historic corridors:

1. Within the Oregon Trail-Barlow Road historic corridor, a minimum of a thirty-foot-wide open visual corridor shall be maintained and shall follow the actual route of the Oregon Trail, if known. If the actual route is unknown, the open visual corridor shall connect within the open visual corridor on adjacent property.
2. No new building or sign construction shall be permitted within required open visual corridors. Landscaping, parking, streets, driveways are permitted within required open visual corridors.

H. In rendering its decision, the board's decision shall be in writing and shall specify in detail the basis therefore.

I. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural features which does not involve a change in design, material or the outward appearance of such feature which the building official shall certify is required for the public safety because of its unsafe or dangerous condition.

J. The following exterior alterations may be made subject to the administrative procedures as outlined below:

1. Construction of fences on historic sites.

2. Exterior alterations, excluding additions, to incompatible structures in the Canemah Historic District.

a. A notice of the proposed certificate of appropriateness shall be mailed to the following persons:

i. The applicant;

ii. All owners of property within three hundred feet of the property which is the subject of application;

iii. A recognized neighborhood association and a citizen involvement committee representative of the neighborhood involved, if the property which is the subject of the application lies wholly or partially within the boundaries of such organization.

b. The failure of the property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons entitled to personal notice.

c. Notice shall also be given by publication in a newspaper of general circulation in the area affected.

d. Within ten days of the issuance of notice of the proposed certificate of appropriateness, any person who has received personal notice pursuant to Section 17.40.060(J)(2)(a) or who demonstrates sufficient interest in the outcome to participate in such proceedings, as determined by the historic review board, may request a public hearing before the historic review board.

e. Within forty-five days after a request for public hearing is made, a public hearing shall be held before the historic review board following procedures as established in Chapter 17.50.

f. The historic review board shall then deny or approve the application, either with or without conditions, following procedures as established in Chapter 17.50.

g. In the event no request for hearing is filed, the historic review board, through its chairperson and planning staff, shall issue a certificate of appropriateness in accordance with the notice given without further hearing.

h. The board may adopt policies for review of applications of certificates of appropriateness in the historic overlay district. Such policies shall be adopted only after notice and an opportunity to be heard is provided and shall include specific opportunity for comment by the planning staff, the planning commission and the city commission. Such policies shall carry out the city's comprehensive plan, especially those elements relating to historic preservation. In the absence of such policies, the board shall apply such elements directly. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-3-17(F))

17.40.065 Historic preservation incentives.

A. Purpose. Historic preservation incentives increase the potential for historically designated

properties to be used, protected, renovated and preserved. Incentives make preservation more attractive to owners of locally designated structures because they provide flexibility and economic opportunities.

B. Eligibility for Historic Preservation Incentives. All exterior alterations of designated structures and new construction in historic and conservation districts are eligible for historic preservation incentives if the exterior alteration or new construction has received a certificate of appropriateness from the historic review board per OCMC Section 17.50.110(c).

C. Incentives Allowed. The dimensional standards of the underlying zone as well as for accessory buildings (OCMC Section 17.54.100) may be adjusted to allow for compatible development if the expansion or new construction is approved through historic design review.

D. Process. The applicant must request the incentive at the time of application to the historic review board. (Ord. 03-1014, Att. B3 (part), 2003)

17.40.070 Demolition and moving.

A. If an application is made for a building or moving permit to demolish or move all or part of a structure which is a landmark or which is located in a conservation district or an historic district, the building inspector shall, within seven days, transmit to the historic review board a copy of the transaction.

B. The historic review board shall hold a public hearing within forty-five days of application pursuant to the procedures in Chapter 17.50.

C. In determining the appropriateness of the demolition or moving as proposed in an application for a building or moving permit, the board shall consider the following:

1. All plans, drawings and photographs as may be submitted by the applicant;
2. Information presented to a public hearing held concerning the proposed work;
3. The city comprehensive plan;
4. The purpose of this section as set forth in Section 17.40.010;
5. The criteria used in the original designation of the landmark or district in which the property under consideration is situated;
6. The historical and architectural style, the general design, arrangement, materials of the structure in question or its fixtures; the relationship of such features to similar features of the other buildings within the district and the position of the building or structure in relation to public rights-of-way and to other buildings and structures in the area;
7. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the district which cause it to possess a special character or special historical or aesthetic interest or value;
8. Whether denial of the permit will involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this section;
9. The economic, social, environmental and energy consequences.

D. The board may approve the demolition or moving request after considering the criteria contained

in Section 17.40.070(C). Action by the board approving the issuance of a permit for demolition or moving may be appealed to the city commission by any aggrieved party, by filing a notice of appeal, in the same manner as provided in Section 2.28.070 for appeals. If no appeal is filed, the building official shall issue the permit in compliance with all other codes and ordinances of the city.

E. The board may reject the application for permit if it determines that, in the interest of preserving historical values, the structure should not be demolished or moved, and in that event issuance of the permit shall be suspended for a period fixed by the board, as follows:

1. For landmarks or structures located in a conservation district, the board may invoke a stay of demolition or stay of moving for a period not exceeding thirty days from the date of public hearing. The board may invoke an extension of the suspension period if it determines that there is a program or project underway which could result in public or private acquisition of such structure or site, and that there is reasonable ground to believe that such program or project may be successful, then the board, at its discretion, may extend the suspension period in thirty-day increments for an additional period not exceeding ninety days, to a total of not more than one hundred twenty days from the date of public hearing for demolition, or moving permit. During such period of suspension of permit application, no permit shall be issued for such demolition or moving nor shall any person demolish or move the building or structure. If all such programs or projects are demonstrated to the board to be unsuccessful and the applicant has not withdrawn the application for demolition or moving permit, the building inspector shall issue such permit, if the application otherwise complies with the codes and ordinances of the city.

Action by the board suspending issuance of a permit for demolition or moving may be appealed to the city commission by the applicant for permit, by filing a notice of appeal, in the same manner as provided in Section 2.28.070 for appeals.

2. For structures located in an historic district, the board may invoke a stay of demolition or stay of moving for a period not exceeding one hundred twenty days. The board may invoke an extension of the suspension period if it determines that there is a program or project underway which could result in public or private acquisition of the structure or site, or the preservation or restoration of such structure or site, and that there are reasonable grounds to believe that such program or project may be successful, then the board, at its discretion, may extend the suspension period for an additional period not exceeding ninety days, to a total of not more than two hundred ten days from the date of application for demolition or moving permit. During such period of suspension of permit application, no permit shall be issued for such demolition or moving nor shall any person demolish or move the building or structure. If all such programs or projects are demonstrated to the board to be unsuccessful and the applicant has not withdrawn the application for a demolition or moving permit, the building inspector shall issue such permit, if the application otherwise complies with the codes and ordinances of the city.

Action by the board suspending issuance of the permit for demolition or moving may be appealed to the city commission by the applicant for permit, by filing a notice of appeal, in the same manner as provided in Section 2.28.070 for appeals.

F. In any case where the city commission has ordered the removal or demolition of any structure determined to be dangerous to life, health or property, nothing contained in this title shall be construed as making it unlawful for any person, without prior approval of the historic review board, pursuant to this title, to comply with such order. (Prior code §11-3-17(G))

[Title 17 ZONING](#)

Chapter 17.42 FLOOD MANAGEMENT OVERLAY DISTRICT

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17.42.010 Purpose--Findings.

- A. There is established in the city a flood management overlay district. The flood management overlay district is an overlay zone classification and all conditions and restrictions of land use established by this chapter of the city's zoning ordinance shall be in addition to such restrictions and conditions as may be imposed and established in underlying zoning districts.
- B. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
1. To protect human life and health;
 2. To minimize expenditure of public money and costly flood control;
 3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 4. To minimize prolonged business interruptions;
 5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 6. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
 7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
 8. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
 9. To protect Flood Management Areas, which provide the following functions:
 - a. Protect life and property from dangers associated with flooding,
 - b. Flood storage, reduction of flood velocities, reduction of flood peak,
 - c. Flows and reduction of wind and wave impacts,
 - d. Maintain water quality by reducing and sorting sediment loads,
 - e. Processing chemical and organic wastes and reducing nutrients, recharge, store and discharge groundwater, and
 - f. Provide plant and animal habitat, and support riparian ecosystems. (Ord. 99-1013 §8 (part), 1999)

17.42.020 Definitions.

Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as

to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Architect” means an architect licensed by the state of Oregon.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on FEMA maps always includes the letters A or V.

“Bankfull stage” means the stage or elevation at which water overflows the natural banks of streams or other waters of this state. The bankfull stage may be approximated by using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the one-hundred-year flood. Designation on maps always includes the letters A or V.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Design flood elevation” means the elevation of the base flood or one-hundred-year storm as defined in FEMA (Federal Emergency Management Agency) flood insurance studies, or the highest flood of record since the adoption of the flood insurance maps, or, in areas without FEMA floodplains, the elevation of the twenty-five-year storm, or the edge of mapped flood-prone soils or similar methodologies whichever is higher.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings, or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

“Emergency” means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

“Engineer” means a registered professional engineer licensed by the State of Oregon.

“Engineering geologist” means a registered professional engineering geologist licensed by the state of Oregon.

“Enhancement” means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the ordinance codified in this chapter.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Fill” means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed for the purposes of development or redevelopment.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

“Flood insurance rate map” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

“Flood management areas” means all lands contained within the one-hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance rate maps, floodway maps and the area of inundation for the February 1996 flood.

“Floodplain” means the land area identified and designated by the United States Army Corps of Engineers, the Oregon Division of State Lands, FEMA, or city of Oregon City that has been or may be covered temporarily by water as a result of a storm event of identified frequency. It is usually the flat area of land adjacent to a stream or river formed by floods.

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

“Floodway fringe” means the area of the floodplain, lying outside the floodway, which does not contribute appreciably to the passage of floodwater, but serves as a retention area.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title found at Section 17.42.170(E)(4) or (5).

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Metro” means the regional government of the Portland metropolitan area and the elected Metro Council as the policy-setting body of the government.

“Natural location” means the location of those channels, swales, and other non-manmade conveyance systems as defined by the first documented topographic contours existing for the subject property either from maps or photographs, or such other means as appropriate.

“New construction” means structure for which the “start of construction” commenced on or after the effective date of the ordinance codified in this title.

“New manufactured home park or subdivision” means a manufactured home park subdivision for

which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the ordinance codified in this chapter.

“Ordinary mean high water line” means, as defined in OAR 141-82-005, the line on the bank or shore to which water ordinarily rises in season; synonymous with mean high water (ORS 274.005).

“Ordinary mean low water line” means, as defined in OAR 141-82-005, the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water (ORS 274.005).

“Owner or property owner” means the person who is the legal record owner of the land, or where there is a recorded land sale contract, the purchaser thereunder.

“Parcel” means a single unit of land that is created by a partitioning of land. (ORS 92.010(7)).

“Practicable” means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.

“Recreational vehicle” means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily as temporary quarters for recreational, camping, travel or seasonal use and not for use as a permanent dwelling.

“Start of construction” is meant to include substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or not a part of the main structure.

“Stormwater pre-treatment facility” means any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

“Stream” means a body of running water moving over the earth’s surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

“Structure” means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

“Substantial improvement” means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement or repair is started; or

2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which has been identified by the local code enforcement official and that is the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

“Utility facilities” means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pretreatment facilities.

“Variance” means a grant of relief from the requirements of this chapter which permit construction in a manner that would otherwise be prohibited by this title.

“Watercourse” means a channel in which a flow of water occurs, either continuously or intermittently, and if the latter, with some degree of regularity. Such flow must be in a definite direction.

“Watershed” means a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

“Wetlands” means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual. (Ord. 99-1013 §8 (part), 1999)

17.42.030 Applicability.

A. This chapter shall apply to development in the flood management overlay district, which may also be referred to as the “floodplain overlay district” in this code. The flood management overlay district includes all areas of special flood hazards and all flood management areas within the city. The overlay district restricts the uses that are allowed in the base zone by right, with limitations, or as provisional uses.

B. The flood management areas which have been mapped include the following locations:

1. Land contained within the one-hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps including areas of special flood hazard pursuant to Section 17.42.040 and the area of inundation for the February 1996 flood; and
2. Lands that have physical or documented evidence of flooding within recorded history based on aerial photographs of the 1996 flooding and/or the water quality and flood management areas maps.

C. The standards that apply to the flood management areas apply in addition to state or federal restrictions governing floodplains or flood management areas. (Ord. 99-1013 §8 (part), 1999)

17.42.040 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the City of Oregon City," dated January 29, 1979, with accompanying flood insurance maps is adopted by reference and declared to be a part of this chapter. The flood insurance study is on file at the office of the city recorder in the City Hall. (Ord. 99-1013 §8 (part), 1999)

17.42.050 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of these floodplain regulations and other applicable regulations. (Ord. 99-1013 §8 (part), 1999)

17.42.060 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and another section, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail. (Ord. 99-1013 §8 (part), 1999)

17.42.070 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flooding damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 99-1013 §8 (part), 1999)

17.42.080 Severability.

The provisions of this chapter are severable. If any section, clause or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this chapter. (Ord. 99-1013 §8 (part), 1999)

17.42.090 Administration.

A. This chapter establishes a flood management overlay district, which is delineated on the water quality and flood management areas map attached and incorporated by reference as a part of this document.

1. The following maps and studies are adopted and declared to be a part of this chapter. These maps are on file in the office of the city recorder.

a. The water quality and flood management areas map, dated June 7, 1999;

b. The Federal Insurance Administration, Flood Insurance Rate Maps for Oregon City dated February 15, 1980 and for Clackamas County dated August 4, 1987;

c. The Federal Insurance Administration (FIA) "Flood insurance Study for Oregon City," dated August, 1979;

d. Oregon City and Clackamas County flood boundary and floodway maps, dated February 15, 1980 and August 4, 1987;

2. Applicants are required to provide the city with a delineation of the flood management areas on the subject property as part of any application. An application shall not be complete until this delineation is submitted to the city.

B. The city shall review the water quality and flood management areas maps during periodic review as required by ORS 197.633 (1997).

C. Development Permit.

1. A development permit shall be obtained before construction or development begins within any portion of the flood management overlay district. The permit shall be for all structures including manufactured homes, as set forth in Section 17.42.020 (Definitions) and all other development, including fill and other activities, as set forth in Section 17.42.020 (Definitions).

2. Application for a development permit shall be made on forms furnished by the community development department. Requirements may include, but are not limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage materials, drainage facilities; and the location of the foregoing.

3. The following information is specifically required:

a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

b. Elevation in relation to mean sea level to which any structure has been floodproofed;

c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the flood proofing criteria in Section 17.42.170(E)(5); and

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 99-1013 §8 (part), 1999)

17.42.100 Building official--Duties and responsibilities.

A. The building official is appointed to administer and implement this title by granting or denying development permit applications in accordance with its provisions.

B. Duties of the building official shall include, but not be limited to those listed in this chapter.

C. The building official shall:

1. Review all development permits to determine that the permit requirements of this title have been satisfied;
2. Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required; and
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the provisions of Section 17.42.200 are met. (Ord. 99-1013 §8 (part), 1999)

17.42.110 Use of other base flood data.

When base flood elevation data has not been provided in accordance with Section 17.42.040, the building official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 17.42.170 and 17.42.200. (Ord. 99-1013 §8 (part), 1999)

17.42.120 Information to be obtained and maintained.

The building official shall:

- A. Where base flood elevation data is provided through the flood insurance study or required as in Section 17.42.110, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structure, and whether or not the structure contains a basement.
- B. For all new or substantially improved floodproofed structures:
 1. Verify and record the actual elevation (in relation to mean sea level); and
 2. Maintain the floodproofing certifications required in Section 17.42.090(C)(3);
 3. Maintain for public inspection all records pertinent to the provisions of this chapter. (Ord. 99-1013 §8 (part), 1999)

17.42.130 Alteration of watercourses.

- A. Notify adjacent communities and the department of land conservation and development prior to any alteration or relocation of a water course, and submit evidence of such notification to the Federal Insurance Administration.
- B. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished. (Ord. 99-1013 §8 (part), 1999)

17.42.140 Map administration.

A. The purpose of this section is to provide a process for interpreting and amending the water quality and flood management areas map to clarify and correct the location of flood management overlay district.

B. Interpretation of Map Boundaries. The building official shall make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 17.42.150.

C. Map Corrections shall be processed pursuant to the requirements of Chapter 17.68.

1. Within ninety days of receiving information establishing a possible error in the existence or location of the flood management overlay district, the city shall provide notice to interested parties of a public hearing at which the city will review the information.

2. The city shall amend the water quality and flood management areas map if the information demonstrates that the boundaries of the flood management overlay district have changed since adoption of the water quality and flood management areas map by Metro (June 18, 1998) provided that, in the case of a boundary established by FEMA, a Letter of Map Amendment (LOMA) or Letter of Map Revision is obtained from FEMA prior to any map change. (Ord. 99-1013 §8 (part), 1999)

17.42.150 Appeals and variance procedure.

A. The purpose of this section is to ensure that compliance with this chapter does not cause unreasonable hardship. To avoid such instances, the requirements of this chapter may be varied. Variances are also allowed when strict application of this chapter would deprive an owner of all economically viable use of land.

B. This section applies to requests to vary from the standards of this chapter only. Requests to vary from other standards of this title shall be subject to the requirements of Chapter 17.60.

1. Variance applications made pursuant to this section shall follow the variance procedures outlined in Chapter 17.50.

2. In addition to the public notice requirements outlined in Section 17.50.090, Metro shall be notified within fourteen days of the city receiving an application to vary the requirements of this section and within fourteen days of a decision on the variance.

3. The requirements of Section 17.60.020 (Variances-Grounds) do not apply to requests to vary from the standards of Chapter 17.42.

4. If an application to vary from the standards of Chapter 17.42 is made in conjunction with an application to vary from other standards of this title, the variances may be processed as one application, provided the standards applicable to each variance requested must be met before the requested variance may be granted.

C. Hardship Variance. Variances to avoid unreasonable hardship caused by the strict application of this chapter are permitted subject to the criteria set forth in this section. To vary from the requirements of this chapter, the applicant must demonstrate the following:

1. The variance is the minimum necessary to allow the proposed use or activity;

2. The variance will not increase danger to life and property due to flooding or erosion;

3. The impact of the increase in flood hazard which will result from the variance will not prevent the city from meeting the requirements of this chapter. In support of this criteria the applicant shall have a qualified professional engineer document the expected height, velocity and duration of floodwaters, and estimate the rate of increase in sediment transport of the floodwaters expected both downstream and upstream as a result of the variance;

4. The variance will not increase the cost of providing and maintaining public services during and after flood conditions so as to unduly burden public agencies and taxpayers; and

5. The proposed use complies with the standards of the base zone.

D. The planning commission shall hear and decide appeals and requests for variances when it is alleged there is an error in any requirement, decision or determination made by the building official in the enforcement or administration of these regulations, or that enforcement of this district would result in exceptional hardship.

In passing upon such applications, the planning commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this title, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the facility to the community;

5. The necessity to the facility of a waterfront location, where applicable;

6. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;

7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan;

9. The safety of access to the property in times of flood for ordinary and emergency vehicles;

10. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

E. Upon consideration of the factors listed in subsection (D) of this section and the purposes of this district, the planning commission may attach such conditions to the granting of variances as it deems necessary to meet the purposes of this district.

F. The city recorder shall maintain the records of all appeal actions and the building official shall report any granted variances to the Federal Insurance Administration upon request. (Ord. 99-1013 §8 (part), 1999)

17.42.160 Conditions for variances.

The planning commission may impose such conditions as are deemed necessary to limit any

adverse impacts that may result from granting relief. If a variance is granted pursuant to Section 17.42.150, the variance shall be subject to the conditions set out in this section. In addition to other standards listed in Section 17.42.170, the following conditions must be met:

A. Variances may be issued for the reconstruction or restoration of structures listed on the National Register of Historic Places, pursuant to Chapter 17.60 and without regard to the procedures set forth in the remainder of this chapter.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Any applicant to whom a variance is granted shall be given notice that the structure will be permitted to be built with the lowest flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increase resulting from the reduced lowest floor elevation. (Ord. 99-1013 §8 (part), 1999)

17.42.170 Flood management area standards.

A. Uses Permitted Outright:

1. Excavation and fill required to plant any new trees or vegetation;
2. Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet federal and state standards provided that any restoration project which encroaches on the floodway complies with the requirements of Section 17.42.200 (Floodways).

B. Provisional Uses. All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the Flood Management Overlay District subject to compliance with the Development Standards of this section.

C. Prohibited Uses.

1. Any use prohibited in the base zone;
2. Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.

D. Site Development Standards. All development in the floodplain shall conform to the following balanced cut and fill standards:

1. This subsection does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that, after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards.
2. No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removed. For the purposes of calculating net fill, fill shall include any structure below the design flood elevation that has been floodproofed pursuant to subsection (E)(5) of this section.
3. Any excavation below bankfull stage shall not count toward compensating for fill.
4. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not practicable to do so. In such cases, the excavation shall be located in the same Oregon City

floodplain, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

5. For excavated areas identified by the city to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the protected water feature pursuant to Chapter 17.49. One percent slopes will be allowed in smaller areas.

6. For excavated areas identified by the city to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature pursuant to Chapter 17.49.

7. Parking areas in the floodplain shall be accompanied by signs that inform the public that the parking area is located in a flood management area and that care should be taken when the potential for flooding exists.

8. Temporary fills permitted during construction shall be removed at the end of construction, thirty days after subdivision acceptance or completion of the final inspection.

9. New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

10. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

E. Construction Standards

1. Anchoring.

a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

b. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movements and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebooks for additional techniques).

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Residential Construction.

a. New construction and substantial improvements of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the design flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

iv. Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed so that below the design flood level the structure is watertight with walls substantially impermeable to the passage of water provided that the requirements of subsection (D) (2) of this section are met;

(B) Have structured components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 17.42.120(B);

(D) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (E)(4)(b) of this section; and

(E) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the design flood level will be rated as one foot below that level).

6. Manufactured Homes. The following standards apply to all manufactured homes to be placed or substantially improved on sites within Zones A1-A-30, AH, and AE on the community's FIRM.

a. On sites which are (1) outside of a manufactured home park or subdivision, (2) in a new manufactured home park or subdivision, (3) in an expansion to an existing manufactured home park or subdivision, or (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood; the manufactured home shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot above the base flood elevation and be securely anchored to an adequately designed

foundation system to resist flotation, collapse and lateral movement.

b. On sites within an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions, the manufactured home shall be elevated so that either:

- i. The lowest floor of the manufactured home is elevated one foot above the base flood elevation, or
- ii. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

7. Recreational Vehicles. Recreational vehicles placed on sites within Zones A1-30, AH and AE as shown on the flood insurance rate map shall:

- a. Be on site for fewer than one hundred eighty consecutive days, and be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- b. Meet the requirements of subsection (E)(6) of this section and the elevation and anchoring requirements for manufactured homes. (Ord. 99-1013 §8 (part), 1999)

17.42.180 Review of building permits.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (Section 17.42.110), application for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness shall be made by the building official, considering use of historical data, high water marks, photographs of past floodings, etc., where available, and the provisions of this title. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 99-1013 §8 (part), 1999)

17.42.190 Subdivision standards.

A. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.
2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).
5. All structures and site grading developed or conducted in conjunction with a subdivision proposal shall comply with Section 17.42.170, Flood management area standards.

B. The purpose of this section is to allow density accruing to portions of a property within the flood management overlay district to be transferred outside the overlay district.

1. Development applications shall comply with the submittal requirements of Chapter 17.64, Planned Unit Development, if the applicant wishes to transfer density.
2. Density transfers shall be allowed if the applicant demonstrates compliance with the following standards:
 - a. The density transfer is proposed as part of a planned unit development and meets the requirements of Section 17.64.050.
 - b. Minimum density standards will not increase due to the density transfers.
 - c. The area of land contained in a flood management area may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code. (Ord. 99-1013 §8 (part), 1999)

17.42.200 Floodways.

Located within areas of special flood hazard established in Section 17.42.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. Encroachments, including fill, new construction, substantial improvements and other development shall be prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection (A) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood management area standards of Sections 17.42.170 through 17.42.200. (Ord. 99-1013 §8 (part), 1999)

[Title 17 ZONING](#)

Chapter 17.44 US--GEOLOGIC HAZARDS

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17.44.010 Purpose.

The purpose of this chapter is to provide safeguards in connection with development on or adjacent to steep hillside and landslide areas and other identified known or potential hazard areas, thereby preventing undue hazards to public health, welfare and safety. Such hazards include landslides, mud flows, high ground water tables, soil slump and erosion, which, in turn, may cause siltation or other degradation of quality of waters of the state and damage to public and private property and public facilities. The direct and indirect costs of these effects, in economic and noneconomic terms, can be

high and warrant a conservative approach both in the review of land use applications for development of sites with steep and unstable soils and in the imposition of development conditions and restrictions. (Ord. 94-1001 §2 (part), 1994)

17.44.020 Definitions.

For the purpose of this chapter, the following definitions are applicable:

“Geotechnical remediation” means construction designed to increase the factor of safety against earth movement.

“Hillside” refers to any area with a slope of twenty-five percent or more.

“Landslide areas” means those areas identified as known or potential landslide or mass movement geological hazard areas:

1. By the State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, Geology and Geological Hazards of North Clackamas County, Oregon (1979), or in any subsequent DOGAMI mapping for the Oregon City area; or
2. By Portland State University in a study entitled “Environmental Assessment of Newell Creek Canyon, Oregon City, Oregon” (1992).

“Slope” shall be calculated as follows:

1. For lots or parcels individually or cumulatively greater than ten thousand square feet in size, between grade breaks, obtain the vertical distance, divide by the horizontal distance and multiply by one hundred. The horizontal distance to be used in determining the location of grade breaks shall be fifty feet;
2. For lots or parcels ten thousand square feet or smaller in size, obtain the vertical distance across the lot or parcel, divide by the horizontal distance and multiply by one hundred;
3. The resulting number is the slope expressed as a percentage.

“Unstable slopes” or “unstable soils” includes:

1. Any area identified on the city’s steep slope map;
2. Any other area that is identified on official city, county or federal or state agency maps as being subject to soil instability, slumping or earth flow, high ground water level, landslide or erosion, seismic activity or for which field investigation, performed by a suitably qualified geotechnical engineer or engineering geologist who is licensed in Oregon and derives his or her livelihood principally from that profession, confirm the existence of or potential for a severe hazard. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 94-1001 §2 (part), 1994)

17.44.030 Applicability and procedures. The provisions of this chapter shall apply to all applications for new development and for the expansion of existing development on landslide areas, hillsides or unstable slopes. No building or site development permit or other authorization for development shall be issued until the plans and other documents required by this chapter have been reviewed and found by the review authority to comply with the requirements of this chapter.

A. Where the development is part of a land use permit application, review shall occur in the manner established in Chapter 17.50 for review of land use decisions.

B. Where the development is part of a limited land use permit application, review shall occur in the manner established in Chapter 17.50 for review of limited land use decisions.

C. For any other proposed development not otherwise subject to review as a land use or limited land use permit application, review shall occur in the manner established in Chapter 17.50 for limited land use decisions. (Ord. 94-1001 §2 (part), 1994)

17.44.040 Fee.

Where the development is part of a land use or limited land use permit application, no additional fee is required. Where the development is not part of a land use or limited land use permit application, a nonrefundable application fee, equivalent in amount to the fee for site and design review, shall accompany the application for review against the requirements of this chapter. (Ord. 94-1001 §2 (part), 1994)

17.44.050 Development permit-Application--Information.

Except as provided by subsection I of this section, the following plans shall be required of all development proposals subject to this chapter:

A. A scale-drawing site plan of the property, showing all natural physical features, topography at two or five-foot contour intervals, steepness of slopes, location of all test excavations or borings, watercourses both perennial and intermittent, ravines and all existing and manmade structures or features all fully dimensioned, trees six-inch caliper or greater measured four feet from ground level, rock outcroppings and drainage facilities.

B. A scale-drawing grading plan, including all of the features and detail required for the site plan above, but reflecting preliminary finished grades and indicating in cubic yards whether and to what extent there will be a net increase or loss of soil.

C. An architectural site plan of the proposed development, showing the location, height and width of proposed structures other than detached single-family dwellings and duplexes, including all important dimensions such as property lines, easement locations, setbacks and other appurtenances related to the development such as, but not limited to, parking and circulation. The architectural site plan shall identify the location of areas proposed to be stripped of topsoil, paved or covered by structures (including impermeable surfaces or embankments).

D. A cross-section diagram, drawn to scale and indicating depth, extent and approximate volume of all excavation and fills.

E. A soil erosion control plan, based on the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013) and containing:

1. A description of existing topography and soil characteristics;
2. Specific descriptions or drawings of the proposed development and changes to the site which may affect soils and create an erosion problem; and
3. Specific methods of soil erosion and sediment control, incorporating the following features, to be used before, during and after construction:

- a. The land area to be grubbed, stripped, used for temporary placement of soil, or to otherwise expose soil shall be confined to the immediate construction site;
 - b. The duration of exposure of soils to erosion shall be kept to the minimum practicable;
 - c. Wet weather measures, such as those in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013);
 - d. Prior to grading, clearing, excavating or construction, temporary diversions, sediment basins, barriers, check dams or other methods shall be provided as necessary to hold sediment and erosion. During construction, water runoff from the site shall be controlled, and sediment resulting from soil removal or disturbance shall be retained on site per the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013).
- F. A preliminary hydrology report, prepared by a suitably qualified and experienced hydrology expert, addressing the effect upon the watershed in which the proposed development is located; the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream areas and upon wetlands and water resources; and the effect upon the groundwater supply.
- G. A preliminary engineering geology report, prepared by a suitably qualified and experienced engineering geologist who is registered in the state of Oregon and who derives his or her livelihood principally from that profession, containing a description of geologic formations, bedrock and surficial materials including artificial fill; location of any faults, folds, etc.; structural data including bedding, jointing, and shear zones; off-site geologic conditions that may pose a hazard to the site or that may be affected by on-site development; cross sections showing subsurface structure, logs of subsurface explorations and analysis if necessary to evaluate the site; and signature and certification number of the engineering geologist. The report shall also contain a statement as to whether any hazard areas should not be disturbed because of the potential for damage to the site or neighboring properties.
- H. A preliminary soil engineering report, prepared by a suitably qualified and experienced civil or geotechnical engineer who is licensed in Oregon and who derives his or her livelihood principally from that profession, discussing the engineering feasibility of the proposed development and addressing strength properties of surface and subsurface soils with regard to stability of slopes; appropriate types of foundations together with bearing values and settlement criteria for foundation design, soil erosion potential, permeability and infiltration rates; excavation, filling and grading criteria including recommended final slopes; surface and subsurface drainage; planting and maintenance of slopes; other identified soil or subsurface constraints together with geotechnical remediation and other recommendations to alleviate or minimize their effects; and signature and seal of the geotechnical engineer. The report shall also contain a statement as to whether the proposed development, constructed in accordance with the recommended methods, is reasonably likely to be safe and prevent landslide or other damage to other properties over the long term, and whether any specific areas should not be disturbed by construction.
- I. The city engineer may waive one or more requirements of subsections E through H of this section if under Oregon City Policy Guideline Manual No. 25, "Geological/Geotechnical Level of Reports", effective May 27, 1993 or as subsequently amended, the city engineer determines that site conditions, size or type or development of grading requirements do not warrant such detailed information. If one or more requirements are waived, the city engineer shall, in the staff report or decision, identify the waived provision(s), explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 94-1001 §2 (part), 1994)

17.44.060 Development standards.

Notwithstanding any contrary dimensional or density requirements of the underlying zone, the following standards shall apply to the review of any development proposal subject to this chapter:

A. All developments shall be designed to avoid unnecessary disturbance of natural topography, vegetation and soils. To the maximum extent practicable as determined by the review authority, tree and ground cover removal and fill and grading for residential development on individual lots shall be confined to building footprints and driveways, to areas required for utility easements and for slope easements for road construction, and to areas of geotechnical remediation.

All grading, drainage improvements, or other land disturbances shall only occur from May 1 to October 31. Erosion control measures shall be installed and functional prior to any disturbances. The city engineer may allow grading, drainage improvements or other land disturbances to begin before May 1 (but no earlier than March 16) and end after October 31 (but no later than November 31), based upon weather conditions and in consultation with the project geotechnical engineer. The modification of dates shall be the minimum necessary, based upon the evidence provided by the applicant, to accomplish the necessary project goals. Temporary protective fencing shall be established around all trees and vegetation designed for protection prior to the commencement of grading or other soil disturbance.

B. Designs shall minimize the number and size of cuts and fills.

C. Exposed cut slopes, such as those for a street, driveway accesses, or yard area, greater than seven feet in height (as measured vertically) shall be terraced. Cut faces on a terraced section shall not exceed five feet. Terrace widths shall be a minimum of three feet and shall be vegetated. Total cut slopes shall not exceed a vertical height of fifteen feet. Except in connection with geotechnical remediation plans approved in accordance with the chapter, cuts shall not remove the toe of any slope that contains a known landslide or is greater than twenty-five percent slope. The top of cut slopes not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.

D. Grading-Fills. No terracing shall be allowed except for the purpose of developing a level building pad and for providing vehicular access to the pad. Fill slopes shall not exceed a total vertical height of twenty feet. The toe of the fill slope area not utilizing structural retaining walls shall be located a minimum of one-half the height of the cut slope from the nearest property line.

E. Any structural fill shall be designed by a suitably qualified and experienced civil or geotechnical engineer licensed in Oregon in accordance with standard engineering practice. The applicant's engineer shall certify that the fill has been constructed as designed in accordance with the provisions of this chapter.

F. Retaining walls shall be constructed in accordance with the Uniform Building Code adopted by the state of Oregon.

G. Roads shall be the minimum width necessary to provide safe vehicle and emergency access, minimize cut and fill and provide positive drainage control. The review authority may grant a variance from the city's required road standards upon findings that the variance would provide safe vehicle and emergency access and is necessary to comply with the purpose and policy of this chapter.

H. Density shall be determined as follows:

1. For those areas with slopes less than twenty-five percent between grade breaks, the allowed density shall be that permitted by the underlying zoning district;
 2. For those areas with slopes of twenty-five to thirty-five percent between grade breaks, the density shall not exceed two dwelling units per acre except as otherwise provided in subsection I of this section;
 3. For those areas with slopes over thirty-five percent between grade breaks, development shall be prohibited except as otherwise provided in subsection J of this section.
- I. For properties with slopes of twenty-five to thirty-five percent between grade breaks:
1. For those portions of the property with slopes of twenty-five to thirty-five percent, the maximum residential density shall be limited to two dwelling units per acre; provided, however, that where the entire site is less than one-half acre in size, a single dwelling shall be allowed on a lot or parcel existing as of January 1, 1994 and meeting the minimum lot size requirements of the underlying zone;
 2. An individual lot or parcel with slopes between twenty-five and thirty-five percent shall have no more than fifty percent or four thousand square feet of the surface area, whichever is smaller, graded or stripped of vegetation or covered with structures or impermeable surfaces.
 3. No cut into a slope of twenty-five to thirty-five percent for the placement of a housing unit shall exceed a maximum vertical height of fifteen feet for the individual lot or parcel.
- J. For those portions of the property with slopes over thirty-five percent between grade breaks:
1. Notwithstanding any other city land use regulation, development other than roads, utilities, public facilities and geotechnical remediation shall be prohibited; provided, however, that the review authority may allow development upon such portions of land upon demonstration by an applicant that failure to permit development would deprive the property owner of all economically beneficial use of the property. This determination shall be made considering the entire parcel in question and contiguous parcels in common ownership on or after January 1, 1994, not just the portion where development is otherwise prohibited by this chapter. Where this showing can be made on residentially zoned land, development shall be allowed and limited to one single-family residence. Any development approved under this chapter shall be subject to compliance with all other applicable city requirements as well as any applicable state, federal or other requirements;
 2. To the maximum extent practicable as determined by the review authority, the applicant shall avoid locating roads, utilities, and public facilities on or across slopes exceeding thirty-five percent.
- K. The review authority shall determine whether the proposed methods of rendering a known or potential hazard site safe for construction, including proposed geotechnical remediation methods, are feasible and adequate to prevent landslides or damage to property and safety. The review authority shall consult with the city's geotechnical engineer in making this determination. Costs for such consultation shall be paid by the applicant. The review authority may allow development in a known or potential hazard area as provided in this chapter if specific findings are made that the specific provisions in the design of the proposed development will prevent landslides or damage. The review authority may impose any conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 94-1001 §2 (part), 1994)

17.44.070 Access to property.

- A. Shared private driveways may be required if the city engineer or principal planner determines that their use will result in safer location of the driveway and lesser amounts of land coverage than would result if separate private driveways are used.
- B. Innovations in driveway design and road construction shall be permitted in order to keep grading and cuts or fills to a minimum and to achieve the purpose and policy of this chapter.
- C. Points of access to arterials and collectors shall be minimized.
- D. The city engineer or principal planner shall verify that adequate emergency services can be provided to the site. (Ord. 94-1001 §2 (part), 1994)

17.44.080 Utilities.

All new service utilities, both on-site and off-site, shall be placed underground and under roadbeds where practicable. Every effort shall be made to minimize the impact of utility construction. (Ord. 94-1001 §2 (part), 1994)

17.44.090 Stormwater drainage.

The applicant shall submit a permanent and complete stormwater control plan. The program shall include, but not be limited to the following items as appropriate: curbs, gutters, inlets, catch basins, detention facilities and stabilized outfalls. Detention facilities shall be designed to city standards as set out in the city's drainage master plan and design standards. The review authority may impose conditions to ensure that waters are drained from the development so as to limit degradation of water quality consistent with Oregon City's Title III section of the Oregon City Municipal Code Chapter 17.49 and the Oregon City Public Works Stormwater Management Design Manual and Standards Plan or other adopted standards subsequently adopted by the city commission. Drainage design shall be approved by the city engineer before construction, including grading or other soil disturbance, has begun. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 94-1001 §2 (part), 1994)

17.44.100 Construction standards.

During construction on land subject to this chapter, the following standards shall be implemented by the developer:

- A. All development activity shall minimize vegetation removal and soil disturbance and shall provide positive erosion prevention measures in conformance with OCMC Chapter 17.47, Erosion and Sediment Control.
- B. No grading, clearing or excavation of any land shall be initiated prior to approval of the grading plan, except that the city engineer shall authorize the site access, brush to be cleared and the location of the test pit digging prior to approval of such plan to the extent needed to complete preliminary and final engineering and surveying. The grading plan shall be approved by the city engineer as part of the city's review under this chapter. The developer shall be responsible for the proper execution of the approved grading plan.
- C. Measures shall be taken to protect against landslides, mudflows, soil slump and erosion. Such

measures shall include sediment fences, straw bales, erosion blankets, temporary sedimentation ponds, interceptor dikes and swales, undisturbed buffers, grooving and stair stepping, check dams, etc. The applicant shall comply with the measures described in the Oregon City Public Works Standards for Erosion and Sedimentation Control (Ordinance 99-1013).

D. All disturbed vegetation shall be replanted with suitable vegetation upon completion of the grading of the steep slope area.

E. Existing vegetative cover shall be maintained to the maximum extent practicable. No grading, compaction or change in ground elevation, soil hydrology and/or site drainage shall be permitted within the drip line of trees designated for protection, unless approved by the city.

F. Existing perennial and intermittent watercourses shall not be disturbed unless specifically authorized by the review authority. This includes physical impacts to the stream course as well as siltation and erosion impacts.

G. All soil erosion and sediment control measures shall be maintained during construction and for one year after development is completed, or until soils are stabilized by revegetation or other measures to the satisfaction of the city engineer. Such maintenance shall be the responsibility of the developer. If erosion or sediment control measures are not being properly maintained or are not functioning properly due to faulty installation or neglect, the city may order work to be stopped.

H. Building Envelopes. All newly created lots, either by subdivision or partition, shall contain building envelopes with a slope of thirty-five percent or less. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003; Ord. 94-1001 §2 (part), 1994)

17.44.110 Approval of development.

The city engineer shall review the application and verify, based on the applicant's materials and the land use record, whether the proposed development constitutes a hazard to life, property, natural resources or public facilities. If, in the city engineer's opinion, a particular development poses such a hazard, the city engineer shall recommend to the review authority permit conditions designed to reduce or eliminate the hazard. These conditions may include, but are not limited to, prohibitions on construction activities between November 1st and March 31st. (Ord. 94-1001 §2 (part), 1994)

17.44.120 Liability.

Approval of an application for development on land subject to this chapter shall not imply any liability on the part of the city for any subsequent damage due to earth slides. Prior to the issuance of a building permit, a waiver of damages and an indemnity and hold harmless agreement shall be required which releases the city from all liability for any damages resulting from the development approved by the city's decision. (Ord. 94-1001 §2 (part), 1994)

17.44.130 Compliance.

Nothing contained in this chapter shall relieve the developer of the duty to comply with any other provision of law. In the case of a conflict, the more restrictive regulation shall apply. (Ord. 94-1001 §2)

(part), 1994)

17.44.140 Appeal.

The review authority's decision may be appealed in the manner set forth in Chapter 17.50. (Ord. 94-1001 §2 (part), 1994)

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Chapter 17.46 P PARK ACQUISITION OVERLAY DISTRICT

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[17.46.020 Areas affected.](#)

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17.46.010 Purpose.

A. The purpose of this overlay district is to provide the city the option of acquiring property suitable for use as park land when new development is planned on undeveloped property in the park overlay district.

B. In recognizing the need to enhance, protect, conserve, maintain and develop park lands in the city, it is necessary to provide the opportunity to the city to acquire property which is desirable to meet this need. The purpose of this overlay district is to provide the city the first option of acquiring property located in this district if a building permit for any site improvement is planned. The overlay districts will be established in areas in which there is property which is suitable for park land and where there is a need for park land. The park acquisition overlay district is a superimposed zone applied in combination with existing zones. (Prior code §11-3-20(A))

17.46.020 Areas affected.

This chapter shall apply to those lands designated park acquisition overlay districts on a special city zoning map. (Prior code §11-3-20(B))

17.46.030 Permit--Application-Information.

A. If an application is made for a building permit for any undeveloped property located in the park acquisition overlay district, the city commission shall, within thirty days after the application is initially filed, determine whether the property is to be acquired by the city. The city commission shall consider the location of the property, the character of the neighborhood, the suitability of such land for park land and recreational purposes, the population to be served, the need for parks in the neighborhood, and whether the land owner will be able to receive reasonable return on the property if the permit is not granted.

B. No building permit shall be granted for this land during the thirty days unless the city commission sooner determines that the property is not desired for park land.

C. The city commission may reject the application for the permit if it determines that the property would be desirable as city park land. In this event, issuance of the permit shall be suspended for a period to be fixed by the city commission, but not exceeding one hundred twenty days from the date of application.

D. If the city commission determines the property to be desirable as city park land, the city commission may, in its discretion, declare the city's intentions to proceed with negotiations for acquisition and extend the suspension period for an additional period not to exceed one hundred eighty days, to a total of not more than three hundred days from the date of application for the building permit.

E. During the period of suspension of permit application, no permit shall be issued for such building nor shall any person build or make any site improvements on such property.

F. If at the end of the three hundred days the city has not acquired the property and the applicant has not withdrawn his application for a building permit, the city shall issue the permit, if the applicant otherwise complies with the codes and ordinances of the city. (Prior code §11-3-20(C))

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Chapter 17.47 EROSION AND SEDIMENT CONTROL

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17.47.010 Purpose.

A. The purpose of this chapter is to require erosion prevention measures and sediment control practices for all development during construction to prevent and restrict the discharge of sediments, and to require final permanent erosion prevention measures, which may include landscaping, after development is completed. Erosion prevention techniques shall be designed to protect soil particles from the force of water and wind and other mechanical means so that they will not be transported from the site. Sediment control measures shall be designed to capture soil particles after they have become dislodged by erosion and attempt to retain the soil particles on site.

B. The objective of these measures is to control, at the source, waterborne and airborne erosion and the air and water pollution that results from such erosion mechanisms. This chapter recognizes that all non-point discharges eventually end up in surface water bodies. This chapter is intended to control water quality degradation from construction and development activities and it applies in addition to any other applicable provision of this code, state or federal law. This chapter is not intended to serve as a guideline for stormwater management control measures for already

constructed developments. (Ord. 99-1013 §9 (part), 1999)

17.47.020 Definitions.

Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, sewers, streets or other structures or facilities, mining, dredging, paving, filling or grading in amounts greater than ten cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than ten percent of the existing vegetation in the water quality resource area on a lot is defined as development.

Development does not include the following:

1. Stream enhancement or restoration projects approved by the city;
2. Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this chapter; and
3. Construction on lots in subdivisions meeting the criteria of ORS 92.040(2)(1995).

“Development site” means any lot or lots on any part of which development is taking place.

“Disturb” means man-made changes to the existing physical status of the land that are made in connection with development. The following uses are excluded from the definition:

1. Enhancement or restoration of the water quality resource area;
2. Planting native cover identified in the Oregon City native plant list.

“Emergency” means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

“Erosion” means the movement of soil particles resulting from actions of water, wind or mechanical means.

“Excavation” means any act of development by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, exposed or relocated.

“Fill” means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed for the purposes of development or redevelopment.

“Manager” means the city manager or the city manager’s designated representative.

“Metro” means the regional government of the Portland metropolitan area and the elected Metro Council as the policy setting body of the government.

“Owner” means any party, including an owner, part owner or agent that has a legal interest in a piece of real property upon which development is proposed.

“Sediment” means any soil, sand, dirt, dust, mud, rock, gravel, refuse or any other organic or inorganic material that is in suspension, is transported, has been moved or is likely to be moved by erosion.

“Utility facilities” means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pre-treatment facilities.

“Visible or measurable erosion” includes, but is not limited to:

1. Deposits of mud, dirt, sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
2. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
3. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property. (Ord. 99-1013 §9 (part), 1999)

17.47.030 Applicability.

A. This chapter, which may also be referred to as “erosion control” in this code, applies to development that may cause visible or measurable erosion on any property within the city limits of Oregon City.

B. This chapter does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies, provided that after the emergency has passed, adverse impacts are mitigated in accordance with applicable standards. (Ord. 99-1013 §9 (part), 1999)

17.47.040 Abrogation and greater restrictions.

Where the provisions of this chapter are less restrictive or conflict with comparable provisions of the zoning ordinance, regional, state or federal law, the provisions that are more restrictive shall govern. Where this document imposes restrictions that are more stringent than regional, state and federal law, the provisions of this document shall govern. However, nothing in this chapter shall relieve any party from the obligation to comply with any applicable federal, state or local regulations or permit requirements. (Ord. 99-1013 §9 (part), 1999)

17.47.050 Severability.

The provisions of this chapter are severable. If any section, clause or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this chapter. (Ord. 99-1013 §9 (part), 1999)

17.47.060 Permit required.

The applicant must obtain an erosion and sediment control permit prior to, or contemporaneous with, the approval of an application for any building, land use or other city-issued permit that may cause visible or measurable erosion. (Ord. 99-1013 §9 (part), 1999)

17.47.070 Erosion and sediment control plans.

A. An application for an erosion and sediment control permit shall include an erosion and sediment control plan, which contains methods and interim measures to be used during and following construction to prevent or control erosion prepared in compliance with city of Oregon City public works standards for erosion and sediment control. These standards are incorporated herein and made a part of this title and are on file in the office of the city recorder.

B. Approval Standards. An erosion and sediment control plan shall be approved only upon making the following findings:

1. The erosion and sediment control plan meets the requirements of the city of Oregon City public works standards for erosion and sediment control incorporated by reference as part of this chapter;
2. The erosion and sediment control plan indicates that erosion and sediment control measures will be managed and maintained during and following development. The erosion and sediment control plan indicates that erosion and sediment control measures will remain in place until disturbed soil areas are permanently stabilized by landscaping, grass, approved mulch or other permanent soil stabilizing measures.

C. The erosion and sediment control plan shall be reviewed in conjunction with the requested development approval. If the development does not require additional review, the manager may approve or deny the permit with notice of the decision to the applicant.

D. The city may inspect the development site to determine compliance with the erosion and sediment control plan and permit.

E. Erosion that occurs on a development site that does not have an erosion and sediment control permit, or that results from a failure to comply with the terms of such a permit, constitutes a violation of this chapter.

F. If the manager finds that the facilities and techniques approved in an erosion and sediment control plan and permit are not sufficient to prevent erosion, the manager shall notify the owner or his/her designated representative. Upon receiving notice, the owner or his/her designated representative shall immediately install interim erosion and sediment control measures as specified in the city of Oregon City public works standards for erosion and sediment control. Within three days from the date of notice, the owner or his/her designated representative shall submit a revised erosion and sediment control plan to the city. Upon approval of the revised plan and issuance of an amended permit, the owner or his/her designated representative shall immediately implement the revised plan.

G. Approval of an erosion and sediment control plan does not constitute an approval of permanent road or drainage design (e.g., size and location of roads, pipes, restrictors, channels, retention facilities, utilities, etc.). (Ord. 99-1013 §9 (part), 1999)

17.47.080 Plan implementation.

An approved erosion control and sediment control plan shall be implemented and maintained as follows:

- A. Plan approval, where required, shall be obtained prior to clearing or grading. No grading, clearing or excavation of land requiring a plan shall be undertaken prior to approval of the plan.
- B. The erosion and sediment control facilities shall be constructed prior to any clearing and grading activities, and maintained in such a manner as to ensure that sediment laden water does not enter the drainage system or violate applicable water standards.
- C. The implementation of an erosion and sediment control plan and the construction, maintenance, replacement, and upgrading of erosion and sediment control facilities is the responsibility of the owner or his/her designated representative until all construction is completed and approved, and vegetation, landscaping or approved finished surfaces is established.
- D. The erosion and sediment control facilities herein are the minimum requirements for anticipated site conditions. During the construction period, these erosion and sediment control facilities shall be upgraded as needed for unexpected storm events and to ensure that sediment-laden water does not leave the site.
- E. Any observation of visible or measurable erosion, or an observation of more than a ten-percent increase in downstream channel turbidities, will result in an enforcement action by the city.
- F. The owner or his/her designated representative shall implement the measures and construct facilities as provided for and according to the implementation schedule in the approved plan. The manager shall be allowed reasonable access to the development site for inspection purposes. (Ord. 99-1013 §9 (part), 1999)

17.47.090 Plan performance guarantee and security.

After the plan is approved by the manager and prior to construction or grading, the owner shall provide a financial guarantee. Erosion and sediment control shall be included in the cost estimate for the primary project, such as land division or site plan, and included in that project's performance guarantee. (Ord. 99-1013 §9 (part), 1999)

17.47.100 Correction of ineffective measures and enforcement.

- A. If the owner or his/her designated representative fails to follow the plan as approved by the manager or fails to submit a plan when one is required, the manager may, after inspecting the property, issue a stop work order halting all work on the development site until the requirements of the plan are met or implemented as applicable. Accompanying the stop work order shall be a written statement or list from the manager specifying what is wrong and what steps the owner must take to bring the development into compliance. The stop work order shall not be lifted until mitigation measures are implemented that comply with Oregon City performance standards for erosion and sediment control and are approved by the manager.
- B. If the facilities and techniques in the approved plans are not effective or sufficient to meet the purposes of this chapter, based on an on-site inspection, the Manager may require a revision to the plan. Such requirement shall be in writing and shall explain the problem and suggested measures to remedy the problem. The notice shall be presented to the owner and any other responsible parties.

1. The revised plan shall be provided within three business days of when written notification by the manager is received. Receipt of such notice shall be deemed complete three days after simultaneous regular mail and certified mail is deposited in the mail.
2. The owner or his/her designated representative shall implement fully the revised plan within three business days of receipt of the revised plan as provided in the previous subdivision, or within such other time frame as the manager may specify.
3. In cases where significant erosion is occurring, the manager may require the owner or his/her designated representative to install immediately interim control measures before submittal of revised plan.
4. If there is a confirmed or imminent threat of significant off-site erosion, the manager shall issue a stop work order, upon issuance of which work on the development site shall halt. The stop work order shall not be lifted until mitigation measures are implemented that comply with Oregon City performance standards for erosion and sediment control and are approved by the manager.

C. Enforcement. Erosion that migrates off of a development site is considered to be a nuisance that threatens the health, safety and welfare of the citizens of Oregon City and is a violation of this chapter. Any owner who violates, or is responsible for a violation of this chapter or an approved plan, shall be subject to the enforcement procedures of this code including by the code enforcement officer. (Ord. 99-1013 §9 (part), 1999)

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Chapter 17.48 WRG WILLAMETTE RIVER GREENWAY OVERLAY DISTRICT

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17.48.010 Designated.

This chapter shall apply to all development, changes of use or intensification of use in that area designated WRG Willamette River Greenway on a special city zoning map. (Prior code §11-3-21(A))

17.48.020 Purpose.

The purpose of this chapter is to:

A. Protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and

recreational qualities of land along the Willamette River;

B. Maintain the integrity of the Willamette River by minimizing erosion, promoting bank stability and maintaining and enhancing water quality and fish and wildlife habitats;

C. Implement the Willamette River Greenway goal and the Willamette River Greenway portions of the city comprehensive plan. (Prior code §11-3-21(B))

17.48.030 Definitions.

For the purpose of this chapter, the following definitions are applicable:

“Change of use” means making a different use of land or water than that which existed on December 6, 1975. It includes a change which requires construction, alterations of the land, water or other areas outside of existing buildings or structures and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure which does not substantially alter or affect the land or water upon which it is situated. Change of use shall not include the completion of a structure for which a valid permit had been issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. The sale of property is not in itself considered to be a change of use. An existing open storage area shall be considered to be the same as a building.

Landscaping, construction of driveways, modifications of existing structures or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements shall not be considered a change of use for the purposes of this goal.

“Develop” means to bring about growth or availability, to construct or alter a structure, to conduct a mining operation, to make a physical change in the use or appearance of land, to divide lands into parcels, to create or terminate rights of access.

“Development” means the act, process or result of developing.

Goal 15. Goal 15 refers to the Order Adopting Preliminary Willamette River Greenway plan and State-wide planning Goal No. 15, as adopted by the Land Conservation and Development Commission on December 6, 1975, and applicable Oregon Revised Statutes.

“Intensification” means any additions which increase or expand the area or amount of an existing use, or the level of activity. Remodeling of the exterior of a structure not excluded below is an intensification when it will substantially alter the appearance of the structure. Intensification shall not include the completion of a structure for which a valid permit was issued as of December 6, 1975 and under which permit substantial construction has been undertaken by July 1, 1976. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the Greenway includes the practices and activities customarily related to the use and enjoyment of one’s home. Landscaping, construction of driveways, modification of existing structures or construction or placement of such subsidiary structures or facilities adjacent to the residence as are usual and necessary to such use and enjoyment shall not be considered an intensification for the purposes of this goal. Seasonal increases in gravel operations shall not be considered an intensification of use.

“Lands committed to urban use” means those lands upon which the economic, developmental and

locational factors have, when considered together, made the use of the property for other than urban purposes inappropriate. Economic, developmental and locational factors include such matters as ports, industrial, commercial, residential or recreational uses of property; the effect these existing uses have on properties in their vicinity, previous public decisions regarding the land in question, as contained in

ordinances and such plans as the Lower Willamette River Management Plan, the city or county comprehensive plans and similar public actions. (Prior code §11-3-21(D))

17.48.040 Uses allowed.

All uses permitted pursuant to the provisions of the underlying zoning district are permitted on lands designated WRG; provided, however, that any development, change of use or intensification of use shall be subject, in addition to the provisions of the underlying district, to the provisions of this chapter. (Prior code §11-3-21(C))

17.48.050 Permit required--Exceptions.

A Willamette River Greenway permit shall be required for all developments and changes or intensification of uses, except the following:

- A. The propagation of timber or the cutting of timber for public safety or personal use, except the cutting of timber along the natural vegetative fringe along the river;
- B. Gravel removal from the bed of the Willamette River when conducted under a permit from the state;
- C. Customary dredging and channel maintenance;
- D. Placing by a public agency of signs, markers, aids and similar structures to serve the public;
- E. Activities to protect, conserve, enhance and maintain public recreation, scenic, historical and natural uses on public lands;
- F. Acquisition and maintenance of scenic easements by the Oregon Department of Transportation;
- G. Partial harvesting of timber shall be permitted beyond the natural vegetative fringe and those areas not covered by a scenic easement and when the harvest is consistent with an approved plan under the Oregon Forest Practices Act. Commercial forest activities and harvesting practices providing for vegetative buffers, shading, soil stabilization, and water filtering effects required under the Oregon Forest Practices Act;
- H. The use of a small cluster of logs for erosion control;
- I. The expansion of capacity or the replacement of existing communication or energy distribution and transmission systems, except utility substations;
- J. The maintenance and repair of existing flood control facilities;
- K. Uses lawfully existing on the effective date of the provisions codified in this chapter; provided, however, that any change or intensification of use or new development shall require a Willamette River Greenway permit. (Prior code §11-3-21(E))

17.48.060 Administrative procedure.

Except as specifically provided for in Section 17.48.090, the procedure for action on a Willamette River Greenway permit shall be as provided for under the administrative action provisions in Chapter 17.50. In addition to those provisions, however, notice of a pending Willamette River Greenway permit under Sections 17.48.070 through 17.48.090 or of a compatibility review hearing under Section 17.48.100, shall be given to all persons requesting the same and paying a reasonable fee therefor, as determined by the planning director. (Prior code §11-3-21(F))

17.48.070 Development standards--Specific use.

In approving any development or change or intensification of use, the approving officer or body shall apply the following standards:

A. Considerations for Specific Uses.

1. With respect to recreational uses only: the considerations set forth in section C(3)(b) of Goal 15,
2. With respect to those fish and wildlife habitats identified in the city comprehensive plan only: the considerations set forth in section C(3)(d) of Goal 15.
3. With respect to those scenic qualities and views identified in the city comprehensive plan only: the considerations set forth in section C(3)(e) of Goal 15.
4. With respect to timber resources only: the considerations set forth in section C(3)(h) of Goal 15.
5. With respect to aggregate extraction only: the considerations set forth in section C(3)(i) of Goal 15. (Prior code §11-3-21(G)(1))

17.48.080 Development standards--General considerations.

The following considerations shall be applicable to all Willamette River Greenway permits.

- A. Access. Adequate public access to the Willamette River shall be considered and provided for.
- B. Protection and Safety. Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided for to the maximum extent practicable.
- C. Vegetative Fringe. The natural vegetative fringe along the Willamette River shall be protected and enhanced to the maximum extent practicable.
- D. Directing Development Away from the River. Development shall be directed away from the Willamette River to the greatest possible degree, provided that lands committed to urban uses within the Greenway may continue as urban uses, subject to the nonconforming use provisions of Chapter 17.58 of this title.
- E. A Greenway Setback. In each application, the approving officer or body shall establish a setback to keep structures separated from the Willamette River in order to protect, maintain, preserve and enhance the natural scenic, historic and recreational qualities of the Willamette River Greenway, as set forth in the city comprehensive plan; provided, however, that the requirement to establish such

setbacks shall not apply to water-related or water-dependent uses.

F. Other Applicable Standards. The Oregon Department of Transportation Greenway Plan, the Greenway portions of the city comprehensive plan, the Willamette River Greenway statutes and the provisions of Statewide Planning Goal 15, shall also be considered in actions involving Willamette River Greenway permits. (Prior code §11-3-21(G)(2))

17.48.090 Procedure.

The planning director shall make findings, and may impose reasonable conditions to carry out this chapter, regarding all general, and any applicable specific, considerations of this section. The planning director shall then give notice of a pending Willamette River Greenway permit application, and proposed action thereon, in the manner provided for, and to those persons for whom notice shall be given, under Chapter 17.50 of this code, and to all other interested persons who wish to be notified and who pay a reasonable fee for such notification. If no interested person requests a hearing on such permit application within ten days of giving notice, the application shall be approved, either with or without conditions, or denied, as proposed by the planning director and in accordance with the findings required by this subsection. If there be objection, the matter shall be heard by the planning commission as an administrative action. (Prior code §11-3-21(G)(3))

17.48.100 Compatibility review.

A. In all areas within one hundred fifty feet of the ordinary low-water line of the Willamette River, hereinafter referred to as the “compatibility boundary,” the provisions of this subsection shall be applicable to all developments and changes or intensification of uses, so as to ensure their compatibility with Oregon’s Greenway statutes, and to assure that the best possible appearance, landscaping and public access be provided.

B. All development or changes or intensifications of uses in the compatibility area shall be approved only if the following findings be made by the planning commission.

1. That to the greatest extent possible, the development or change or intensification of use provides for the maximum possible landscaped area, open space or vegetation between the activity and the river.

2. That to the greatest degree possible, necessary public access is provided to and along the Willamette River by appropriate legal means.

C. Procedure for action on compatibility review shall be as set forth in Section 17.48.060 and shall include application of the relevant use management considerations and requirements provided in Sections 17.48.070 and 17.48.080. The planning commission, after notice and public hearing held pursuant to Chapter 17.50 shall approve issuance, approve issuance with conditions or disapprove issuance of the Willamette River Greenway conditional use permit. The application shall be accompanied by the fee listed in Chapter 17.52 to defray the costs of publication, investigation and processing. (Prior code §11-3-21(H))

17.48.110 Prohibited activities.

The following are prohibited within the Willamette River Greenway:

- A. Any main or accessory residential structure exceeding a height of thirty-five feet;
- B. Structural bank protection, except rip rap or a channelization used as an emergency measure only to protect existing structures. Any such rip rap or channelization to stabilize undeveloped sites shall be prohibited as well;
- C. Subsurface sewage disposal drainfields within one hundred feet of the ordinary mean low-water line of the Willamette River. (Prior code §11-3-21(I))

17.48.120 Additional procedural requirements.

In addition to the requirements of Chapter 17.50, the following procedural requirements shall be applicable to all matters arising out of Section 17.48.070 through 17.48.100:

- A. Applications submitted for review under Sections 17.48.070 through 17.48.100 shall be accompanied by such materials as are reasonably necessary for adequate review, including, as necessary:
 - 1. A site and landscaping plan showing existing vegetation and development and location of proposed development for activities;
 - 2. Elevations of any proposed structures;
 - 3. Materials list for any proposed structures, including type and colors of siding and roofing; and
 - 4. Cross-sections of any area within the vegetative fringe where grading, filling, timber harvesting or excavating will occur.
- B.
 - 1. Written notice, including a copy of the application, shall be sent immediately upon receipt to the Oregon Department of Transportation by certified mail, return receipt requested. The Oregon Department of Transportation shall have seven working days from the date of mailing to respond before a decision be rendered.
 - 2. Written notice shall be given to the Oregon Department of Transportation by certified mail, return receipt requested, within seven days of the entry of a final order on the disposition of all applications made under Sections 17.48.070 through 17.48.100. (Prior code §11-3-21(J))

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Chapter 17.49 WR WATER QUALITY RESOURCES AREA OVERLAY DISTRICT

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17.49.010 Purpose.

A. There is established in the city a water quality resource area overlay district. The water quality resource area overlay district is an overlay zone classification and all conditions and restrictions of land use established by this title of the city's zoning ordinance shall be in addition to such restrictions and conditions as may be imposed and established in underlying zoning districts.

B. It is the purpose of this chapter to protect and improve water quality, to support beneficial water uses, and to protect the functions and values of existing and newly established water quality resource areas which provide a vegetated corridor to separate protected water features from development. The vegetated corridor assists in many functions, including, but not limited to, the following:

1. Maintain or reduce stream temperatures;

2. Maintain natural drainage routes, floodplains, and moderate stormwater flows;
3. Reduce potential sediment, nutrient and pollutant loading into water;
4. Provide erosion control, filtration, infiltration and natural water purification; and
5. Maintain channel stability to reduce potential landslides contributing to sedimentation of water features. (Ord. 99-1013 §10 (part), 1999)

17.49.020 Definitions.

Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

“Anadromous fish-bearing stream” means a stream or portion of a stream which is identified by resolution of the city commission as spawning or rearing habitat for those species of fish which return to rivers from the sea for breeding.

“Bankfull stage” or “bankfull flow” means the stage or elevation at which water overflows the natural banks of streams or other waters of this state. The bankfull stage or flow may be approximated using either the two-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.

“Beneficial uses” or “beneficial water uses” means, as defined by the Oregon Department of Water Resources, use of an in stream public use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stock water and wildlife uses.

“City engineer” means the engineer manager for the city, their duly authorized representative(s), or the city’s duly authorized representative(s) as designated by the city manager.

“Created wetlands” means wetlands developed in an area previously identified as a non-wetland to replace, or mitigate wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

“Constructed wetlands” means wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and separated from naturally occurring or created wetlands.

“Debris” means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this chapter, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

“Development.” For the purpose of this chapter the following definition of “development” applies: any man-made change defined as the construction of buildings or other structures, mining, dredging, paving, filling, grading, or site clearing, and grubbing in amounts greater than ten cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than ten percent of the existing vegetation in the water quality resource area on a lot is defined as development. Development does not include the following:

1. Stream enhancement or restoration projects approved by the city;
2. Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this chapter; and
3. Construction on lots in subdivisions meeting the criteria of ORS 92.040(2) (1995).

“Disturb” means man-made changes to the existing physical status of the land, which are made in connection with development. The following uses are excluded from the definition:

1. Enhancement or restoration of the water quality resource area;
2. Planting native cover identified in the Oregon City Native Plant List as adopted by Oregon City Commission resolution;
3. Installation of erosion control measures pursuant to an approved erosion and sediment control plan under Chapter 17.47.

“Emergency” means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions and disease.

“Enhancement” the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

“Erosion” means the movement of soil particles resulting from actions of water, wind or mechanical means.

“Fill” means any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed for the purposes of development or redevelopment.

“Invasive non-native,” “nuisance,” “prohibited” or “noxious vegetation” means plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities, or which are listed as invasive, nuisance, prohibited or noxious plants on the Oregon City Nuisance Plant List.

“Metro” means the regional government of the Portland metropolitan area and the elected Metro Council as the policy setting body of the government.

“Mitigation” means the reduction of adverse effects of a proposed project by considering, in the following order:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
5. Compensating for the impact by replacing or providing comparable substitute water quality resource areas.

“Native vegetation” means any vegetation listed on the Oregon City Native Plant List as adopted by

Oregon City Commission resolution.

“Open space” means land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and schools.

“Ordinary mean high water line” means, as defined in OAR 141-82-005, the line on the bank or shore to which water ordinarily rises in season; synonymous with mean high water (ORS 274.005).

“Owner or property owner” means the person who is the legal record owner of the land, or where there is a recorded land sale contract, the purchaser there under.

“Parcel” means a single unit of land that is created by a partitioning of land (ORS 92.010(7)).

“Partition” means the division of an existing land ownership into two or three parcels, within a calendar year, and is subject to approval of the governing body’s land use and development ordinances.

“Practicable” means available and capable of being done after taking into consideration cost, existing technology and logistics in light of overall project purpose.

“Protected water features” shall include:

1. Title 3 wetlands;
2. Rivers and perennial and intermittent streams;
3. Springs which feed stream and wetlands and have year-round flow; and
4. Natural lakes.

“Resource” versus “facility” means the distinction being made is between a “resource,” a functioning natural system such as a wetland or stream; and a “facility” which refers to a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement.

“Restoration” means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

“Riparian” means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

“Routine repair and maintenance” means activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

“Significant negative impact” means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

“Steep slopes” means those slopes that are equal to or greater than twenty-five percent. Steep slopes have been removed from the “buildable lands” inventory and have not been used in calculations to determine the number of acres within the urban growth boundary which are available for development.

“Stormwater” means the surface water runoff that results from all natural forms of precipitation.

“Stormwater quantity control and quality control facility” means a component of a man-made drainage feature, or features designed or constructed to perform a particular function or multiple

functions, including, but not limited to, pipes, swales, ditches, culvert, street gutters, detention basins, retention basins, wet ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators and sediment basins. Stormwater facilities shall not include building gutters, downspouts and drains serving one single-family residence.

“Stormwater pretreatment facility” means any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement.

“Stream” means areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses. For the purposes of this chapter, streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

“Structure(s)” means a building or other major improvement that is built, constructed or installed, or man-made improvements to land that are used, or expected to be used including, but not limited to utility lines, manholes, catch basins, driveways or sidewalks. It does not include minor improvements such as fences, utility poles, flagpoles or irrigation system components, that are not customarily regulated through zoning codes.

“Title 3” means that part of the Metro urban growth management functional plan which requires local governments to comply with regional regulations. Title 3 is a part of those regional regulations. An ordinance (Ordinance No. 98-730C) adopted by the Metro Council on June 18, 1998.

“Title 3 wetlands” means wetlands of metropolitan concern as shown on the Metro water quality and flood management area map and other wetlands added to city or county-adopted water quality and flood management area maps consistent with the criteria in Section 17.49.090(D). Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.

“Top of bank” means the same as “bankfull stage.”

“Utility facilities” means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pretreatment facilities.

“Vegetated corridor” means the area of setback between the top of bank of a protected water feature and the delineated edge of the water quality resource area as defined in Table 17.49-1 of this chapter.

“Water quality resource areas” means vegetated corridors and the adjacent protected water feature as established by this chapter.

“Watershed” means a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

“Wetlands” means those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and

delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 99-1013 §10 (part), 1999)

17.49.030 Applicability.

A. This chapter shall apply to development in the water quality resource area overlay district which may also be referred to as the "Water Resources Overlay District" in this code. The overlay zone restricts the uses that are allowed in the base zone by right, with limitations, or as provisional uses.

B. This chapter does not apply to work necessary to protect, repair, maintain or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that after the emergency has passed, adverse impacts are mitigated in accordance with Table 17.49-2, Standards for Restoring Marginal Existing Vegetated Corridors.

C. These standards are in addition to any other applicable standards of this code.

1. Applications for subdivisions, partitions and planned developments shall demonstrate compliance with these standards as part of the review proceedings for those developments;
2. Applications for development other than those described in subdivision 1 of this subsection shall demonstrate compliance with these standards as part of a land use review or limited land use review process as established in Chapter 17.50. (Ord. 99-1013 §10 (part), 1999)

17.49.040 Administration.

A. This chapter establishes a water quality resource area overlay district which is delineated on the water quality and flood management areas map attached and incorporated by reference as a part of this chapter. The official map is on file in the office of the city recorder.

1. The Oregon City Local Wetland Inventory, as amended, shall be a reference for identifying areas subject to the water quality resource area overlay district.
2. Applicants are required to provide the city with a field-verified delineation of the water quality resource areas on the subject property as part of their application. An application shall not be complete until this delineation is submitted to the city. If the protected water feature is not located on the subject property and access to the water feature is denied, then existing data may be used to delineate the boundary of the water quality resource area. The water resource determination shall be processed as a Type II application.
3. The standards for development contained in this chapter are applicable to areas located within a water quality resource area. Applications for development on a site located in the water quality resource area overlay district may request a determination that the subject site is not in a water quality resource area and this is not subject to the standards of Section 17.49.050. The water resource exemption determination shall be processed as a Type I application.
 - a. Applicants for a determination under this section shall submit a site plan meeting the following requirements:
 - i. The site plan must be drawn at a scale of no less than one inch equals twenty feet;

- ii. The site plan must show the location of the proposed development and the lot lines of the property on which development is proposed;
 - iii. The site plan must show the location of the protected water feature. If the protected water feature is a wetland, the delineation must be made by a qualified wetlands specialist pursuant to the 1987 Corps of Engineers Delineation Manual. For all other protected water features, the location must be established by a registered professional engineer or surveyor licensed by the state of Oregon.
 - iv. The site plan must show the location of the water quality resource area;
 - v. If the proposed development is closer than two hundred feet to the protected water feature, the site plan must include contour intervals of no greater than five feet; and
 - vi. If the vegetated corridor is fifteen feet, the site plan must show the protected water feature's drainage area, including all tributaries.
- b. Alternatively, an applicant may have the city staff gather the information necessary to determine the location of the water quality resource area by making an application therefore and paying to the city a fee as set by resolution of the city commission.
- c. Determinations under this section will be made by the community development director, or designee, as a Type II decision.

4. Compliance with Federal and State Requirements.

- a. If the proposed development requires the approval of any other governmental agency, such as the division of state lands or the U.S. Army Corps of Engineers, the applicant shall make application for such approval prior to or simultaneously with the submittal of its development application to the city engineer. The planning division shall coordinate city approvals with those of other agencies to the extent necessary and feasible. Any permit issued by the city pursuant to this chapter shall not become valid until other agency approvals have been obtained or those agencies indicate that such approvals are not required.
- b. The requirements of this chapter apply only to water quality resource areas within the water quality resource area overlay district. If, in the course of a development review, evidence suggests that a property outside the district may contain a Title 3 wetland or other protected water resource, the provisions of this chapter shall not be applied to that development review. However, the omission shall not excuse the applicant from satisfying any state and federal wetland requirements which are otherwise applicable. Those requirements apply in addition to, and apart from the requirements of the city's comprehensive plan and this code. Additionally, the standards of Section 17.49.090 shall be applied to the resource and, if the standards of Section 17.49.090 are met, the district boundaries shall be amended.

B. The city shall review the water quality and flood management areas maps during periodic review as required by ORS 197.633 (1997). (Ord. 03-1014, Att. B3 (part), 2003: Ord. 99-1013 §10 (part), 1999)

17.49.050 Water quality resource area standards.

This section applies to water quality resource areas within the water quality resource area overlay district.

A. The purpose of this section is to protect and improve the beneficial water uses and functions and values of water quality resource areas.

B. The water quality resource area is the vegetated corridor and the protected water feature. The width of the vegetated corridor is specified in Table 17.49-1. At least three slope measurements along the water feature, at no more than fifty-foot increments, shall be made for each property for which development is proposed. Depending on the slope measurements, the width of the vegetated corridor may vary.

Table 17.49-1
Width of Vegetated Corridor

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor (see Note 1)
Anadromous fish-bearing streams	Any slope	Edge of bankfull flow	200 feet
Intermittent streams with slopes less than 25 percent and which drain less than 100 acres	< 25 percent	Edge of bankfull flow	15 feet
All other protected water features	< 25 percent	Edge of bankfull flow Delineated edge of Title 3 wetland	50 feet
	≥ 25 percent for 150 feet or more (see Note 2)		200 feet
	≥ 25 percent for less than 150 feet (see Note 2)		Distance from starting point of measurement to top of ravine (break in ≥ 25 percent slope) (See Note 3) plus 50 feet.

Notes:

1. Required width (measured horizontally) of vegetated corridor unless reduced pursuant to the provisions of Section 17.49.050(I).
2. Vegetated corridors in excess of fifty feet apply on steep slopes only in the uphill direction from the protected water feature.
3. Where the protected water feature is confined by a ravine or gully, the top of the ravine is the break in the ≥ 25 percent slope.

C. Uses Permitted Outright.

1. Stream, wetland, riparian and upland enhancement or restoration projects; and farming practices as defined in ORS 30.930 and farm uses, excluding buildings and structures, as defined in ORS 215.203;
2. Placement of structures that do not require a grading or building permit;
3. Routine repair and maintenance of existing structures, roadways, driveways, utility facilities, accessory uses and other development.

D. Uses Under Prescribed Conditions.

1. Repair, replacement or improvement of utility facilities where the disturbed portion of the water quality resource area is restored and vegetation is replaced with vegetation from the Oregon City native plant list.
2. Additions, alterations, rehabilitation, or replacement of existing structures that do not increase existing structural footprint in and will have no greater material adverse impact on the water quality resource area where the disturbed portion of the water quality resource area is restored using native vegetative cover.
3. Public capital improvement projects that comply with the development standards of this chapter. The city engineer will determine compliance with water quality resource area standards.

E. Provisional Uses. The following uses are allowed in the water quality resource area subject to compliance with the application requirements and development standards of subsections G and H of this section:

1. Any use allowed in the base zone, other than those listed in subsection C and D of this section;
2. Measures to remove or abate nuisances, or any other violation of state statute, administrative agency rule or city ordinance;
3. Roads to provide access to protected water features or necessary ingress and egress across water quality resource areas;
4. New public or private utility facility construction;
5. Walkways and bike paths (see subsection (H)(5) of this section);
6. New stormwater pre-treatment facilities (see subsection (H)(6));
7. Widening an existing road adjacent to or running parallel to a water quality resource area;
8. Additions, alterations, rehabilitation or replacement of existing structures, roadways, accessory uses and development that increase the structural footprint within the water quality resource area consistent with subsection (H)(7) of this section.

F. Prohibited Uses.

1. Any new development, other than that listed in subsections C, D and E;
2. Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.

G. Application Requirements. Applications for provisional uses in the water quality resource area must provide the following information in a water resources report in addition to the information required for the base zone.

1. A topographic map of the site at contour intervals of five feet or less showing a delineation of the water quality resource area, which includes areas shown on the city water quality and flood management areas map.
2. The location of all existing natural features including, but not limited to, all trees of a caliper greater than six inches diameter at a height of four feet, natural or historic drainages on the site, springs, seeps and outcroppings of rocks, or boulders within the water quality resource area;
3. Location of Title 3 wetlands. Where Title 3 wetlands are identified, the applicant shall follow the Division of State Lands recommended wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist;
4. An inventory and location of existing debris and nuisance plants;
5. An assessment of the existing condition of the water quality resource area in accordance with Table 17.49-2;
6. An inventory of vegetation, including percentage ground and canopy coverage;
7. An analysis of the impacts the proposed development may have on the water quality resource area. This discussion shall take into account relevant natural features and characteristics of the water quality resource area, including hydrology, soils, bank stability, slopes of lands abutting the water resources, hazards of flooding, large trees and wooded features. The discussion shall identify fish and wildlife resources that utilize or inhabit the impact area in the course of a year and the impact of the proposed development on water resource values;
8. An analysis of the impacts the proposed development will have on the water quality of affected water resources, taking into account relevant natural features and characteristics of the water quality resource area;
9. An analysis of measures which feasibly can be taken to reduce or mitigate the impact of the proposed development on the water quality resource area and their vegetated corridors, including proposed drainage and erosion control measures, and an analysis of the effectiveness of these measures;
10. The water resources report shall be prepared by one or more qualified professionals including a wetlands biologist or hydrologist whose credentials are presented in the report;
11. Alternatives analysis demonstrating that:
 - a. No practicable alternatives to the requested development exist that will not disturb the water quality resource area,
 - b. Development in the water quality resource area has been limited to the area necessary to allow for the proposed use,
 - c. The water quality resource area can be restored to an equal or better condition in accordance with Table 17.42-2,
 - d. It will be consistent with a water quality resource area mitigation plan,

- e. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided or minimized and mitigated,
- f. For applications seeking an alteration, addition, rehabilitation or replacement of existing structures:
 - i. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the water quality resource area than the one proposed, and
 - ii. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the water quality resource area to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation, and
 - iii. Provide mitigation to ensure that impacts to the functions and values of the water quality resource area will be mitigated or restored to the extent practicable;

12. A water quality resource area mitigation plan shall be prepared by a registered professional engineer, landscape architect, biologist, or other person trained or certified to determine that the vegetated corridor meets the requirements of Table 17.49-2 and shall contain the following information:

- a. A description of adverse impacts that will be caused as a result of development,
- b. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, but not limited to, Table 17.49-2,
- c. A list of all responsible parties including, but not limited to, the owner, applicant, contractor or other persons responsible for work on the development site,
- d. A map showing where the specific mitigation activities will occur,
- e. A maintenance program assuring plant survival for a minimum of three years,
- f. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in-stream work in anadromous fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.

H. Development Standards. Applications for provisional uses in the water quality resource area shall satisfy the following standards:

- 1. The water quality resource area shall be restored and maintained in accordance with the mitigation plan and the specifications in Table 17.49-2.
- 2. Existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the water quality resource area. Trees in the water quality resource area shall not be used as anchors for stabilizing construction equipment.
- 3. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated during the next planting season. Nuisance plants, as identified in the Oregon City nuisance plant list, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Removed nuisance plants shall be replaced with plants from Oregon City's native plant list by the next planting season.
- 4. Prior to construction, the water quality resource area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as allowed in subsection E of this section. Such markings shall be maintained until construction is complete.
- 5. Walkways and bike paths:

a. A gravel, earthen, tree bark product, or equivalent walkway or bike path shall not be constructed closer than ten feet from the boundary of the protected water feature. Walkways and bike paths shall be constructed so as to minimize disturbance to existing vegetation. Where practicable, a maximum of fifty percent of the trail may be within thirty feet of the protected water feature.

b. A paved walkway or bike path shall not be constructed closer than ten feet from the boundary of the protected water feature. For any paved walkway or bike path, the width of the water quality resource area must be increased by a distance equal to the width of the paved path. Walkways and bike paths shall be constructed so as to minimize disturbance to existing vegetation. Where practicable, a maximum of twenty-five percent of the trail may be within thirty feet of the protected water feature; and

c. A walkway or bike path shall not exceed twelve feet in width.

6. Stormwater quantity control and quality control facilities.

a. Except for flood control facilities designated by adopted Oregon City stormwater master plans, the stormwater quantity control and quality control facility may encroach a maximum of twenty-five feet into the outside boundary of the water quality resource area of a protected water feature, (maximum allowable encroachment to be proportionally reduced for applicable intermittent stream vegetated corridor).

b. The area of encroachment must be replaced by adding an equal area to the water quality resource area on the subject property.

c. All stormwater shall be collected on-site and passed through a treatment facility, such as a detention/composting facility or filter as approved by the city engineer in consultation with planning staff, prior to being discharged into the water quality resource area.

d. The water quality resource area shall not be subject to a significant negative impact as a result of changes to existing hydrologic connections.

7. Additions, Alterations, Rehabilitation and Replacement of lawful structures.

a. For existing structures, roadways, driveways, accessory uses and development which are nonconforming, this chapter shall apply in addition to the nonconforming use regulations of this title (Chapter 17.58).

b. Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development shall not encroach closer to and will have no greater material adverse impact on the protected water feature than the existing structures, roadways, driveways, accessory uses and development.

8. Off-Site Mitigation.

a. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:

i. As close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable;

ii. Within the watershed where the development will take place or as otherwise specified by the city in an approved wetland mitigation bank.

b. In order to ensure that the mitigation area will be protected in perpetuity, proof that a deed restriction has been placed on the property where the mitigation is to occur is required.

Table 17.49-2

Water Quality Resource Area
Mitigation Requirements

Existing Condition Of Water Quality Resource Area	Mitigation Requirements
Good Existing Corridor:	
Combination of trees, shrubs and groundcover are eighty percent present, and there is more than fifty percent tree canopy coverage in the vegetated corridor.	1. Prior to construction, a biologist or landscape architect shall prepare and submit an inventory of vegetation in areas proposed to be disturbed and a plan for mitigating water quality impacts related to the development, including: sediments, temperature nutrients, sediment control, temperature control, or addressing any other condition that may have caused the protected water feature to be listed on DEQ's 303 (d) list.
	2. Inventory and remove debris and noxious materials.
Marginal Existing Vegetated Corridor:	
Combination of trees, shrubs and groundcover are eighty percent present, and twenty-five to fifty percent canopy coverage in the vegetated corridor.	1. Restore and mitigate according to approved plan using non-nuisance plantings from native plants list.
	2. Inventory and remove debris and noxious materials.
	3. Vegetate disturbed and bare areas with non-nuisance plantings from the Oregon City native plant list.

	4. Revegetate with native species using a city-approved plan developed to represent the vegetative composition that would naturally occur on the site. Seeding may be required prior to establishing plants for site stabilization.
	5. Revegetation must occur during the next planting season following site disturbance. Annual replacement of plants that do not survive is required until vegetation representative of natural conditions is established on the site.
Degraded Existing Vegetated Corridor:	
Less vegetation and canopy coverage than marginal vegetated corridors, and/or greater than ten percent surface coverage of any non-native species.	1. Restore and mitigate according to approved plan using non-nuisance plantings from the Oregon City native plant list.
	2. Inventory and remove debris and noxious materials.
	3. Remove non-native species and revegetate with non-nuisance plantings from the Oregon City native plant list.
	4. Vegetate disturbed and bare areas with appropriate plants from the Oregon City native plant list.
	5. Plant and seed to provide one hundred percent surface coverage.

I. Vegetated Corridor Width Reduction. A reduction in the width of the vegetated corridor required by Table 17.49-1 may be allowed as part of a Type III proceeding under the following conditions:

1. On slopes that are greater than or equal to twenty-five percent for less than one hundred fifty feet,

a maximum reduction of twenty-five feet may be permitted in the width of vegetated corridor beyond the slope break if a geotechnical report demonstrates that the slope is stable.

2. On an anadromous fish-bearing stream, the two hundred foot vegetated corridor may be reduced if the following criteria are met:

- a. The existing condition of the vegetated corridor is primarily developed with commercial, industrial or residential uses or is significantly degraded with less than twenty-five percent vegetative cover.
- b. A decrease is necessary to accomplish the purposes of the proposal and no practicable alternative is available.
- c. Decreasing the width of the vegetated corridor will not adversely affect the water resource functional values. The functional values of a water resource include, but are not limited to, the following: water quality protection and enhancement; fish and wildlife habitat; food chain support; flood storage, conveyance and attenuation; groundwater recharge and discharge; erosion control; historical and archaeological and aesthetic value; and recreation.
- d. Improvements will be made to the remaining vegetated corridor pursuant to the mitigation requirements of the section on Degraded Existing Vegetation Corridor in Table 17.49-2 of this chapter. The applicant must demonstrate that the improvements will increase the functional values of the water resource.
- e. A proposal to enhance a vegetated corridor shall not be used as justification to reduce an otherwise functional standard corridor width.
- f. In no case may the reduced corridor be less than otherwise would be required by Table 17.49-1 for a non-anadromous fish-bearing stream. (Ord. 99-1013 §10 (part), 1999)

17.49.060 Subdivisions and partitions.

A. The purpose of this section is to amend the City regulations governing land divisions to require that new subdivision and partition plats delineate and show the water quality resource area as either a separate tract or part of a larger tract that meets the requirements of subsection (D) of this section.

B. The standards for land divisions in a water quality resource area overlay district shall apply in addition to the requirements of the city land division ordinance and zoning ordinance, provided that for partitions the minimum lot area, minimum average lot width, and minimum average lot depth standards of the base zone may be superseded in order to allow for a transfer of density pursuant to Section 17.49.070.

C. Prior to preliminary plat approval, the water quality resource Area shall be shown either as a separate tract or part of a larger tract that meets the requirements of subsection (D) of this section, which shall not be a part of any parcel used for construction of a dwelling unit.

D. Prior to final plat approval, ownership of the water quality resource area tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:

1. Private open space held by the owner or a homeowners association; or
2. For residential land divisions, private open space subject to an easement conveying stormwater and surface water management rights to the city and preventing the owner of the tract from activities and uses inconsistent with the purpose of this document; or
3. At the owners option, public open space where the tract has been dedicated to the city or other

governmental unit; or

4. Any other ownership proposed by the owner and approved by the city manager. (Ord. 99-1013 §10 (part), 1999)

17.49.070 Density transfers.

A. The purpose of this section is to allow density accruing to portions of a property within the water quality resource area to be transferred outside the water quality resource area.

B. Development applications for partitions that request a density transfer shall:

1. Provide a map showing the net buildable area to which the density will be transferred;
2. Provide calculations justifying the requested density increase;
3. Demonstrate that the minimum lot size requirements can be met based on an average of all lots created, including the water quality resource area tract created pursuant to Section 17.49.060, and that no residential lot created is less than five thousand square feet;
4. Demonstrate that, with the exception of the water quality resource area parcel created pursuant to Section 17.49.060, no parcels have been created which would be unbuildable in terms of minimum yard setbacks;
5. Meet all other standards of the base zone.

C. The area of land contained in a water quality resource area may be excluded from the calculations for determining compliance with minimum density requirements of the zoning code. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 99-1013 §10 (part), 1999)

17.49.080 Variances.

A. The purpose of this section is to ensure that compliance with this chapter does not cause unreasonable hardship. To avoid such instances, the requirements of this chapter may be varied. Variances are also allowed when strict application of this chapter would deprive an owner of all economically viable use of land.

B. This section applies to requests to vary from the standards of this chapter only. Requests to vary from other standards of this title shall be subject to the requirements of Chapter 17.60.

1. Variance applications made pursuant to this section shall follow the variance procedures outlined in Chapter 17.60.
2. In addition to the public notice requirements outlined in Section 17.50.090, Metro shall be notified within fourteen days of the city receiving an application to vary the requirements of this section and within fourteen days of a decision on the variance.
3. The requirements of Section 17.60.020 (Variances - Grounds) do not apply to requests to vary from the standards of Chapter 17.49.
4. If an application to vary from the standards of Chapter 17.49 is made in conjunction with an application to vary from other standards of this title, the variances may be processed as one application provided the standards applicable to each variance requested must be met before the

requested variance may be granted.

C. Development may occur on lots located completely within the water quality resource area that are recorded with the county assessor's office on or before October 6, 1999. Development shall not disturb more than five thousand square feet of the vegetated corridor, including access roads and driveways, subject to the erosion and sediment control standards of this document.

D. Hardship Variance. Variances to avoid unreasonable hardship caused by the strict application of this chapter are permitted subject to the criteria set forth in this section. To vary from the requirements of this chapter, the applicant must demonstrate the following:

1. The variance is the minimum necessary to allow the proposed use or activity;
2. The variance does not increase danger to life and property due to flooding or erosion;
3. Unless the proposed variance is from Section 17.49.050(G)(12) (mitigation), the proposed use will comply with those standards; and
4. The proposed use complies with the standards of the base zone and other applicable overlay districts.

E. Buildable Lot Variance. A variance to avoid the loss of all economically viable use of a lot that is partially inside the water quality resource area is permitted. Development on such lots shall not disturb more than five thousand square feet of the vegetated corridor. Applicants must demonstrate the following:

1. Without the proposed variance, the applicant would be denied economically viable use of the subject property. To meet this criterion, the applicant must show that:
 - a. The proposed use cannot meet the standards in subsection (D) of this section (hardship variance), and
 - b. No other application could result in permission for an economically viable use of the subject property. Evidence to meet this criterion shall include a list of uses allowed on the subject property;
2. The proposed variance is the minimum necessary to allow for the requested use;
3. The proposed variance will comply with Section 17.49.050(G)(12) (mitigation); and
4. The proposed use complies with the standards of the base zone and other applicable overlay districts.

F. Variance Conditions. The planning commission may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief. If a variance is granted pursuant to subsection (D) of this section, the variance shall be subject to the following conditions:

1. The minimum width of the vegetated corridor shall be fifteen feet on each side of a protected water feature, except as allowed in subsection (E) of this section;
2. At least seventy-five percent of the length of the water quality resource area for a protected water feature within a development site shall be greater than thirty feet in width on each side of the water feature. (Ord. 99-1013 §10 (part), 1999)

17.49.090 Map Administration.

A. The purpose of this section is to provide a process for amending the water quality and flood management areas map to add wetlands and correct the location of protected water features and the

water quality resource area overlay district if the protected water feature does not exist or is outside the water quality resource area overlay district. The information used to establish an error shall include a topographic map of the site with contour intervals no greater than five feet and a report qualifying the map amendment prepared by a registered professional engineer licensed by the state of Oregon or a qualified wetland specialist.

B. Map corrections shall be processed pursuant to the requirements of Chapter 17.68.

1. Within ninety days of receiving information establishing an error in the existence or location of a protected water feature, the city shall provide notice to interested parties of a public hearing at which the city will review the information.

2. The city shall amend the water quality and flood management areas map if the information demonstrates:

a. That a protected water feature no longer exists because the area has been legally filled, culverted or developed prior to the adoption of the amendment of Title 3 of the Functional Plan (June 18, 1998); or

b. That the protected water feature does not exist or is outside the water quality resource area overlay district.

C. Modification of the water quality resource area overlay district. To modify the water quality resource area overlay district, the applicant shall demonstrate that the modification will offer the same or better protection of the protected water feature and water quality resource area by:

1. Preserving a vegetated corridor that will separate the protected water feature from proposed development; and

2. Preserving existing vegetated cover or enhancing the water quality resource area sufficient to assist in maintaining or reducing water temperatures in the adjacent protected water feature; and

3. Enhancing the water quality resource area sufficient to minimize erosion, nutrient and pollutant loading into the adjacent protected water feature; and

4. Protecting the vegetated corridor sufficient to provide filtration, infiltration and natural water purification for the adjacent protected water feature; and

5. Stabilizing slopes adjacent to the protected water feature.

D. Adding Title 3 Wetlands.

1. Within ninety days of receiving evidence that a wetland meets any of one of the criteria in this section, the city shall provide notice to interested parties of a public hearing at which the city will review the evidence.

2. A wetland and its vegetated corridor shall be included in the water quality resource area overlay district if the wetland meets any one of the following criteria:

a. The wetland is fed by surface flows, sheet flows or precipitation, and has evidence of flooding during the growing season, and has sixty percent or greater vegetated cover, and is over one-quarter acre in size; or the wetland qualifies as having "intact water quality function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

b. The wetland is in the flood management area, and has evidence of flooding during the growing season, and is five acres or more in size, and has a restricted outlet or no outlet; or the wetland qualifies as having "intact hydrologic control function" under the 1996 Oregon Freshwater Wetland Assessment Methodology; or

c. The wetland or a portion of the wetland is within a horizontal distance of less than one-fourth mile from a water body which meets the Department of Environmental Quality definition of water quality limited water body in OAR Chapter 340, Division 41 (1996). (Ord. 99-1013 §10 (part), 1999)

17.49.100 Consistency.

Where the provisions of this chapter are less restrictive or conflict with comparable provisions of the zoning ordinance, regional, state or federal law, the provisions that are more restrictive shall govern. Where this document imposes restrictions that are more stringent than regional, state and federal law, the provisions of this document shall govern. (Ord. 99-1013 §10(part), 1999)

17.49.110 Severability.

The provisions of this chapter are severable. If any section, clause or phrase of this chapter is adjudged to be invalid by a court of competent jurisdiction, the decision of that court shall not affect the validity of the remaining portions of this chapter. (Ord. 99-1013 §10 (part), 1999)

[Title 17 ZONING](#)

Chapter 17.50 ADMINISTRATION AND PROCEDURES

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17.50.010 Purpose.

This chapter provides the procedures by which Oregon City reviews and decides upon applications for all permits relating to the use of land authorized by ORS Chapters 92, 197 and 227. These permits include all form of land divisions, land use, limited land use and expedited land division and legislative enactments and amendments to the Oregon City comprehensive plan and Titles 16 and 17 of this code. Pursuant to ORS 227.175, any applicant may elect to consolidate applications for two or more related permits needed for a single development project. Any grading activity associated with development shall be subject to preliminary review as part of the review process for the underlying development. It is the express policy of the city that development review not be segmented into discrete parts in a manner that precludes a comprehensive review of the entire development and its cumulative impacts. (Ord. 98-1008 §1 (part), 1998)

17.50.020 Definitions.

The following definitions shall apply to this chapter:

“Applicant” means the party or parties who submit an application for approval of a quasi-judicial

permit under city code Titles 16 or 17.

“Application” means any request for approval of a permit or a legislative amendment to the city’s land use regulations, comprehensive plan or related maps.

“Approval criteria” and “approval standards” mean all standards which must be met in order to approve an application. Depending upon the specific application, approval criteria include standards contained in this code, the Oregon City comprehensive plan and applicable state law.

“Development” means a building or grading operation, making a material change in the use or appearance of a structure or land, dividing land into two or more parcels, partitioning or subdividing of land as provided in ORS 92.010 to 92.285 or the creation or termination of an access right.

“Director” means the director of community development or designee.

“Final action” and “final decision” mean the city’s final decision on a permit application for which there is either no appeal to another decision-maker within the city, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with Section 17.50.190 of this chapter. A decision is deemed to be final on the date that written notice of the decision is mailed to those entitled to notice of the decision.

“Legislative action” means any final decision of the city that approves or denies a request to amend the city’s land use regulations, comprehensive plan or related maps and does not pertain to a particular property or small set of properties.

“Limited land use application” means an application for any use where the decision is based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including subdivision, site plan and design review or any other application which is processed pursuant to a Type II proceeding as provided in this chapter.

“Major modification” means any of the following changes from a previously approved permit, requiring the application to return through the same process as the original review:

1. For subdivisions or planned unit developments, an increase in the total number of dwelling units by ten percent or more, an increase in the number of multiple-family dwellings by more than ten percent, or a reduction in the amount of landscaping, open space or land reserved for a protected feature of ten percent or more;
2. For design review or conditional use permits for mixed use or commercial developments, an increase in the area of commercial space by more than ten percent;
3. For any site plan or design review approval, a reduction in the amount of landscaping, open space or land reserved for a protected feature of ten percent or more or the relocation of buildings, streets, access points onto the existing public right-of-way, utility easements, pedestrian/bicycle accessways, parking lots, landscaping, or other site improvements away from the previously approved general location;
4. For any prior approval, an increase in the amount of impervious surface on hillsides or unstable soils subject to regulation under city code Chapter 17.44 by ten percent or more;
5. Any change that renders the prior approved permit incompatible with surrounding lands or development in noncompliance with any of the conditions of approval or approval criteria.

“Minor modification” means any changes from a previously approved permit which are less than a major modification.

“Non-final decision” means any decision by the planning manager or planning commission which is

not a final decision but is appealable to another decision maker within the city.

“One-hundred-twenty-day period” means the one-hundred-twenty-day period within which ORS 227.178 requires the city to take final action on a complete application.

“Permit” means any form of quasi-judicial approval pertaining to the use of land rendered by the city under city code Titles 16 or 17, including subdivisions, partitions, lot line adjustments and abandonments, zone changes and plan amendments, land use, limited land use and expedited land divisions.

“Planning division” means the planning division of the city.

“Planning manager” means the planning manager of the planning division or the planning manager’s designee.

“Quasi-judicial” means any final decision of the city that applies the provisions of city code Titles 16 or 17, in response to an application, that pertains to a specific property or small set of properties and which is legally required to result in a decision by the city.

“Record” means the public record compiled for each quasi-judicial and legislative action and includes the written minutes of all public hearings, audio tape recordings, if any, of the public meetings, the application and all materials duly submitted by the applicant, all documents, evidence, letters and other materials duly submitted by any party to the decision-making proceeding, staff reports, public notices, and all decisions rendered by city decision-makers.

“Subject property” means the real property or properties that is/are the subject of a quasi-judicial permit application. (Ord. 98-1008 §1 (part), 1998)

17.50.030 Summary of the city’s decision-making processes.

The following decision-making processes chart shall control the city’s review of the indicated permits:

Table 17.50.030 Permit Approval Process

Permit Type	I	II	III	IV	Expedited Land Division
Adjustment			X		
Compatibility review	X				
Code interpretation and similar use determination			X		
Concept Development Plan			X		
Conditional use permit (CUP)			X		
Detailed Development Plan*		X	X		

Extension		X			
Final plat	X				
Historic review			X		
Lot line adjustment and Abandonment	X				
Major modification to a prior approval**	X	X	X	X	X
Minor modification to a prior approval		X			
Nonconforming use review		X			
Partition		X			X
Reconsideration	X				
Revocation				X	
Site plan and design review		X			
Subdivision		X			X
Minor variance		X			
Zone change & plan amendment				X	
Zone change upon annexation with no discretion	X			X	
Zone change upon annexation with discretion				X	
Water Resource Exemption	X				
Water Resource Review		X			
Unstable Soils and Hillside Constraint Overlay District		X			

* If any provision or element of the concept development plan that requires a Type III procedure was deferred, the detailed development plan shall be processed through a Type III procedure.

** A major modification to a prior approval shall be considered using the same process as would be applicable to the initial approval.

A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria and include lot line adjustments, zone changes upon annexation as provided in Section 17.06.050 for which there is no discretion provided, final plats, and final planned

unit development plans where there are no material deviations from the approved preliminary plans. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. One representative from each of the city-recognized neighborhood associations, who has been identified by the neighborhood coordinator, will be distributed a monthly compilation of all Type I activities. The planning manager's decision is final and not appealable by any party through the normal city land use process.

B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look and include partitions, preliminary subdivision plats, site plan and design review. Notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Planning manager accepts comments for fourteen days and renders a decision. The planning manager's decision is appealable to the city commission with notice to the planning commission, by any party with standing (i.e., applicant and any party who submitted comments during the fourteen-day period). The city commission decision is the city's final decision and is appealable to the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. Applications evaluated through this process include conditional use permits, preliminary planned unit development plans, variances, code interpretations, similar use determinations and those rezonings upon annexation under Section 17.06.050 for which discretion is provided. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or the historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record. The city commission decision on appeal from the historic review board or the planning commission is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and planning commission hearing is published and mailed to the applicant, recognized neighborhood association and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission either in person or in writing) may appeal the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city

commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

E. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380. To qualify for this type of process, the development must meet the basic criteria in ORS 197.360(1)(a) or (b). While the decision-making process is controlled by state law, the approval criteria are found in this code. The planning manager has twenty-one days within which to determine whether an application is complete. Once deemed complete, the planning manager has sixty-three days within which to issue a decision. Notice of application and opportunity to comment is mailed to the applicant, recognized neighborhood association and property owners within one hundred feet of the subject site. The planning manager will accept written comments on the application for fourteen days and then issues a decision. State law prohibits a hearing. Any party who submitted comments may call for an appeal of the planning manager's decision before a hearings referee. The referee need not hold a hearing; the only requirement is that the determination be based on the evidentiary record established by the planning manager and that the process be "fair." The referee applies the city's approval standards, and has forty-two days within which to issue a decision on the appeal. The referee is charged with the general objective to identify means by which the application can satisfy the applicable requirements without reducing density. The referee's decision is appealable only to the court of appeals pursuant to ORS 197.375(8) and 36.355(1). (Ord. 03-1014, Att. B3 (part), 2003; Ord. 02-1009, §1, 2002; Ord. 00-1003 §10, 2000; Ord. 98-1008 §1 (part), 1998)

17.50.040 Development review in overlay districts and for erosion control.

For any development subject to regulation of unstable soils under city code Chapter 17.44; water resources under Chapter 17.49; Willamette River Greenway under Chapter 17.48; and erosion control under Chapter 17.47, compliance with the requirements of these chapters shall be reviewed as part of the review process required for the underlying development for the site. (Ord. 98-1008 §1 (part), 1998)

17.50.050 Preapplication conference and neighborhood meeting.

A. Prior to submitting an application for any form of permit, the applicant shall schedule and attend a preapplication conference with city staff to discuss the proposal. For proposals of a conditional use permit, subdivision, or a commercial, office, or industrial use of over ten thousand square feet, the applicant shall also schedule and attend a meeting with the city-recognized neighborhood association in whose territory the application is proposed. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended. The applicant shall send, by certified mail, return receipt requested, a letter to the chairperson of the neighborhood association and the citizen involvement committee council describing the proposed project. A meeting shall be scheduled within thirty days of the notice. If the Neighborhood Association does not want to, or cannot meet within thirty days, the applicant shall hold a meeting after six p.m. or on the weekend. The meeting shall be noticed to the neighborhood association and the citizen involvement committee and shall be held within the boundaries of the neighborhood association or in a city facility. An application shall not be deemed complete until a copy of the certified letter is provided.

B. Preapplication Conference. To schedule a preapplication conference, the applicant shall contact the community development director, submit the required materials, and pay the appropriate conference fee. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the city, which identifies the proposed land uses, traffic circulation, and public rights-of-way. The purpose of the preapplication conference is to provide staff from all affected city departments with a summary of the applicant's development proposal and an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal. The community development director shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations. Following the conference, the community development director shall provide the applicant with a written summary of the preapplication conference.

C. Affected Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

D. Notwithstanding any representations by city staff at a preapplication conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the city of any standard or requirement.

E. A preapplication conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant must schedule and attend another conference before the city will accept a permit application. The community development director may waive the preapplication requirement if, in the manager's opinion, the development does not warrant this step. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 98-1008 §1 (part), 1998)

17.50.060 Application requirements.

A permit application may only be initiated by the record property owner or contract purchaser, the city commission or planning commission. If there is more than one record owner, then the city will not accept an application without signed authorization from all record owners. All permit applications must be submitted on the form provided by the city, along with the appropriate fee and all necessary supporting documentation and information, sufficient to demonstrate compliance with all applicable approval criteria. The applicant has the burden of demonstrating, with evidence, that all applicable approval criteria are, or can be, met. (Ord. 98-1008 §1 (part), 1998)

17.50.070 Completeness review and one-hundred-twenty-day rule.

A. Upon submission, the community development director shall date stamp the application form and verify that the appropriate application fee has been submitted. The community development director will then review the application and all information submitted with it and evaluate whether the application is complete enough to process. Within thirty days of receipt of the application, the community development director shall complete this initial review and issue to the applicant a written

statement indicating whether the application is complete enough to process, and if not, what information must be submitted to make the application complete.

B. The applicant has one hundred eighty days from the date the application was made to submit the missing information or, on the one hundred eighty-first day, the application shall be rejected and all materials and the unused portion of the application fee returned to the applicant. If the applicant submits the requested information within the one hundred eighty-day period, the community development director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection A of this section.

1. The application will be deemed complete for the purpose of this section upon receipt by the community development division of:

a. All the missing information;

b. Some of the missing information and written notice from the applicant that no other information will be provided; or

c. Written notice from the applicant that none of the missing information will be provided. (Ord. 04-1014, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 98-1008 §1 (part), 1998)

17.50.080 Complete application--Required information.

Unless stated elsewhere in city code Titles 16 or 17, a complete application includes all the materials listed in this subsection. The planning manager may waive the submission of any of these materials if not deemed to be applicable to the specific review sought. Likewise, within thirty days of when the application is first submitted, the planning manager may require additional information, beyond that listed in this subsection or elsewhere in Titles 16 or 17, such as a traffic study or other report prepared by an appropriate expert. In any event, the applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation, and the city will not deem the application complete until all information required by the planning manager is submitted. At a minimum, the applicant must submit the following:

A. One copy of a completed city application form that includes the following information:

1. An accurate legal description, tax account number(s), map and location of all properties that are the subject of the application,

2. Name, address, telephone number and authorization signature of all record property owners or contract owners, and the name, address and telephone number of the applicant, if different from the property owner(s);

B. A complete list of the permit approvals sought by the applicant;

C. A current preliminary title report for the subject property(ies);

D. A complete and detailed narrative description of the proposed development that describes existing site conditions, existing buildings, public facilities and services, presence of wetlands, steep slopes and other natural features, a discussion of the approval criteria for all permits required for approval of the development proposal that explains how the criteria are or can be met, and any other information indicated by staff at the preapplication conference as being required;

E. The identity and contact person for the affected city-recognized neighborhood association(s);

F. Up to twenty-one copies of all reports, plans, site plans and other documents required by the

section of this code corresponding to the specific approval(s) sought;

G. At least one copy of the site plan and all related drawings shall be in a readable/legible eight and one-half by eleven inch format for inclusion into the city's bound record of the application;

H. Mailing labels for notice to all parties entitled under Section 17.50.090 to receive mailed notice of the application. The applicant shall use the names and addresses of property owners within the notice area indicated on the most recent property tax rolls;

I. All required application fees. (Ord. 98-1008 §1 (part), 1998)

17.50.090 Public notices.

All public notices issued by the city with regard to a land use matter, announcing applications or public hearings of quasi-judicial or legislative actions, shall comply with the requirements of this section.

A. Notice of Type II Applications. Once the planning manager has deemed a Type II application complete, the city shall prepare and send notice of the application, by first class mail, to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. Pursuant to Section 17.50.080(H), the applicant is responsible for providing an accurate and complete set of mailing labels for these property owners and for posting the subject property with the city-prepared notice in accordance with Section 17.50.100. The city's Type II notice shall include the following information:

1. Street address or other easily understood location of the subject property and city-assigned planning file number;
2. A description of the applicant's proposal, along with citations of the approval criteria that the city will use to evaluate the proposal;
3. A statement that any interested party may submit to the city written comments on the application during a fourteen-day comment period prior to the city's deciding the application, along with instructions on where to send the comments and the deadline of the fourteen-day comment period;
4. A statement that any issue which is intended to provide a basis for an appeal must be raised in writing during the fourteen-day comment period with sufficient specificity to enable the city to respond to the issue;
5. A statement that the application and all supporting materials may be inspected, and copied at cost, at City Hall during normal business hours;
6. The name and telephone number of the planning staff person assigned to the application or is otherwise available to answer questions about the application.

B. Notice of Public Hearing on a Type III or IV Quasi-Judicial Application. Notice for all public hearings concerning a quasi-judicial application shall conform to the requirements of this subsection. At least twenty days prior to the hearing, the city shall prepare and send, by first class mail, notice of the hearing to all record owners of property within three hundred feet of the subject property and to any city-recognized neighborhood association whose territory includes the subject property. The city shall also publish the notice in a newspaper of general circulation within the city at least twenty days prior to the hearing. Pursuant to Section 17.50.080(H), the applicant is responsible for providing an accurate and complete set of mailing labels for these property owners and for posting the subject property with the city-prepared notice in accordance with Section 17.50.100. Notice of the application

hearing shall include the following information:

1. The time, date and location of the public hearing;
2. Street address or other easily understood location of the subject property and city-assigned planning file number;
3. A description of the applicant's proposal, along with a list of citations of the approval criteria that the city will use to evaluate the proposal;
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing and that a staff report will be prepared and made available to the public at least seven days prior to the hearing;
5. A statement that any issue which is intended to provide a basis for an appeal to the city commission must be raised before the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the city and all parties to respond to the issue;
6. A statement that the application and all supporting materials and evidence submitted in support of the application may be inspected at no charge and that copies may be obtained at reasonable cost at City Hall during normal business hours; and
7. The name and telephone number of the planning staff person responsible for the application or is otherwise available to answer questions about the application.

C. Notice of Public Hearing on a Legislative Proposal. At least twenty days prior to a public hearing at which a legislative proposal to amend or adopt the city's land use regulations or comprehensive plan is to be considered, the planning manager shall issue a public notice that conforms to the requirements of this subsection. Notice shall be sent to affected governmental entities, special districts, providers of urban services, including Tri-Met, Oregon Department of Transportation and Metro, any affected recognized neighborhood associations and any party who has requested in writing such notice. Notice shall also be published in a newspaper of general circulation within the city. Notice issued under this subsection shall include the following information:

1. The time, date and location of the public hearing;
2. The city-assigned planning file number and title of the proposal;
3. A description of the proposal in sufficient detail for people to determine the nature of the change being proposed;
4. A statement that any interested party may testify at the hearing or submit written comments on the proposal at or prior to the hearing; and
5. The name and telephone number of the planning staff person responsible for the proposal and who interested people may contact for further information. (Ord. 98-1008 §1 (part), 1998)

17.50.100 Notice posting requirements.

Where this chapter requires notice of a pending or proposed permit application or hearing to be posted on the subject property, the requirements of this section shall apply.

A. City Guidance and the Applicant's Responsibility. The city shall supply all of the notices which the applicant is required to post on the subject property and shall specify the dates the notices are to be

posted and the earliest date on which they may be removed. The city shall also provide a statement to be signed and returned by the applicant certifying that the notice(s) were posted at the correct time and that if there is any delay in the city's land use process caused by the applicant's failure to correctly post the subject property for the required period of time and in the correct location, the applicant agrees to extend the one-hundred-twenty-day period in a timely manner.

B. Number and Location. The applicant must place the notices on each frontage of the subject property. If the property's frontage exceeds six hundred feet, the applicant shall post one copy of the notice for each six hundred feet or fraction thereof. Notices shall be posted within ten feet of the street and shall be visible to pedestrians and motorists. Notices shall not be posted within the public right-of-way or on trees. The applicant shall remove all signs within ten days following the event announced in the notice. (Ord. 98-1008 §1 (part), 1998)

17.50.110 Assignment of decision-makers.

The following city entity or official shall decide the following types of applications:

A. Type I Decisions. The planning manager shall render all Type I decisions. The planning manager's decision is the city's final decision on a Type I application.

B. Type II Decisions. The planning manager shall render the city's decision on all Type II permit applications which are appealable to the city commission with notice to the planning commission. The city commission decision is appealable to LUBA.

C. Type III Decisions. The planning commission or historic review board, as applicable, shall render all Type III decisions. Such decision is appealable to the city commission, on the record. The city commission's decision is the city's final decision and is appealable to LUBA within twenty-one days of when it becomes final.

D. Type IV Decisions. The planning commission shall render the initial decision on all Type IV permit applications. If the planning commission denies the Type IV application, that decision is final unless appealed to the city commission in accordance with Section 17.50.190. If the planning commission recommends approval of the application, that recommendation is forwarded to the city commission. City commission decision is the city's final decision on a Type IV application and is appealable to LUBA.

E. ELD. The planning manager shall render the initial decision on all ELD applications. The planning manager's decision is the city's final decision unless appealed in accordance to ORS 197.375 to a city-appointed hearings referee. The hearings referee decision is the city's final decision which is appealable to the Oregon Court of Appeals. (Ord. 98-1008 §1 (part), 1998)

17.50.120 Quasi-judicial hearing process.

All public hearings pertaining to quasi-judicial permits, whether before the planning commission, historic review board, or city commission, shall comply with the procedures of this section. In addition, all public hearings held pursuant to this chapter shall comply with the Oregon Public Meetings Law, the applicable provisions of ORS 197.763 and any other applicable law.

A. Once the planning manager determines that an application for a Type III or IV decision is complete, the planning division shall schedule a hearing before the planning commission or historic

review board, as applicable. Once the planning manager determines that an appeal of a Type II, Type III or Type IV decision has been properly filed under Section 17.50.190, the planning division shall schedule a hearing before the city commission.

B. Notice of the Type III or IV hearing shall be issued at least twenty days prior to the hearing in accordance with Section 17.50.090(B).

C. Written notice of an appeal hearing before the City Commission shall be sent by regular mail no later than fourteen days prior to the date of the hearing to the appellant, the applicant if different from the appellant, the property owner(s) of the subject site, all persons who testified either orally or in writing before the hearing body and all persons that requested in writing to be notified.

D. The planning manager shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria and makes a recommendation as to whether each of the approval criteria are met.

E. At the beginning of the initial public hearing at which any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:

1. That the hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation and decision;
2. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The meeting chairperson may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;
3. Failure to raise an issue on the record with sufficient specificity and accompanied by statements or evidence sufficient to afford the city and all parties to respond to the issue, will preclude appeal on that issue to the state land use board of appeals;
4. Any party wishing a continuance or to keep open the record must make that request while the record is still open; and
5. That the commission chair shall call for any ex-parte contacts, conflicts of interest or bias before the beginning of each hearing item.
6. For appeal hearings, only those persons who participated either orally or in writing in the decision or review will be allowed to participate either orally or in writing on the appeal.

F. Requests for Continuance and to Keep Open the Record. The hearing may be continued to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time-certain and location is established for the continued hearing. Similarly, hearing may be closed but the record kept open for the submission of additional written material or other documents and exhibits. The chairperson may limit the factual and legal issues that may be addressed in any continued hearing or open-record period. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 98-1008 §1 (part), 1998)

17.50.130 Conditions of approval and notice of decision.

A. All city decision-makers have the authority to impose reasonable conditions of approval designed to ensure that all applicable approval standards are, or can be, met.

B. Failure to comply with any condition of approval shall be grounds for revocation of the permit(s) and grounds for instituting code enforcement proceedings pursuant to Chapter 1.20 of this code and ORS 30.315.

C. Notice of Decision. The city shall send, by first class mail, a notice of all decisions rendered under this chapter to all persons with standing, i.e., the applicant, all others who participated either orally or in writing before the close of the public record and those who specifically requested notice of the decision. The notice of decision shall include the following information:

1. The file number and date of decision;
2. The name of the applicant, owner and appellant (if different);
3. The street address or other easily understood location of the subject property;
4. A brief summary of the decision, and if an approval, a description of the permit approved;
5. A statement that the decision is final unless appealed and description of the requirements for perfecting an appeal;
6. The contact person, address and a telephone number whereby a copy of the final decision may be inspected or copies obtained.

D. Modification of Conditions. Any request to modify a condition of permit approval is to be considered either minor modification or a major modification. A minor modification shall be processed as a Type II. A major modification shall be processed in the same manner and shall be subject to the same standards as was the original application. However, the decision-maker may at their sole discretion, consider a modification request and limit its review of the approval criteria to those issues or aspects of the application that are proposed to be changed from what was originally approved. (Ord. 98-1008 §1 (part), 1998)

17.50.140 Performance guarantees.

When conditions of permit approval require the applicant to construct certain improvements, the city may allow the applicant to submit a financial guarantee in lieu of actual construction of the improvement. Financial guarantees shall be governed by this section.

A. Form of Guarantee. Guarantees shall be in a form approved by the city attorney, including an irrevocable standby letter of credit issued by a recognized lending institution to the benefit of the city, a certified check, dedicated bank account or allocation of a construction loan held in reserve by the lending institution for the benefit of the city. The guarantee shall be filed with the planning division.

B. Amount of Guarantee. The amount of the performance guarantee shall be equal to at least one hundred ten percent of the estimated cost of constructing the improvement in question. The amount of the performance guarantee may be larger than one hundred ten percent if deemed necessary by the community development director. The cost estimate substantiating the amount of the guarantee must be provided by the applicant supported by either an engineer's or architect's estimate or written estimates by three contractors with their names and addresses. The estimates shall separately itemize all materials, labor and other costs.

C. Duration of the Guarantee. The guarantee shall remain in effect until the improvement is actually

constructed and accepted by the city. Once the city has inspected and accepted the improvement, the city shall release the guarantee to the applicant. If the improvement is not completed to the city's satisfaction within the time limits specified in the permit approval or the guarantee, the director may, at his discretion, draw upon the guarantee and use the proceeds to construct or complete construction of the improvement and for any related administrative and legal costs incurred by the city. Once constructed and approved by the city, any remaining funds shall be refunded to the applicant.

D. If the applicant elects to defer construction of improvements by using a financial guarantee, the applicant shall agree to construct those improvements upon written notification by the city, or at some other mutually agreed-to time. If the applicant fails to commence construction of the required improvements within six months of being instructed to do so, the city may, without further notice, undertake the construction of the improvements and draw upon the applicant's performance guarantee to pay those costs as provided in subsection C of this section. (Ord. 98-1008 §1(part), 1998)

17.50.150 Covenant with the city.

A. The city may impose as a condition of final approval of a quasi-judicial permit, the requirement that the applicant execute a covenant with the city agreeing to comply with all conditions of approval. Any such covenant shall include the following elements:

1. An agreement that the applicant will comply with all applicable code requirements, conditions of approval and any representations made to the city by the applicant or the applicant's agents during the application review process, in writing. This commitment shall be binding on the applicant and all of the applicant's successors, heirs and assigns;
2. If the owner fails to perform under the covenant, the city may immediately institute revocation of the approval or any other enforcement action available under state law or this code. The covenant may also provide for payment of attorney fees and other costs associated with any such enforcement action; and
3. Where the development rights of one site are dependent on the performance of conditions by the owner of another property (such as joint access), the covenants are judicially enforceable by the owner of one site against the owner of another.

B. Adopting the covenant: The form of all covenants shall be approved by the city attorney. The covenant shall run with the land and shall be placed in the county deed records prior to the issuance of any permits or development activity pursuant to the approval. Proof of recording shall be made prior to the issuance of any permits and filed with the planning division. Recording shall be at the applicant's expense. Any covenant required under this section shall be properly signed and executed within thirty days after permit approval with conditions; provided, however, that the planning manager may grant reasonable extensions, not to exceed an additional thirty days, in cases of practical difficulty. Failure to sign and record the covenant within the prescribed period shall require a new application for any use of the subject property. (Ord. 98-1008 §1 (part), 1998)

17.50.160 Ex parte contact, conflict of interest and bias.

The following rules shall govern any challenges to a decision-maker's participation in a quasi-judicial or legislative action:

A. **Ex parte Contacts.** Any factual information obtained by a decision-maker outside the context of a quasi-judicial hearing shall be deemed an ex parte contact. Prior to the close of the record in any particular matter, any decision-maker that has obtained any materially factual information through an ex parte contact shall declare the content of that contact and allow any interested party to rebut the substance of that contact. This rule does not apply to legislative proceedings.

B. **Conflict of Interest.** Whenever a decision-maker, or any member of a decision-maker's immediate family or household, has a financial interest in the outcome of a particular quasi-judicial or legislative matter, that decision-maker shall not participate in the deliberation or decision on that matter.

C. **Bias.** All decisions in quasi-judicial matters shall be fair, impartial and based on the applicable approval standards and the evidence in the record. Any decision-maker who is unable to render a decision on this basis in any particular matter shall refrain from participating in the deliberation or decision on that matter. This rule does not apply to legislative proceedings. (Ord. 98-1008 §1 (part), 1998)

17.50.170 Legislative hearing process.

A. **Purpose.** Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the planning commission.

B. **Planning Commission Review.**

1. **Hearing Required.** The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The planning manager shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.

2. **Planning Manager's Report.** Once the planning commission hearing has been scheduled and noticed in accordance with Section 17.50.090(C) and any other applicable laws, the planning manager shall prepare and make available a report on the legislative proposal at least seven days prior to the hearing.

3. **Planning Commission Recommendation.** At the conclusion of the hearing, the planning commission shall adopt a recommendation on the proposal to the city commission. The planning commission shall make a report and recommendation to the city commission on all legislative proposals. If the planning commission recommends adoption of some form of the proposal, the planning commission shall prepare and forward to the city commission a report and recommendation to that effect.

C. **City Commission Review.**

1. **City Commission Action.** Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or

it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.

2. Notice of Final Decision. Not later than five days following the city commission final decision, the planning manager shall mail notice of the decision to DLCDD in accordance with ORS 197.615(2). (Ord. 98-1008 §1 (part), 1998)

17.50.180 Objections to procedure.

Any party who objects to the procedure followed in any particular matter, including bias, conflict of interest and undisclosed ex parte contacts, must make a procedural objection prior to the city rendering a final decision. Procedural objections may be raised at any time prior to a final decision, after which they are deemed waived. In making a procedural objection, the objecting party must identify the procedural requirement that was not properly followed and identify how the alleged procedural error harmed that person's substantial rights. (Ord. 98-1008 §1 (part), 1998)

17.50.190 Appeals.

Appeals of any non-final decisions by the city must comply with the requirements of this section.

A. Type I decisions by the planning manager are not appealable to any other decision-maker within the city.

B. A notice of appeal of any Type II, III or IV decision must be received in writing by the planning division within ten calendar days from the date notice of the challenged decision is provided to those entitled to notice. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

C. The following must be included as part of the notice of appeal:

1. The city planning file number and date the decision to be appealed was rendered;
2. The name, mailing address and daytime telephone number for each appellant;
3. A statement of how each appellant has an interest in the matter and standing to appeal;
4. A statement of the specific grounds for the appeal;
5. The appropriate appeal fee. Failure to include the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed.

D. Standing to Appeal. The following rules prescribe who has standing to appeal:

1. For Type II decisions, only those persons who submitted written comments within the fourteen-day comment period have standing to appeal a planning manager decision. Grounds for appeal are limited to those issues raised in writing during the fourteen-day comment period in filing an appeal to the city commission.
2. For Type III and IV decisions, only those persons who participated either orally or in writing have standing to appeal the decision of the planning commission or historic review board, as applicable. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the

public record.

E. Notice of the Appeal Hearing. The planning division shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record in accordance with Section 17.50.090(B). Notice of the appeal hearing shall contain the following information:

1. The file number and date of the decision being appealed;
2. The time, date and location of the public hearing;
3. The name of the applicant, owner and appellant (if different);
4. The street address or other easily understood location of the subject property;
5. A description of the permit requested and the applicant's development proposal;
6. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal;
7. A statement that the appeal hearing is confined to the issues raised in the notice of appeal;
8. A general explanation of the requirements for participation and the city's hearing procedures.

F. Appeal Hearing--Scope of Review. Appeal hearings shall comply with the procedural requirements of Section 17.50.120. Appeal hearings shall be conducted by the city commission or a planning commission or historic review board, as applicable, the decision shall be on the record and the issues under consideration shall be limited to those listed in the notice of appeal. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 98-1008 §1 (part), 1998)

17.50.200 Expiration of an approval.

A. When approvals become void: All quasi-judicial permit approvals, except for zoning map or comprehensive plan map amendments, automatically become void if any of the following events occur:

1. If, within one year of the date of the final decision, a building permit has not been issued; or
2. If, within one year of the date of the final decision, the activity approved in the permit has not commenced or, in situations involving only the creation of lots, the land division has not been approved by the planning manager and not recorded.

B. New application required: Expiration of an approval shall require a new application for any use on the subject property that is not otherwise allowed outright.

C. Deferral of the expiration period due to appeals: If a permit decision is appealed beyond the jurisdiction of the city, the expiration period shall not begin until review before the land use board of appeals and the appellate courts has been completed, including any remand proceedings before the city. The expiration period provided for in this section will begin to run on the date of final disposition of the case (the date when an appeal may no longer be filed). (Ord. 98-1008 §1 (part), 1998)

17.50.210 Extension of an approval.

A. The planning manager may extend, prior to its expiration, any approved permit for a period of six months up to an aggregate period of one year; provided, however, that there has been substantial

implementation of the permit. Any request for an extension shall be reviewed and decided upon by the planning manager as a Type II decision.

B. Substantial implementation of a permit shall require at a minimum, for each six-month extension, demonstrable evidence in a written application showing:

1. The permit holder has applied for all necessary additional approvals or permits required as a condition of the land use or limited land use permit;
2. Further commencement of the development authorized by the permit could not practicably have occurred for reasons beyond the reasonable control of the permit holder;
3. The request for an extension is not sought for purposes of avoiding any responsibility imposed by this code or the permit or any condition thereunder; and
4. There have been no changes in circumstances or the law likely to necessitate significant modifications of the development approval or conditions of approval. (Ord. 98-1008 §1 (part), 1998)

17.50.220 Reapplication limited.

If the application is denied or withdrawn following the close of the public hearing, no reapplication for the same or substantially similar proposal may be made for one year following the date of final decision denying the permit. (Ord. 98-1008 §1(part), 1998)

17.50.230 Interpretation.

Where a provision of Title 16 or Title 17 conflicts with another city ordinance or requirement, the provision or requirement that is more restrictive or specific shall control. (Ord. 98-1008 §1 (part), 1998)

17.50.240 Conformity of permits.

The city shall not accept any application for a permit, certificate or other approval, including building permit applications, for any property that is not in full compliance with all applicable provisions of Title 16 and Title 17 and any permit approvals previously issued by the city. (Ord. 98-1008 §1 (part), 1998)

17.50.250 Authorization of similar uses.

The planning commission may decide through a Type III process that a use not specifically listed in the allowed uses of a district may, nonetheless, be allowed if it is deemed to be similar in nature and impact to the uses allowed in the applicable zone. Any similar use so authorized must be similar to, or of the same type as, the uses allowed in the underlying district. However, this section does not allow the authorization of a use which is allowed in some other zone. (Ord. 98-1008 §1 (part), 1998)

17.50.260 Reconsideration of a final decision.

Under this section, parties with standing may seek reconsideration of a final decision rendered pursuant to a Type II, Type III, or Type IV process. Reconsideration is warranted where the city's decision indicates the decision-maker failed to understand or consider certain relevant facts in the record or misinterpreted the application in some material way. Any request for reconsideration must be received by the planning division within ten days of when the decision in question was rendered and must specifically describe the alleged misunderstanding or misinterpretation. A request for reconsideration shall not stay the effectiveness of the city's final decision, nor shall it affect any applicable appeal deadlines to the land use board of appeals. If the request is granted, the planning manager shall notify all affected parties that the decision will be reconsidered. Any request for reconsideration by the applicant shall be deemed a waiver of the one-hundred-twenty-day deadline under Section 17.50.070. (Ord. 98-1008 §1 (part), 1998)

17.50.270 Revocation of a previously approved permit.

In the event an applicant, or the applicant's successor in interest, fails to fully comply with all conditions of permit approval or otherwise does not comply fully with the city's approval, the city may institute a revocation or modification proceeding under this section.

A. Situations when Permit Approvals May Be Revoked or Modified. All quasi-judicial permits may be revoked or modified if the planning commission determines a substantial likelihood that any of the following situations exists:

1. One or more conditions of the approval have not been implemented or have been violated;
2. The activities of the use, or the use itself, are substantially different from what was approved; or
3. The use is subject to the nonconforming use regulations, the applicant has not obtained approval, and has substantially changed its activities or substantially increased the intensity of its operations since the use became nonconforming.

B. Process for Revocation and Modification. Revocation or modification shall be processed as a Type IV decision. The planning division or any private complaining party shall have the burden of proving, based on substantial evidence in the whole record, that the applicant or the applicant's successor has in some way violated the city's approval.

C. Possible Actions at the Revocation Hearing. Depending on the situation, the planning commission may take any of the actions described below. The planning commission may not approve the new use or a use that is more intense than originally approved unless the possibility of this change has been stated in the public notice. Uses or development which are alleged to have not fulfilled conditions, violate conditions or the use is not consistent with the city's approval may be subject to the following actions:

1. The planning commission may find that the use or development is complying with the conditions of the approval. In this case, the use or development shall be allowed to continue.
2. The planning commission may modify the approval if it finds that the use or development does not fully comply with the conditions of approval, that the violations are not substantial enough to warrant revocation and that the use can comply with the original approval criteria if certain conditions are met. In this case, the planning commission may modify the existing conditions, add new conditions to

ensure compliance with the approval criteria, or refer the case to the code compliance officer for enforcement of the existing conditions.

3. The planning commission may revoke the approval if it finds there are substantial violations of conditions or failure to implement conditions of prior land use decisions, such that the original approval criteria for the use or development are not being met.

D. Effect of Revocation. In the event permit approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty days of the date the revocation final order is approved by the planning commission, unless the decision provides otherwise. In the event the decision-maker's decision on a revocation request is appealed, the revocation action shall be stayed pending a final, unappealed decision. (Ord. 98-1008 §1 (part), 1998)

17.50.280 Transfer of approval rights.

Unless otherwise stated in the city's permit decision, any approval granted under Title 16 or Title 17 of this code runs with the land and is transferred with ownership of the land. Any conditions, time limits or other restrictions imposed with a permit approval shall bind all subsequent owners of the property for which the permit was granted. (Ord. 98-1008 §1 (part), 1998)

17.50.290 Fees.

The city may adopt by resolution, and revise from time to time, a schedule of fees for applications and appeals. Fees shall be based upon the city's actual or average cost of processing the application or conducting the appeal process. The only exception shall be the appeal fee for a Type II decision, which shall be limited by ORS 227.175(10)(b). The requirements of this section shall govern the payment, refund and reimbursement of fees.

A. Payment. All fees shall be due and payable at the time the application or appeal is submitted. No application or appeal shall be accepted without the proper fee being paid.

B. Refunds. Fees will only be refunded as provided in this subsection:

1. When a fee is paid for an application which is later found to not be required, the city shall refund the fee.

2. Errors. When an error is made in calculating a fee, overpayment will be refunded.

3. Refund Upon Withdrawal of an Application. In the event an applicant withdraws an application, the planning department shall refund the unused portion of the fee. In this case, the planning department will deduct from the fee the city's actual costs incurred in processing the application prior to withdrawal.

C. Fee Waivers. The planning division may waive all or any portion of an application fee if, in the opinion of the director, a particular application must be resubmitted because of an error made by the city. Appeal fees may be waived, wholly or in part, by the city commission, if the city commission finds that, considering fairness to the applicant and to opposing parties, a full or partial waiver of the appeal fee is warranted. Appeal fees shall not be charged for an appeal filed by a city-recognized neighborhood association, so long as the appeal has been officially approved by the general membership or board of the neighborhood association at a duly announced meeting.

D. Major Projects. The fees for a major project shall be the city's actual costs, which shall include, but not be limited to, the actual costs for staff time, as well as any consultants, including contract planners, attorneys and engineers. The costs of major projects will not be included in any average used to establish other fees under this section. For purposes of this subsection only, a "major project" is defined to include any combined plan and zone change and any project with an estimated construction cost over one million dollars. (Ord. 03-1014, Att. B3 (part), 2003: Ord. 98-1008 §1 (part), 1998)

[Title 17 ZONING](#)

Chapter 17.52 OFF-STREET PARKING AND LOADING

[17.52.010 Number of spaces required.](#)

[17.52.020 Administrative provisions.](#)

[17.52.030 Design review.](#)

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[17.52.050 Bicycle parking--Purpose--Applicability.](#)

[17.52.060 Bicycle parking standards.](#)

[17.52.070 Pedestrian access in off-street automobile parking areas.](#)

[17.52.080 Conversion of existing required parking.](#)

[17.52.090 Parking lot landscaping.](#)

17.52.010 Number of spaces required.

The construction of a new structure or at the time of enlargement or change in use of an existing structure within any district in the city, off-street parking spaces shall be provided in accordance with this section. Where calculation in accordance with the following list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space. The required number of parking stalls may be reduced if one or more of the following is met:

A. Transit Oriented Development. The community development director may reduce the required number of parking stalls up to ten percent when it is determined that a commercial business center or multi-family project is adjacent to or within one thousand feet of an existing or planned public transit.

Also, if a commercial center is within one thousand feet of a multi-family project, with over eighty units and pedestrian access, the parking requirements may be reduced by ten percent.

B. Transportation Demand Management. The community development director may reduce the required number of parking stalls up to ten percent when a development can demonstrate, in a parking-traffic study prepared by a traffic engineer:

1. That use of alternative modes of transportation, including transit, bicycles, and walking, and/or special characteristics of the customer, client, employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and minimum city parking requirements.

2. That a transportation demand management (TDM) program has been developed for approval by the city engineer. The plan will contain strategies for reducing vehicle use and parking demand generated by the development and will be measured annually. If, at the annual assessment, the city determines the plan is not successful, the plan may be revised. If the city determines that no good-faith effort has been made to implement the plan, the city may take enforcement actions.

C. Shared Parking. The community development director may reduce the required number of parking stalls up to fifty percent when:

1. Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly, up to a maximum reduction of fifty percent, as determined by the community development director.

2. Shared Parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), that the shared parking facility is within one thousand feet of the potential uses, and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.

Land Use	Parking Requirements Minimum*	Parking Requirements Maximum*
Single-Family Dwelling	1.00 per unit	
Multi-Family: Studio	1.00 per unit	1.5 per unit
Multi-Family: 1 bedroom	1.25 per unit	2.00 per unit
Multi-Family: 2 bedroom	1.5 per unit	2.00 per unit
Multi-Family: 3 bedroom	1.75 per unit	2.50 per unit
Boarding/Lodging House	Case Specific	Case Specific
Mobile Homes	N/A	2.00 per unit
Hotel/Motel	1.0 per guest room	1.25 per guest room
Club/Lodge	To meet requirements of combined uses	To meet requirements of combined uses

Welfare/Correctional Institution	N/A	1 per 5 beds
Nursing Home/Rest home	N/A	1 per 5 beds
Hospital	N/A	1 per 1.5 beds
Religious Assembly Building	0.25 per seat	0.5 per seat
Library/Reading Room	N/A	2.50
Preschool Nursery/Kindergarten	N/A	2 per teacher
Elementary/Junior High School	N/A	1 per classroom + 1 per administrative employee + 0.25 per seat in auditorium/assembly room/stadium
High School	0.20 per # staff and students	0.30 per # staff and students
College/Commercial School for Adults	0.20 per # staff and students	0.30 per # staff and students
Auditorium/Meeting Room	N/A	0.25 per seat
Stadium/Arena/Theater	N/A	0.25 per seat
Bowling Alley	N/A	2 per alley
Dance Hall/Skating Rink	N/A	5.00
Moorages	N/A	1 per boat berth
Retail Store/Shopping Center	4.10	5.00
Service/Repair Shop/Automotive or Furniture Store	N/A	1.67
Bank	N/A	3.33
Office	2.70	3.33
Medical or Dental Clinic	N/A	3.33
Fast Food with Drive Thru	N/A	5.00

Other Eating Establishments	N/A	5.00
Drinking Establishment/ Pool Hall	N/A	5.00
Mortuaries	N/A	0.25 per seat
Swimming Pool/ Gymnasium	N/A	5.00
Sports Club/Recreation Facilities	4.30	5.40
Tennis/Racquet Ball Courts	1.00	1.30
Movie Theater	0.30 per seat	0.40 per seat
Storage Warehouse/ Freight Terminal	0.30 per gross sq-ft	0.40 per gross sq-ft
Manufacturing/Wholesale Establishment	1.60 per gross sq-ft	1.67 per gross sq-ft
Light Industrial/Industrial Park	N/A	1.60

* The parking requirements are based on spaces per 1,000 square feet gross leasable area unless otherwise stated.

(Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: prior code §11-5-1)

17.52.020 Administrative provisions.

A. The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title. Use of property in violation is a violation of this title. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it is unlawful and a violation of this title to begin or maintain such altered use until the required increase of off-street parking or loading is provided.

B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.

C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-

street parking shall be the sum of the requirements of the several uses computed separately. Shopping centers shall be considered a retail use.

D. Owners of two or more uses, structures, or parcels of land, may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory documentation is presented to the planning department.

E. Off-street parking for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than five hundred feet from the building or use they are required to serve, measured in a straight line from the building.

F. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

G. Completion Time for Parking Lots. Required parking spaces shall be improved and available for use before the final inspection is completed by the building inspector. An extension of time, not to exceed one year may be granted by the building inspector providing that a performance bond, or its equivalent, is posted equaling one hundred fifty percent of the cost of completion of the improvements as estimated by the building inspector, provided the parking space is not required for immediate use. In the event the improvements are not completed within one year's time, the improvements shall be constructed under the direction of the city, utilizing the proceeds of the performance bond or its equivalent as necessary.

H. Lesser Requirements Allowed by Planning Commission. The planning commission may permit lesser requirements than those specified in the parking and loading requirements above where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the enforcement of the above off-street parking and loading restrictions would cause an undue or unnecessary hardship. Section 17.60.030 shall be the grounds for establishing lesser requirements. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-5-2)

17.52.030 Design review.

A. Development of parking lots shall require site plan review.

B. Access. Ingress and egress locations on public thoroughfares shall be located in the interests of public traffic safety. Groups of more than four parking spaces shall be so located and served by driveways so that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley. No driveway with a slope of greater than fifteen percent shall be permitted without approval of the city engineer.

C. Surfacing. Required off-street parking spaces and access aisles shall have paved surfaces adequately maintained. The use of pervious asphalt/concrete and alternative designs that reduce storm water runoff and improve water quality are encouraged.

D. Drainage. Drainage shall be designed in accordance with the requirements of Chapter 13.12 and the city public works stormwater and grading design standards.

E. Lighting. Artificial lighting which may be provided shall enhance security, be appropriate for the use, and avoid adverse impacts on surrounding properties and the night sky through appropriate shielding. The lighting shall not cause a measurement in excess of 0.5 foot-candles of light on other properties.

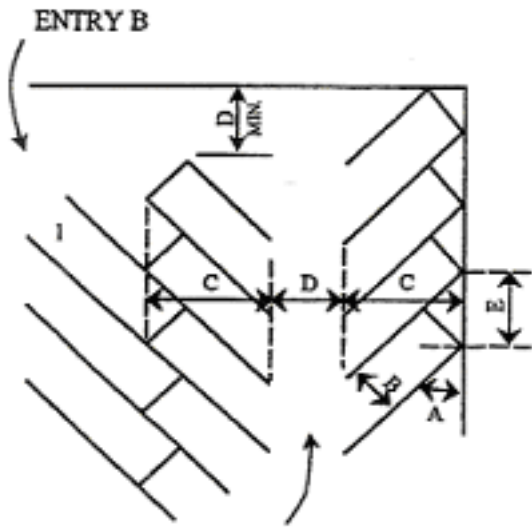
F. Dimensional Requirements. Parking spaces shall be eight and one half feet by eighteen feet; parking at right angles to access aisles shall require twenty-four feet backing distance in aisle width. Requirements for parking developed at varying angles are according to the table included in this section. An overhang of one and one-half feet from face of curb may be included in the length of a parking space. A parking space shall not be less than seven feet in height when within a building or structure, and shall have access by an all-weather surface to a street or alley. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 99-1029 §9, 1999; prior code §11-5-3)

Parking Standard
Parking Angle Space Dimensions

A Parking Angle	B Stall Width	C Stall to Curb	D Aisle Width	E Curb Length	F Overhang
0 degrees	8.5	9.0	12	20	0
45 degrees	8.5	19.8	13	12.7	1.4
	8.5	20.1	13	13.4	1.4
50 degrees	8.5	20.4	16	11.7	1.5
	8.5	20.7	16	12.4	1.5
60 degrees	8.5	21	18	10.4	1.7
	8.5	21.2	18	11.0	1.7
70 degrees	8.5	21.0	19	9.5	1.9
	8.5	21.2	18.5	10.1	1.9
90 degrees	8.5	18.0	24	8.5	1.5

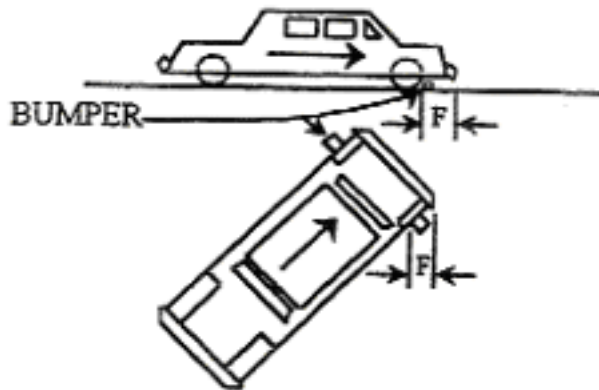
All dimensions are to the nearest tenth of a foot

Typical Parking Layout



ENTRY A

NOTE: Space 1 Contingent Upon Entry B



OVERHANG

NOTE:

Overhang dimensions are intended to indicate possible location from parking area edge for location of bumpers.

17.52.040 Carpool and vanpool parking.

A. New retail, office commercial and industrial developments with twenty-five or more parking spaces, and new hospitals, government offices, nursing and retirement homes, schools and transit park-and-ride facilities with twenty-five or more parking spaces, shall identify the spaces available for employee, student and commuter parking and designate at least five percent, but not fewer than two, of those spaces for exclusive carpool and vanpool parking. Carpool and vanpool parking spaces shall be located closer to the main employee, student or commuter entrance than all other employee,

student or commuter parking spaces with the exception of handicapped parking spaces. The carpool/vanpool spaces shall be clearly marked "Reserved - Carpool/Vanpool Only."

B. As used in this section, "carpool" means a group of two or more commuters, including the driver, who share the ride to and from work, school and other destination. "Vanpool" means a group of five or more commuters, including the driver, who share the ride to and from work, school or other destination on a regularly scheduled basis. (Ord. 95-1001 §2 (part), 1995)

17.52.050 Bicycle parking--Purpose--Applicability.

To encourage bicycle transportation to help reduce principal reliance on the automobile, and to ensure bicycle safety and security, bicycle parking shall be provided in conjunction with all of the following uses:

- A. Multifamily housing of four or more units;
- B. Retail and office development;
- C. Industrial development;
- D. Institutional development;
- E. Transit transfer stations and park-and-ride lots;
- F. Automobile parking lots and structures. (Ord. 95-1001 §2 (part), 1995)

17.52.060 Bicycle parking standards.

A. Unless exempted pursuant to subsection J of this section, bicycle parking spaces shall be provided for the uses described in Section 17.52.050, in the amounts specified in Table A, found at the end of this chapter; provided, however, that all nonexempt uses shall have a minimum of two parking spaces. These requirements shall apply to new development; to any change in use of existing development subject to this section; and to any expansion of any existing use subject to this section where the expansion equals or exceeds fifty percent of the existing gross floor area or three thousand square feet of gross floor area. Calculation of the number of bicycle parking spaces required shall be determined in the manner established in Section 17.52.010 for determining automobile parking space requirements.

1. Bicycle parking shall be located on-site, in one or more convenient, secure and accessible outdoor and indoor locations close to a main building entrance.
2. Bicycle parking areas shall be clearly marked. Outdoor bicycle parking areas shall be visible from on-site buildings or the street. Indoor bicycle parking areas shall not require stairs to access the space, except that bicycle parking may be allowed on upper stories within multi-story residential structures.
3. The locations of bicycle parking spaces shall be indicated in an off-street parking and loading plan which shall be submitted for review by the review authority during site plan and design review or as otherwise required by city regulations.
4. For any expansion of an existing use subject to this section, the number of required bicycle parking spaces shall be determined based on the entire use rather than the incremental increase in

floor space. For any change in use, the number of required bicycle parking spaces shall be calculated based upon requirements for the new use as shown in Table A. For any change in use or expansion of an existing use subject to this section, the review authority may reduce or waive requirements of this section to the extent the review authority determines that compliance with those requirements is not practicable due to existing development patterns or that application of these standards is not reasonably related to the scale and intensity of the development.

5. For any use not specifically mentioned in Table A, the bicycle parking requirements shall be the same as the use which, as determined by the principal planner, is most similar to the use not specifically mentioned.

B. All bicycle parking areas shall be located to avoid conflicts with pedestrian and motor vehicle movement.

1. Bicycle parking areas shall be separated from motor vehicle parking and maneuvering areas and from arterial streets by a barrier or a minimum of five feet. Areas set aside for required bicycle parking shall be clearly marked and reserved for bicycle parking only. If a bicycle parking area is not plainly visible from the street or main building entrance, then a sign must be posted indicating the location of the bicycle parking area.

2. Bicycle parking areas shall not obstruct pedestrian walkways; provided, however, that the review authority may allow bicycle parking in the public sidewalk where this does not conflict with pedestrian accessibility.

C. Outdoor bicycle areas shall be connected to main building entrances by pedestrian accessible walks. Outdoor bicycle parking areas also shall have direct access to public right-of-way and to existing and proposed pedestrian/bicycle accessways and pedestrian walkways.

D. If sites have more than one building, bicycle parking shall be distributed as appropriate to serve all buildings. If a building has two or more main building entrances, the review authority may require bicycle parking to be distributed to serve all main building entrances as it deems appropriate.

E. Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary rack to which the bicycle can be locked. All bicycle racks and lockers shall be securely anchored to the ground or to a structure. Bicycle racks shall be designed so that bicycles may be securely locked to them without undue convenience.

F. Required bicycle parking shall have a minimum lighting level of three foot-candles so that the system can be securely used at night by employees, residents and customers.

G. Bicycle parking may be uncovered, although cover is encouraged. Cover can be accommodated through building or roof overhangs, awnings, bicycle lockers or bicycle storage within buildings.

H. Bicycle parking spaces required by this chapter may not be rented or leased except where required motor vehicle parking is rented or leased.

I. At park-and-ride lots, site drawings shall allocate adequate space for one hundred percent bicycle locker expansion. This expansion area may be part of the required landscaped area on the site.

J. The review authority shall allow exemptions from the bicycle parking requirements for the following uses:

1. Seasonal uses, such as fireworks stands and Christmas tree sales;
2. Drive-in theaters;
3. Storage facilities for household and consumer goods;

4. Home occupations. (Ord. 95-1001 §2 (part), 1995)

17.52.070 Pedestrian access in off-street automobile parking areas.

A. The off-street parking and loading plan shall identify the location of safe, direct, well lighted and convenient pedestrian walkways connecting the parking area and the use being served.

B. All pedestrian walkways constructed within parking lots shall be raised to standard sidewalk height. All surface treatment of pedestrian walkways shall be firm, stable and slip resistant, and shall comply with Chapter 11 of the Uniform Building Code.

C. Where an accessible pedestrian walkway crosses or adjoins a vehicular way, the boundary between the areas shall be defined by a marked crossing having a continuous, detectable marking not less than thirty-six inches wide. Where pedestrian walkways cross driving aisles, they shall be clearly marked with contrasting slip resistant materials. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 95-1001 §2 (part), 1995)

17.52.080 Conversion of existing required parking.

To promote transit travel and the more efficient use of urban land on properties adjacent to transit streets, off-street parking spaces constructed in excess of the minimum required may be redeveloped for transit oriented uses.

1. This section shall apply in all districts which require minimum off-street parking, but only where a minimum of ten off-street parking spaces are required.

2. As used in this section, "transit oriented uses" include multifamily residential development, retail, office and institutional uses of sufficient intensity to support transit operations, and transit supportive features such as bus stops and pullouts, bus shelters, park and ride stations, pedestrian spaces containing landscaping and benches plus at least two other pedestrian amenities such as awnings, water features, public art or kiosks, pedestrian scale outdoor lighting, or outdoor eating areas or vendors, and the like. (Ord. 95-1001 §2 (part), 1995)

Table A

Required Bicycle Parking Spaces*

Use	Bicycle Parking
Residential	
Multiple family (four or more units)	1 per unit
Commercial Residential	
Hotel and Motel	1 per 10 guest rooms

Rooming or boarding houses	1 per 10 guest rooms
Bed and breakfast inns	1 per 10 guest rooms
Club/lodge	1 per 20 auto spaces
Institutional	
Welfare institution	not applicable
Correctional institution	1 per 30 auto spaces
Nursing home, care facility, sanitarium	1 per 30 auto spaces
Hospital	1 per 20 auto spaces
Park-and-ride lot	5 per acre, at least one of which is a locker
Transit center	5 per center, at least one of which is a locker
Parks and open space	1 per 10 auto spaces
Public parking lots	1 per 20 auto spaces
Automobile parking structures	1 per 20 auto spaces
Places of Public Assembly	
Churches/religious institutions	1 per 20 auto spaces
Libraries, museums	1 per 10 auto spaces
Preschool, nursery, kindergarten	2 spaces
Elementary, junior high	4 per classroom
High school	2 per classroom
College, business/commercial schools	2 per classroom
Other auditorium/meeting room	1 per 20 auto spaces
Commercial Amusement	
Stadium, arena, theater	1 per 20 auto spaces
Bowling alley, skating rink, dance hall	1 per 15 auto spaces
Commercial	

Retail stores and shopping centers	1 per 20 auto spaces
Retail stores handling exclusively bulky merchandise such as automobile, boat or trailer sales or rental	1 per 40 auto spaces
Bank, office	1 per 20 auto spaces
Medical and dental clinic	1 per 20 auto spaces
Convenience food store	1 per 10 auto spaces
Furniture and appliance stores	1 per 40 auto spaces
Eating and drinking establishment, pool hall	1 per 20 auto spaces
Auto repair garage and gasoline service station	2 spaces
Mortuaries	not applicable
Swimming pools, gymnasiums, ball courts	1 per 10 auto spaces
Industrial	
Storage warehouse and manufacturing	1 per 40 auto spaces

* All uses identified as requiring bicycle parking shall have a minimum of two bicycle parking spaces.

17.52.090 Parking lot landscaping.

A. Purpose. The purpose of this code section includes the following:

1. To enhance and soften the appearance of parking lots;
2. To limit the visual impact of parking lots from sidewalks, streets and particularly from residential areas;
3. To shade and cool parking areas;
4. to reduce air and water pollution;
5. To reduce storm water impacts and improve water quality; and
6. To establish parking lots that are more inviting to pedestrians and bicyclists.

B. Definitions.

“Parking Lot” means public lots and other areas used for the parking, service, sale, or storage of

vehicles.

“Interior parking lot landscaping” means landscaping located inside the surfaced area used for on-site parking and maneuvering.

“Perimeter parking lot landscaping” means a minimum five-foot wide landscaped planter strip located outside of, and adjacent to, the surfaced area used for on-site parking, maneuvering, and pedestrian access.

C. Development Standards. Parking lot landscaping is required for all uses, except for single- and two-family residential dwellings. A licensed landscape architect shall prepare the landscaping plan.

1. The landscaping shall be located in defined landscaped areas that are uniformly distributed throughout the parking or loading area. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum total site landscaping required by Section 17.62.050(1). Parking lot trees shall be a mix of deciduous shade trees and coniferous trees. The trees shall be evenly distributed throughout the parking lot as both interior and perimeter landscaping to provide shade. Where parking areas abut a residential district, there shall be a wall, sight-obscuring fence, or sight obscuring landscaping not less than six feet in height. Slight modifications to landscaping location may be proposed for review that enhances the reduction of non-shaded impervious parking lot area.

2. Perimeter Parking Lot Landscaping and Parking Lot Entryway/Right-of-way Screening. Parking lot entryways and perimeter parking lot landscaping areas not abutting the building or where access/parking is shared between adjoining land owners shall be bordered by a minimum five-foot wide landscaped planter strip with:

a. Trees spaced a maximum of thirty-five feet apart (minimum of one tree on either side of the entryway is required). When the parking lot is adjacent to a public right-of-way, the parking lot trees shall be offset from the street trees;

b. Ground cover, such as wild flowers, covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

c. An evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average. The hedge/shrubs shall be parallel to and not nearer than two feet from the right-of-way line. The required screening shall be designed to allow for free access to the site and sidewalk by pedestrians. Visual breaks, no more than five feet in width, shall be provided every thirty feet within evergreen hedges abutting public right-of-ways.

3. Parking Area/Building Buffer. Parking areas shall be separated from the exterior wall of a structure, exclusive of pedestrian entranceways or loading areas, by one of the following:

a. Minimum five-foot wide landscaped planter strip (excluding areas for pedestrian connection) abutting either side of a parking lot sidewalk with:

b. Trees spaced a maximum of thirty-five feet apart;

c. Ground cover such as wild flowers, covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and

d. An evergreen hedge of thirty to forty-two inches or shrubs placed no more than four feet apart on average; or

e. Seven-foot sidewalks with shade trees spaced a maximum of thirty-five feet apart in three-foot by five-foot tree wells.

4. Interior Parking Lot Landscaping. In addition to perimeter parking lot landscaping, surface parking lots shall have a minimum ten percent of the interior of the gross area of the parking lot devoted to landscaping to improve the water quality, reduce storm water runoff, and provide pavement shade. Pedestrian walkways or any impervious surface in the landscaped areas are not to be counted in the percentage. In addition, the perimeter parking lot landscaping shall not be included in the ten percent requirement.

a. A minimum of one tree per six parking spaces.

b. Ground cover, such as wild flowers, covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees.

c. Shrubs shall be spaced no more than four feet apart on average.

d. No more than eight contiguous parking spaces shall be created without providing an interior landscape strip between them. Landscape strips provided between rows of parking shall be a minimum of six feet in width to accommodate:

i. Pedestrian walkways shall have shade trees spaced a maximum of every thirty-five feet in a minimum three-foot by five-foot tree wells; or

ii. Trees spaced every thirty-five feet, shrubs spaced no more than four feet apart on average, and ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees.

5. Alternative Landscaping Plan. The city encourages alternative designs that utilize innovative "green" designs for water quality management of parking lot storm water. An applicant may prepare an alternative landscaping plan and specifications that meet the intent of the requirements in subsections (C)(1) through (C)(5) above and the intent of the zoning district and shall be approved by the community development director.

6. All areas in a parking lot not used for parking, maneuvering, or circulation shall be landscaped.

7. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of Chapter 10.32, Traffic Sight Obstructions.

8. Landscaped areas shall include irrigation systems.

9. Off-street loading areas and garbage receptacles shall be located so as not to hinder travel lanes, walkways, public or private streets or adjacent properties.

10. Garbage receptacles and other permanent ancillary facilities shall be enclosed and screened.

11. All plant materials, including trees, shrubbery and ground cover should be selected for their appropriateness to the site, drought tolerance, year-round greenery and coverage and staggered flowering periods. Species found on the Oregon City Native Plant List are strongly encouraged and species found on the Oregon City Nuisance Plant List are prohibited.

12. Landscaping shall incorporate design standards in accordance with Chapter 13.12, Stormwater Management.

13. Required landscaping trees shall be of a minimum two-inch minimum caliper size, planted according to American Nurseryman Standards, and selected from the Oregon City Street Tree List;

D. Installation.

1. All landscaping shall be installed according to accepted planting procedures, according to

American Nurseryman Standards.

2. The site, soils and proposed irrigation systems shall be appropriate for the healthy and long-term maintenance of the proposed plant species.
3. Landscaping shall be installed with the provisions of this code.
4. Certificates of occupancy shall not be issued unless the landscaping requirements have been met or other arrangements have been made and approved by the city, such as the posting of a surety.

E. Maintenance.

1. The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.
2. All plant growth in interior landscaped areas shall be controlled by pruning, trimming, or otherwise so that:
 - a. It will not interfere with the maintenance or repair of any public utility;
 - b. It will not restrict pedestrian or vehicular access; and
 - c. It will not constitute a traffic hazard due to reduced visibility. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 00-1010, 2000)

[Title 17 ZONING](#)

Chapter 17.54 SUPPLEMENTAL ZONING REGULATIONS AND EXCEPTIONS

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[17.54.100 Fences-Setback and height limitations.](#)

17.54.010 Accessory buildings and uses.

Accessory buildings and uses shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the following limitations:

A. Signs. Signs shall be permitted as provided in Chapter 15.28.

B. Dimensional Requirements. The following setbacks and other dimensional requirements shall apply to all accessory structures and uses:

1. Building Footprint Less than Two Hundred Square Feet. An interior side or rear yard setback behind the front building line may be reduced to three feet for any detached accessory structure with a building footprint which is less than two hundred square feet in area and does not exceed a height of fourteen feet. No portion of any such structure shall project across a lot line and the accessory structure shall be located behind the front building line of the primary structure.

2. Building Footprint from Two Hundred to Six Hundred Square Feet. The accessory building must be constructed with the same exterior building materials as that of the primary structure, or an acceptable substitute to be approved by the planning division. The accessory structure shall be located behind the front building line of the primary structure. The interior side and rear yard setbacks may be reduced to three feet for one accessory structure, and its projections, within this category provided the structure and its projections:

a. Are detached and separated from other structures by at least three feet;

b. Do not exceed a height of fourteen feet;

3. Building Footprint Over Six Hundred Square Feet. One accessory structure with a building footprint in excess of six hundred square feet may be approved by the planning division. An accessory structure footprint in excess of six hundred square feet must meet the setback requirements of the district in which it is located, and must also meet the following provisions:

- a. The accessory building must be compatible with the primary structure and constructed with the same exterior building materials as that of the primary structure, or an acceptable substitute to be approved by the planning division.
 - b. The lot must be in excess of twenty thousand square feet.
 - c. The building footprint of the accessory structure shall not exceed the building footprint of the primary structure. In no case may the accessory building footprint exceed eight hundred square feet.
 - d. The accessory structure shall not exceed the height of the primary structure and shall be located behind the front building line of the primary structure.
- C. Private Stable. A private stable may be permitted on a lot having a minimum area of twenty thousand square feet. The capacity of a stable shall not exceed one horse or other domestic hoofed animal for each twenty thousand square feet of lot area. A stable shall be located not less than twenty-five feet from any street line.
- D. Antenna and Antenna Structures. No noncommercial antenna or antenna structure (including those of extension type) shall exceed the maximum building height standard for the zoning district in which it is located. No antenna or antenna structure shall be located in required yards.
- E. Swimming Pools. In-ground and above-ground swimming pools shall be constructed not less than three feet from the side or rear yard lines. Swimming pools shall comply with the front yard requirement for the principal building. A pool must be surrounded by a fence no less than four feet in height.
- F. Conference and Meeting Rooms. Conference or meeting rooms designed primarily for use by employees or clients (or members in the case of trade unions) in furtherance of the principal permitted use.
- G. Barbed Wire and Electric Fences. It is unlawful for any person to erect any electric fence or any fence constructed in whole or in part of barbed wire or to use barbed wire as a guard to any parking lot or parcel of land, except as erected in connection with security installations at a minimum height of six feet, providing further that prior written approval has been granted by the city manager. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: prior code §11-4-1)

17.54.020 Projections from buildings.

- A. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards not more than twenty-four inches.
- B. Porches and uncovered balconies, decks or fire escapes more than thirty inches from the ground may project not more than five feet into any required rear or front yard. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-4-2)

17.54.030 Setback exceptions.

- A. Side yards. Two dwelling units with a common party wall in an R-10, R-8 or R-6 district may be constructed without the interior side yards. All other yard requirements for dwellings with common party walls shall be met.
No more than two dwelling units shall be attached to form one building in any single-family dwelling district.
- B. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary. (Prior code §11-4-3)

17.54.040 Maximum height exceptions.

Projections such as chimneys, skylights, spirals, domes, flagpoles and similar features not used for human occupancy are not subject to the building height limitations of this title. (Prior code §11-4-4)

17.54.050 Family day care provider.

The following information shall be required:

- A. Certification from children's services division;

B. The maximum number of children for which the facility is licensed. (Prior code §11-4-5)

17.54.060 Seasonal sales.

The following standards shall apply to seasonal sales which are limited to:

A. Fireworks Sales. The annual season for fireworks sales shall commence no sooner than June 23 and continue no longer than July 5.

1. Signing shall not exceed thirty-two square feet for each frontage and shall be limited to the premises of the sale site.
2. A business license shall be required pursuant to Title 5 of this code.

B. Christmas Tree Sales. The annual season for Christmas tree sales shall commence no sooner than the day after Thanksgiving and shall continued no longer than December 26.

1. Signing shall not exceed thirty-two square feet for each frontage and shall be limited to the premises of the sale site.
2. Signing within the city limits for sales lots located outside the city limits shall be limited to no more than two signs, the dimensions of which shall not exceed twelve square feet, each. The placing of signs on property not privately-owned shall be by permission obtained from the city.

3. A business license shall be required pursuant to Title 5 of this code.

C. All signing for seasonal sales shall be removed no later than the day after the holiday. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 91-1018 §2, 1991; prior code §11-4-6)

17.54.070 Solar balance point standards.

A. Purpose. The purposes of this section are to promote the use of solar energy to minimize shading of structures by structures and accessory structures and, where applicable, to minimize shading of structures by trees. Decisions related to this section are to be administrative.

B. Applicability. This section applies to an application for a building permit for all structures in the R-10, R-8, and R-6 zones and all single-family detached structures in the RC-4, RD-4, and RA-2 zones, except to the extent the approval authority finds the applicant has shown that one or more of the conditions listed in subsection E of F of this section exists, and exemptions or adjustments provided in those sections are warranted. In addition, non-exempt vegetation planted on lots subject to the provisions of Title 9, Chapter 10, Section 7(F) of the Solar Access Standards for New Development shall comply with the shade point height standards as provided in subsections D and E of this section.

C. Solar Site Plan Required. An applicant for a building permit for a structure subject to this section shall submit a site plan that shows:

1. The maximum shade point height allowed under subsection D;
2. If the maximum shade point height is adjusted pursuant to subsection (D)(1)(b), the average elevation of the rear property line;
3. The location of the shade point, its height relative to the average elevation of the front lot line or the elevation at the midpoint of the front lot line, and its orientation relative to true south; and, if applicable,
4. The solar balance point for the structure as provided in subsection H.

D. Maximum Shade Point Height Standard. The height of the shade point shall comply with either subdivision 1 or 2 below:

1. Basic Requirement.

a. The height of the shade point shall be less than or equal to the height specified in Table A or computed using the following formula. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of the front lot line. If necessary, interpolate between the five foot dimensions listed in Table A.

$$H = \frac{(2 \times \text{SRL}) - N + 150}{5}$$

Where, H = the maximum allowed height of the shade point

(see Figures 4 and 5);

SRL = shade reduction line (the distance between the shade point and the northern lot line; see Figure 6, codified at the end of this title; and

N = the north-south lot dimension, provided that a north-south lot dimension more than ninety feet shall use a value of ninety feet for this section.

b. Provided, the maximum allowed height of the shade point may be increased one foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line.

Table A
Maximum Permitted Shade
Point Height (In Feet)

A Distance to Shade Reduction Line from northern lot line (in feet)

B--N North-South lot dimension (in feet)

A	B	C	D	E	F	G	H	I	J	K	L	M	N
100	95	90	85	80	75	70	65	60	55	50	45	40	
70	40	40	40	41	42	43	44						
65	38	38	38	39	40	41	42	43					
60	36	36	36	37	38	39	40	41	42				
55	34	34	34	35	36	37	38	39	40	41			
50	32	32	32	33	34	35	36	37	38	39	40		
45	30	30	30	31	32	33	34	35	36	37	38	39	
40	28	28	28	29	30	31	32	33	34	35	36	37	38
35	26	26	26	27	28	29	30	31	32	33	34	35	36
30	24	24	24	25	26	27	28	29	30	31	32	33	34
25	22	22	22	23	24	25	26	27	28	29	30	31	32
20	20	20	20	21	22	23	24	25	26	27	28	29	30
15	18	18	18	19	20	21	22	23	24	25	26	27	28
10	16	16	16	17	18	19	20	21	22	23	24	25	26
5	14	14	14	15	16	17	18	19	20	21	22	23	24

2. Performance Option. The proposed structure, or applicable non-exempt vegetation, will shade not more than twenty

percent of the south-facing glazing of existing habitable structure(s) or, where applicable, the proposed structure or non-exempt vegetation comply with Section (C)2 or (C)3 of the Solar Access Standards for New Development. If Section (C)2, Protected Solar Building Line is used, non-exempt trees and the shade point of structures shall be set back from the protected solar building line 2.5 feet for every one foot of height of the structure or of the mature height of non-exempt vegetation over two feet.

E. Exemption from the Maximum Shade Point Height Standard. The planning director shall exempt a proposed structure or non-exempt vegetation from subsections C and D of this section if the applicant shows that one or more of the conditions in this section exists, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

1. Preexisting Shade. The structure or applicable non-exempt vegetation will shade an area that is shaded by one or more of the following:

- a. An existing or approved building or structure;
- b. A topographic feature; or
- c. A non-exempt tree that will remain after development of the site. It is assumed a tree will remain after development if it is situated in a building setback required by local law; is part of a developed area or landscaping required by local law, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.

2. Slope. The site has an average slope that exceeds twenty percent in a direction greater than forty-five degrees east or west of true south based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

3. Insignificant Benefit. The proposed structure or non-exempt vegetation shades one or more of the following:

- a. An undevelopable area;
- b. The wall of an unheated space, such as a typical garage;
- c. Less than twenty square feet of south-facing glazing; or
- d. An undeveloped lot, other than a lot that was subject to the Solar Access Standards for New Development, where:
 - i. There are at least four single-family detached or attached homes within two hundred fifty feet of the lot within the same subdivision or a phase of the subdivision; and
 - ii. A majority of the homes identified in subdivision (d)(i) above have an average of less than twenty square feet of south-facing glazing.

4. Public Improvement. The proposed structure is a publicly owned improvement.

F. Adjustment to the Maximum Shade Point Height Standard. The planning director shall increase the maximum permitted height of the shade point determined using subsection D to the extent it finds the applicant has shown one or more of the following conditions exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

1. Physical Conditions. Physical conditions preclude development of the site in a manner that complies with subsection D, due to such things as a lot size less than three thousand square feet, unstable or wet soils, or a drainage way, public or private easement, or right-of-way.

2. Conflict Between the Maximum Shade Point Height and Allowed Shade on the Solar Feature Standards. A proposed structure may be sited to meet the solar balance point standard described in subsection H or be sited as near to the solar balance point as allowed by subsection H, if:

- a. When the proposed structure is sited to meet the maximum shade point height standard determined using subsection D, its solar feature will potentially be shaded as determined using subsection G, and
- b. The application includes a form provided for that purpose by the city that:
 - i. Releases the applicant from complying with subsection D and agrees that the proposed structure may shade an area otherwise protected by subsection D;
 - ii. Releases the city from liability for damages resulting from the adjustment; and
 - iii. Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of subsection D(1) of this section.

c. Before the city issues a permit for a proposed structure for which an adjustment has been granted pursuant to subsection F(2), the applicant shall file the form provided in subdivision 2(b) above in the office of the county clerk with the deeds to the affected properties.

G. Analysis of allowed Shade on Solar Feature.

1. An applicant may, but is not required to, perform the calculations in or comply with the standards of subsection G.
2. Applicants are encouraged to design and site a proposed habitable structure so that the lowest height of any solar feature(s) will not be shaded by buildings or nonexempt trees on lot(s) to the south. The applicant should complete the following calculation procedure to determine if solar feature(s) of the proposed structure will be shaded. To start, the applicant should choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:
 - a. Existing structure(s) or non-exempt trees; or
 - b. The maximum shade that can be cast from future buildings or non-exempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension is assumed to be the minimum lot width required for a new lot in that zone.
3. The height of the lowest point of any solar feature of the proposed structure is calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.
4. The applicant can determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in subdivision 2 of this subsection by using the following formula or Table B:

$$SFSH = SH - (SGL/2.5)$$

Where:

- SFSH = the allowed shadow height on the solar feature (see Figure 8 codified at the end of this title)
- SH = the height of the shade at the northern lot line of lot(s) to the south as determined in subsection F.2 of this section
- SGL = the solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south, (see Figure 7 codified at the end of this title)

Table B
Maximum Permitted Height of
Shadow at Solar Feature (Feet)

A Distance from Solar Gain Line to the lot line (feet)
B--L Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (feet)

A	B	C	D	E	F	G	H	I	J	K	L
	22	21	20	19	18	17	16	15	14	13	12
50	2	1									
45	4	3	2	1							
40	6	5	4	3	2	2					
35	8	7	6	5	4	3	2	1			
30	10	9	8	7	6	5	4	3	2	1	

25	12	11	10	9	8	7	6	5	4	3	2
20	14	13	12	11	10	9	8	7	6	5	4
15	16	15	14	13	12	11	10	9	8	7	6
10	18	17	16	15	14	13	12	11	10	9	8
5	20	19	18	17	16	15	14	13	12	11	10

Table C may be used to determine (SH) in the above formula.

Table C

A Allowed shade height at the north property line of adjacent lot(s) to south

B--N North-south lot dimension of adjacent lot(s) to the south

	B	C	D	E	F	G	H	I	J	K	L	M	N
	100	95	90	85	80	75	70	65	60	55	50	45	40
A	12	12	12	13	14	15	16	17	18	19	20	21	22

5. If the allowed shade height on the solar feature calculated in subdivision 4 of this subsection, is higher than the lowest height of the solar feature calculated in subdivision 3 of this subsection, the applicant shall be encouraged to consider changes to the house design or location which would make it practical to locate the solar feature so that it will not be shaded in the future.

H. Solar Balance Point. If a structure does not comply with the maximum shade point height standard in subsection D of this section and the allowed shade on a solar feature standard in subsection G of this section, then the solar balance point of the lot shall be calculated (see Figure 8 codified at the end of this title). The solar balance point is the location on the lot where a structure would be an equal distance between the locations required by the maximum shade point height standard and the allowed shade on a solar feature standard.

I. Yard Setback Adjustment. The planning division shall grant an adjustment to the side, front and/or rear yard setback requirement(s) as indicated below if necessary to build a proposed structure so it complies with either the shade point height standard in subsection D of this section, the allowed shade on a solar feature standard in subsection G of this section, or the solar balance point standard in subsection H of this section as provided in this section (see Figure 8 codified at the end of this title). This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of this chapter.

1. R-10 and R-8 Zones.

- A front yard and corner side yard setback may be reduced to not less than 15 feet on the side with the driveway and 12 feet in other locations.
- A rear yard setback may be reduced to not less than 15 feet.
- A side yard setback may be reduced to not less than 5 feet.

2. R-6 Zone.

- A front yard setback may be reduced to not less than fifteen feet.
- A corner side yard may be reduced to not less than twelve feet.
- A rear yard setback may be reduced to not less than fifteen feet.
- A side yard setback may be reduced to not less than five feet.

3. RC-4, RD-4, and RA-2 Zones.

- a. A front yard setback may be reduced to not less than twelve feet.
- b. A corner side yard may be reduced to not less than twelve feet.
- c. A rear yard setback may be reduced to not less than eight feet.
- d. A side yard setback may be reduced to not less than five feet.

J. Review Process. Compliance with this section shall be determined by the planning director in conjunction with an application for a building permit. (Ord. 91-1020 §3 (part), 1991: prior code §11-4-7)

17.54.080 Solar access permit.

A. Purpose. The purpose of this section is to protect solar access to solar features on lots designated or used for single family detached dwelling under some circumstances. It authorizes owners of such lots to apply for a permit that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site.

B. Applicability. An owner or contract purchaser of property may apply for and/or be subject to a solar access permit for a solar feature if that property is in the R-10, R-8, or R-6 zones, or is or will be developed with a single-family dwelling. The decision whether or not to grant solar access permit is to be administrative.

C. Approval Standards for a Solar Access Permit. The planning director shall approve an application for a solar access permit if the applicant shows:

1. The application is complete;
2. The information it contains is accurate; and
3. Non-exempt vegetation on the applicant's property does not shade the solar feature.

D. Duties Created by Solar Access Permit.

1. A party to whom the Solar Access Permit is granted shall.
 - a. Record the permit, legal descriptions of the properties affected by the permit, the solar access height limit, and the site plan required in subsection E.3 of this section, with such modifications as required by the planning director in the office of the county clerk with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and pay the fees for such filing;
 - b. Install the solar feature in a timely manner as provided in subsection H of this section; and
 - c. Maintain non-exempt vegetation on the site so it does not shade the solar feature.

2. An owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping non-exempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the site plan required in subsection E.3 of this section, vegetation an owner shows was in the ground on the date an application for a solar access permit is filed, and solar friendly vegetation are exempt from the solar access permit.

E. Application Contents. An application for a solar access permit shall contain the following information:

1. A legal description of the applicant's lot and a legal description, owners' names, and owners' addresses for lots all or a portion of which are within one hundred fifty feet of the applicant's lot and fifty-four degrees east and west of true south measured from the east and west corners of the applicant's south lot line. The records of the county assessor shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected.
2. A scaled plan of the applicant's property showing:
 - a. Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature.
 - b. The approximate height above grade of the solar feature, its location, and its orientation relative to true south.
3. A scaled plan of the properties on the list required in subdivision 1 of this subsection showing:
 - a. Their approximate dimensions; and
 - b. The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property.

4. For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a solar access permit (see Figure 11 codified at the end of this title). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five foot increments at an angle to the south not less than 21.3 degrees from the horizon and extend not more than fifty-four degrees east and west of true south. Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow non-exempt vegetation on that lot whose height causes no more shade on the benefitted property than could be caused by a structure that complies with the solar balance point standards for existing lots.

5. The required fee.

6. If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted verifying that the vegetation shown on the plan submitted pursuant to subdivision 3 of this subsection accurately represents vegetation in the ground on the date of the application. The city shall provide a form for that purpose. The signed statements provided for herein are permitted but not required for a complete application.

F. Application Review Process.

1. A pre-application conference shall be required subject to the provision of Section 17.50.030.

2. An application for a Solar Access Permit is subject to the requirements of Sections 17.50.040-17.50.080.

3. The review of a Solar Access Permit shall be in accordance with the provision in Section 17.50.220. The written decision shall be based on the standards as outlined in subsection C of this section. In addition to the provision of Section 17.50.220, the following notice standards shall apply:

a. If the decision is to deny the permit, the planning director shall mail a copy of the decision to the applicant. This is a final decision.

b. If the decision is to approve the permit, and the owners of all affected properties did verify the accuracy of the plot plan as permitted under subdivision E.6 of this subsection, the planning director shall mail a copy of the decision to the applicant and affected parties by certified mail, return receipt requested. This is a final decision.

c. If the decision is to approve the permit, and the owners of all affected properties did not verify the accuracy of the plot plan as permitted under subdivision E.6 of this subsection, the planning director shall send a copy of the tentative decision to the applicant and to the owners of affected properties who did not sign the verification statement pursuant to subdivision E.6 of this subsection by certified mail, return receipt requested. This is a tentative decision. If the planning director determines that the owners of a given property affected by the permit are not the occupants of that property, then the planning director also shall send a copy of the notice to the occupants of such property.

G. Permit Enforcement Process.

1. Enforcement Request. A solar access permittee may request the city to enforce the solar access permit by providing the following information to the planning director:

a. A copy of the solar access permit and the plot plans submitted with the permit; and

b. The legal description of the lot(s) on which alleged non-exempt vegetation is situated, the address of the owner(s) of that property, and a scaled site plan of the lot(s) showing the non-exempt vegetation; and

c. Evidence the vegetation violates the solar access permit, such as a sunchart photograph, shadow pattern, and/or photographs.

2. Enforcement. All abatement and enforcement procedures are subject to the provision in Section 17.20.010 of this title.

H. Expiration and Extension of a Solar Access Permit.

1. Expiration. Every permit issued by the planning director under the provisions of Sections 17.54.070 and 17.54.080 of this chapter shall expire if the construction of the solar feature protected by such permit is not commenced within one hundred eighty days from the date of such permit, or if the construction of the solar feature protected by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one-half the amount required for a new permit for such work; provided, no change have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year. If the permittee does not show construction of the solar feature will be started within one hundred eighty days of the date of the permit or the extension, or if the solar feature is removed, the planning director shall terminate the permit by recording a notice of expiration in the office of the county clerk with the deeds to the affected properties.

2. Extension. Any request for an extension is subject to the provisions of Section 17.50.350. However, no permit shall be

extended more than once. (Ord. 91-1020 §3 (part), 1991: prior code §11-4-8)

17.54.090 Accessory dwelling units.

A. Definitions.

“Accessory dwelling unit” (ADU) is a habitable living unit that provides the basic requirements of shelter, heating, permanent cooking and sanitation.

“Principle dwelling unit” is the existing and primary residence for a particular tax lot.

B. Purpose and Intent.

1. The installation of an ADU in new and existing single-family dwellings (herein after principle dwelling units) shall be allowed in single-family zones subject to the specific development, design and owner-occupancy standards in this section. This section is not applicable to licensed residential care homes or facilities.
2. The purpose of allowing an ADU is to:
 - a. Provide homeowners with a means of obtaining, through tenants in the ADU or the principle dwelling unit, rental income, companionship, security, and services.
 - b. Add affordable housing units to the existing housing inventory.
 - c. Make housing units available to moderate-income people who might otherwise have difficulty finding homes within the city.
 - d. Develop housing units in single-family neighborhoods that are appropriate for people at a variety of stages in the life cycle.
 - e. Protect neighborhood stability, property values and the single-family residential appearance of the neighborhood by ensuring that ADUs are installed under the conditions of this section.

C. Standards and Criteria. An ADU shall meet the following standards and criteria:

1. The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, and any other applicable codes.
2. Any additions to the existing dwelling unit shall not encroach into the existing setbacks in the underlying zone. However, access structures (e.g. stairs or ramps) may be allowed within the setback if no access can be provided to the unit without encroaching into the setback area.
3. The ADU may be attached to, or detached from, the principle dwelling unit. The detached ADU may not be located in front of the primary dwelling unit.
4. Only one ADU may be created per lot or parcel.
5. An ADU may be developed in either an existing or a new residence.
6. The ADU shall not exceed the height of the principle dwelling unit.
7. The property owner, which shall include title holders and contract purchasers, must occupy either the principle dwelling unit or the ADU as their permanent residence, for at least seven months out of the year, and at no time receive rent for the owner-occupied unit.
8. In no case shall an ADU:
 - a. Be more than forty percent of the principle dwelling unit’s total floor area; nor
 - b. Be more than eight hundred square feet; nor
 - c. Be less than three hundred square feet; nor
 - d. Have more than two sleeping areas.
9. The ADU shall comply with OCMC Chapter 17.54.010, Accessory Buildings and Uses.
10. The ADU shall be compatible with the principle dwelling unit, specifically in:
 - a. Exterior finish materials.
 - i. The exterior finish material must be the same as the principle dwelling unit; or
 - ii. Visually match in type, size and placement with the exterior finish material of the principle dwelling unit.

- b. Trim must be the same in type, size, and location as the trim used on the principle dwelling unit.
- c. Windows must match those in the principle dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).
- d. Eaves must project from the building walls at the same proportion as the eaves on the principle dwelling unit.

11. Parking.

a. Purpose. The parking requirements balance the need to provide adequate parking while maintaining the character of single-dwelling neighborhoods and reducing the amount of impervious surface on a site.

b. The following parking requirements apply to accessory dwelling units.

i. No additional parking space is required for the accessory dwelling unit if it is created on a site with a principle dwelling unit and the roadway for at least one abutting street is at least twenty-eight-feet wide.

ii. One additional parking space is required for the accessory dwelling unit as follows:

(A) When none of the roadways in abutting streets are at least twenty-eight-feet wide; or

(B) When the accessory dwelling unit is created at the same time as the principle dwelling unit.

D. Application Procedure. Application for a building permit for an ADU shall be made to the building official in accordance with the permit procedures established in OCMC 15.12, and shall include:

1. A letter of application from the owner(s) stating that the owner(s) shall occupy one of the dwelling units on the premises, except for bona fide temporary absences, for seven months out of each year.

2. The registration application or other forms as required by the building official shall be filed as a deed restriction with Clackamas County Records Division to indicate the presence of the ADU, the requirement of owner-occupancy, and other standards for maintaining the unit as described above.

3. The building official shall report annually to the community development director on ADU registration with the number of units and distribution throughout the city.

4. Cancellation of an ADU's registration may be accomplished by the owner filing a certificate with the building official for recording at the Clackamas County Records Division, or may occur as a result of enforcement action. (Ord. 03-1014, Att. B3 (part), 2003)

17.54.100 Fences-Setback and height limitations.

A fence may be located on the property or in a yard setback area subject to the following:

A. Generally-Fence, Hedge or Wall.

1. Any fence, hedge or wall located in front of the front façade of the building or within the front yard setback shall not exceed forty-two inches in total height.

2. All other fences other than those described in subsection (A)(1) above shall not exceed six feet in total height unless an exception as described in subsection (B) below is met.

B. Exception-Fence, Hedge or Wall on Retaining Wall. When a fence, hedge or wall is built on a retaining wall or an artificial berm that is not adjacent to or abutting a public right-of-way, the following standards shall apply:

1. When the retaining wall or artificial berm is thirty inches or less in height from the finished grade, the maximum fence or wall height on top of the retaining wall shall be six feet.

2. When the retaining wall or earth berm is greater than thirty inches in height, the combined height of the retaining wall and fence or wall from finished grade shall not exceed eight and one-half feet.

3. Fences, hedges or walls located on top of retaining walls or earth berms in excess of thirty inches above finished grade may exceed the total allowed combined height of eight and one-half feet provided that the fence or wall is located a minimum of two feet from the retaining wall and the fence or wall height shall not exceed six feet. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.56 CONDITIONAL USES

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17.56.010 Permit--Authorization--Standards--Conditions.

A conditional use listed in this title may be permitted, enlarged or altered upon authorization of the planning commission in accordance with the standards and procedures of this title. A conditional use permit listed in this section may be permitted, enlarged or altered upon authorization of the planning commission in accordance with the standards and procedures of this section. Any expansion to, alteration of, or accessory use to a conditional use shall require planning commission approval of a modification to the original conditional use permit.

A. The following conditional uses, because of their public convenience and necessity and their effect upon the neighborhood shall be permitted only upon the approval of the planning commission after due notice and public hearing, according to procedure as provided in Chapter 17.50.

The planning commission may allow a conditional use, provided that the applicant provides evidence substantiating that all the requirements of this title relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

1. The use is listed as a conditional use in the underlying district;
2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;
3. The site and proposed development are timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use;
4. The proposed use will not alter the character of the surrounding area in a manner which

substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the underlying district;

5. The proposal satisfies the goals and policies of the city comprehensive plan which apply to the proposed use.

B. Permits for conditional uses shall stipulate restrictions or conditions which may include, but are not limited to, a definite time limit to meet such conditions, provisions for a front, side or rear yard greater than the minimum dimensional standards of the zoning ordinance, suitable landscaping, off-street parking, and any other reasonable restriction, condition or safeguard that would uphold the spirit and intent of the zoning ordinance, and mitigate adverse effect upon the neighborhood properties by reason of the use, extension, construction or alteration allowed as set forth in the findings of the planning commission.

C. Any conditional use shall meet the dimensional standards of the zone in which it is to be located pursuant to subsection B of this section unless otherwise indicated, as well as the minimum conditions listed below.

D. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, any change of use expansion of lot area or expansion of structure shall conform with the requirements for conditional use.

E. The planning commission may specifically permit, upon approval of a conditional use, further expansion to a specified maximum designated by the planning commission without the need to return for additional review. (Ord. 91-1025 §1, 1991; prior code §11-6-1)

17.56.020 Permit--Application.

A. A property owner or authorized agent shall initiate a request for a conditional use by filing an application with the city recorder. The applicant shall submit a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The application shall be accompanied by the filing fee listed in Section 17.50.480 to defray the costs of publication, investigation and processing.

B. Before the planning commission may act on a conditional use application, it shall hold a public hearing thereon, following procedure as established in Chapter 17.50. (Prior code §11-6-2)

17.56.025 Minor modifications to legal conditional uses.

Minor modifications to an approved conditional use permit may be permitted. If permitted, the modification shall be reviewed as a minor site plan and design review. A minor modification to an approved conditional use permit is considered one of the following:

A. Modification to a structure for the purpose of enhancing the aesthetics of the building and there is no increase in the interior usable space;

B. A maximum addition of up to one thousand square feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage; or

C. Revisions to parking alignment and/or related vehicle circulation patterns. (Ord. 03-1014, Att. B3

(part), 2003)

17.56.030 Uses requiring conditional use permit.

Uses requiring conditional use permit are:

- A. Ambulance services in C and GI districts;
- B. Boarding, lodging houses and bed and breakfast inns;
- C. Boat repair, for boats not exceeding twenty-five feet in length, in the C district;
- D. Cemeteries, crematories, mausoleums and columbariums;
- E. Child care centers and nursery schools;
- F. Churches;
- G. Colleges and universities, excluding residential districts;
- H. Correctional facilities, in the GI district;
- I. Emergency service facilities (police and fire), excluding correctional facilities;
- J. Government and public service buildings;
- K. Helipad in conjunction with a permitted use, excluding residential districts;
- L. Hospitals, excluding residential districts;
- M. Houseboats;
- N. Hydroelectric generating facilities in GI district only;
- O. Motor vehicle towing and temporary storage in the GI district; recreational vehicle storage in C and GI districts;
- P. Museums;
- Q. Nursing homes;
- R. Parking lots not in conjunction with a primary use;
- S. Private and public schools;
- T. Private clubs and lodges, excluding residential districts;
- U. Public utilities, including sub-stations (such as buildings, plants and other structures);
- V. Sales and service establishments of manufactured homes and recreational vehicles in C and GI districts;
- W. Stadiums, arenas and auditoriums, excluding residential districts; and
- X. Welfare institutions and social service organizations, excluding residential districts. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003; Ord. 98-1004 §§1, 2, 1998; Ord. 91-1025 §2, 1991)

17.56.040 Criteria and standards for conditional uses.

In addition to the standards listed herein in Section 17.56.010, which are to be considered in the approval of all conditional uses and the standards of the zone in which the conditional use is located, the following additional standards shall be applicable:

A. Building Openings. The city may limit or prohibit building openings within fifty feet of residential property in a residential zone if the openings will cause glare, excessive noise or excessive traffic which would adversely affect adjacent residential property as set forth in the findings of the planning commission.

B. Additional Street Right-of-Way. The dedication of additional right-of-way may be required where the city plan indicates need for increased width and where the street is inadequate for its use; or where the nature of the proposed development warrants increased street width.

C. Public Utility or Communication Facility. Such facilities as a utility substation, water storage tank, radio or television transmitter, tower, tank, power transformer, pumping station and similar structures shall be located, designed and installed with suitable regard for aesthetic values. The base of these facilities shall not be located closer to the property line than a distance equal to the height of the structure. Hydroelectric generation facilities shall not exceed ninety megawatts of generation capacity.

D. Schools. The site must be located to best serve the intended area, must be in conformance with the city plan, must have adequate access, must be in accordance with appropriate State standards, and must meet the following dimensional standards:

1. Minimum lot area, twenty thousand square feet;
2. Front yard setback, twenty-five feet;
3. Rear yard setback, twenty feet;
4. Side yard setback, twenty feet.

E. Helipad Landing Facility. In evaluating a conditional use application for a helipad, the planning commission shall consider such matters as the following:

1. Size of runways and landing areas;
2. Approaches and obstructions within the runways and landing areas;
3. Fencing and/or screening to provide visual and noise buffering and to deflect winds or blast due to aircraft operation;
4. Fire protection measures and equipment;
5. Night illumination adequate for operations, and its effects upon surrounding property;
6. Landing markers;
7. Structural adequacy of runways, pads and other structures;
8. Paving and ground cover materials in relation to noise and down wash.

F. Residential Care Facilities.

1. In addition to the general provisions of Section 17.56.020, any application shall include a description of the proposed use, including the number of residents and the nature of the condition or circumstances for which care, or a planned treatment or training program will be provided, the number of staff and the estimated length of stay per resident and the name of the agency responsible for regulating or sponsoring the use.

2. Approval of a conditional use application for a residential care facility shall include the following minimum standards where applicable:

a. The proposed facility shall maintain all applicable licenses required by the appropriate agencies for the use described in the application.

b. All residential care facilities shall be subject to design review. Special considerations for this use are:

i. Compatibility in appearance with the surrounding area;

ii. Provisions of usable on-site open space appropriate to the needs of the residents and the nature of the care, treatment or training provided;

iii. Clearly defined property boundaries.

G. Bed and Breakfast Inns. Upon approval of a conditional use application for a bed and breakfast inn, the planning commission shall include the following as additional standards and criteria:

1. The bed and breakfast inn shall maintain all applicable licenses required by governmental agencies for the use described in the application.

2. All bed and breakfast inns shall be subject to design review. Special considerations for this use are:

a. Compatibility of the structure in appearance with the surrounding area;

b. Compatibility of the parking facilities in appearance and circulation of traffic with the surrounding area. Parking facilities shall also comply with Chapter 17.52;

c. Compatibility of the signage in appearance with the surrounding area. Signage shall also comply with Chapter 15.28;

d. The number of rooms to be used as overnight public accommodations shall not exceed four rooms in an underlying residential zone, or seven rooms in an underlying nonresidential zone;

e. The owner/operators shall reside in the bed and breakfast inn, or in a residence adjacent to the bed and breakfast inn. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 96-1026 §3, 1996; Ord. 91-1016 §§1 and 2, 1991; prior code §11-6-4)

17.56.060 Revocation of conditional use permits.

The planning commission or the city commission may initiate administrative action under Chapter 17.50 to revoke any conditional use permit previously issued by the city or, with regard to lands annexed by the city, those such permits issued by the county. The planning commission or, on review, the city commission, may revoke such permit upon determining:

A. One or more conditions attached to the grant of the conditional use permit have not been fulfilled; and

B. The unfulfilled condition is substantially related to the issuance of the conditional use permit. (Prior code §11-6-6)

17.56.070 Periodic review of conditional use permits.

- A. The city commission may provide for the periodic review of some or all of the conditional use permits previously issued by the city, or, with regard to lands annexed by the city, those such permits issued by the county. In providing for such review, the city commission may designate classes of such previously issued permits for which periodic review shall be undertaken.
- B. Such review shall be accomplished as an administrative action under Chapter 17.50 and shall be limited to the question of whether additional conditions should be imposed on a conditional use in the light of changing circumstances and more efficient implementation of the city's comprehensive plan.
- C. Notwithstanding the provisions of Chapter 17.58, any additional conditions shall be met as a requirement for continued operation of the conditional use. (Prior code §11-6-7)

[Title 17 ZONING](#)

Chapter 17.58 NONCONFORMING USES, STRUCTURES AND LOTS*

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Note to Chapter 17.58

* Prior code history: Prior code §§11-7-1 through 11-7-6.

17.58.010 Purpose.

Nonconforming situations are created when the application of zoning district to a site changes or the zoning regulations change. As part of the change, existing uses, density, or development might no longer be allowed or are further restricted. Nonconforming uses, structures and lots are those uses, structures and lots that were lawfully established but do not conform to the provisions of this Title or the provisions of the zoning district in which the use, structure or lot is located. The intent of these provisions is not to force all non-conform-ing situations immediately to be brought into conformance. Instead, the intent is to guide nonconforming situations in a new direction consistent with city policy, and, eventually, bring them into conformance. (Ord. 03-1014, Att. B3 (part), 2003)

17.58.015 Applicability.

The regulations of this chapter apply only to those nonconforming situations that were lawfully established or that were approved through a land use decision. All nonconforming structures, uses or lots shall have been maintained over time. These situations have lawful nonconforming status. Nonconforming situations that were not allowed when established or have not been maintained over time have no lawful right to continue. (Ord. 03-1014, Att. B3 (part), 2003)

17.58.020 Lawful nonconforming lots of record.

Lots or parcels lawfully created but which do not now conform to the legal lot standards in this land use code may be occupied by uses otherwise permitted if those uses comply with all other provisions of this land use code. (Ord. 03-1014, Att. B3 (part), 2003)

17.58.030 Lawful nonconforming use.

A use that was lawfully established on a particular development site but that no longer complies with the allowed uses or the standards for those uses in this title may be considered a lawful nonconforming use. Change of ownership, tenancy, or management of a lawfully established nonconforming use shall not affect its lawful nonconforming status. The continuation of a lawful nonconforming use is subject to the following:

A. Discontinuance. If a lawful nonconforming use is discontinued for a period of one year, it shall lose its lawful nonconforming status and the use of the property thereafter shall conform with the existing provisions of this title. If a nonconforming use ceases operations, even if the structure or materials related to the use remain, the use shall be deemed to have been discontinued.

B. Conformance. If a lawful nonconforming use is converted to a conforming use, no nonconforming use may be resumed.

C. Destruction of a Non-Residential Use. When a structure containing a lawful nonconforming non-residential use is damaged by fire or other causes, the re-establishment of the nonconforming use shall be prohibited if the repair cost of the structure is more than sixty percent of its assessed value.

D. Destruction of a Residential Use. When a structure containing a lawful nonconforming residential use is damaged by fire or other causes, the re-establishment of the nonconforming use shall be permitted.

E. Intentional Destruction. When a structure containing a nonconforming use is removed or intentionally damaged by fire or other causes within the control of the owner, the re-establishment of the nonconforming use shall be prohibited.

F. Expansion. No lawful nonconforming use may be replaced by a different type of nonconforming use, nor may any legal nonconforming use be expanded or intensified. (Ord. 03-1014, Att. B3 (part), 2003)

17.58.040 Lawful nonconforming structure.

A structure that was lawfully established but no longer conforms to all development standards of this land use code (such as setbacks) shall be considered a lawful nonconforming structure.

Notwithstanding development standard requirements in this code, minor repairs and routing maintenance of a lawful nonconforming structure are permitted. The continuation of a lawful nonconforming structure is subject to the following:

A. Accidental Destruction. When a nonconforming structure is damaged by fire or other causes, the structure may be rebuilt using the same structure footprint.

B. Intentional Destruction. When a nonconforming structure is removed or intentionally damaged by fire or other causes within the control of the owner, the replacement structure shall comply with the development standards of this title.

C. Expansion. An expansion of a lawful nonconforming structure may be approved, conditionally approved or denied in accordance with the standards and procedures of this section.

1. In making a determination on such applications, the decision maker shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and, to approve such expansion, it must be found that the criteria identified in Section 17.58.060 have either been met, can be met by observance of conditions, or are not applicable.

2. An expansion of a nonconforming structure with alterations that exceed the threshold of subsection (C)(2)(a) below shall comply with the development standards listed in subsection (C)(2)(a). The value of the alterations and improvements is based on the entire project and not individual building permits.

a. Thresholds triggering compliance. The standards of subsection (C)(2)(b) below shall be met when the value of the proposed alterations on the site, as determined by the community development director, is more than seventy-five thousand dollars. The following alterations and improvements shall not be included in the threshold calculation:

- i. Proposed alterations to meet approved fire and life safety agreements;
- ii. Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;
- iii. Alterations required to meet Seismic Design Requirements; and
- iv. Improvements to on-site stormwater management facilities in conformance with Oregon City Stormwater Design Standards.

b. Standards that shall be met. Developments not complying with the development standards listed below shall be brought into conformance.

- i. Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;
- ii. Minimum perimeter parking lot landscaping;
- iii. Minimum interior parking lot landscaping;
- iv. Minimum site landscaping requirements;
- v. Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with Chapter 17.52, Off-Street Parking and Loading;
- vi. Screening; and
- vii. Paving of surface parking and exterior storage and display areas.

c. Area of required improvements.

i. Generally. Except as provided in subsection (C)(2)(c)(2) below, required improvements shall be made for the entire site.

ii. Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant shall meet the following:

(A) The signed ground lease -- or excerpts from the lease document satisfactory to the city attorney -- shall be submitted to the community development director. The portions of the lease shall include the following:

(1) The term of the lease. In all cases, there must be at least one year remaining on the ground lease; and

(2) A legal description of the boundaries of the lease.

(B) The boundaries of the ground lease shall be shown on the site plan submitted with the application. The area of the lease shall include all existing and any proposed development that is required for, or is used exclusively by, those uses within the area of the lease; and

(C) Screening shall not be required along the boundaries of ground leases that are interior to the site.

d. Timing and cost of required improvements. The applicant may choose one of the two following options for making the required improvements:

i. Option 1. Required improvements may be made as part of the alteration that triggers the required improvements. The cost of the standards that shall be met, identified in subsection (C)(2)(b) above, is limited to ten percent of the value of the proposed alterations. It is the responsibility of the applicant to document to the community development director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal. When all required improvements are not being made, the priority for the improvements shall be as listed in subsection (C)(2)(b) above.

ii. Option 2. Required improvements may be made over several years, based on the compliance period identified in Table 17.58-1 below. However, by the end of the compliance period, the site shall be brought fully into compliance with the standards listed in subsection (C)(2)(b). Where this option is chosen, the following must be met:

(A) Before a building permit is issued, the applicant shall submit the following to the community development director:

(1) A nonconforming development assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in subsection (C)(2)(b).

(2) A covenant, in a form approved by the city attorney, executed by the property owner that meets the requirements of Section 17.50.150. The covenant shall identify development on the site that does not meet the standards listed in subsection (C)(2)(b), and require the owner to bring that development fully into compliance with this title. The covenant shall also specify the date by which the owner will be in conformance. The date must be within the compliance periods set out in Table 17.58-1.

(B) The nonconforming development identified in the nonconforming development assessment shall be brought into full compliance with the requirements of this title within the following compliance

periods. The compliance period begins when a building permit is issued for alterations to the site of more than seventy-five thousand dollars. The compliance periods are based on the size of the site (see Table 17.58-1 below).

(C) By the end of the compliance period, the applicant or owner shall request that the site be certified by the community development director as in compliance. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.

(D) If the regulations referred to by subsection (C)(2)(b) are amended after the nonconforming development assessment is received by the community development director, and those amendments result in development on the site that was not addressed by the assessment becoming nonconforming, the applicant shall address the new nonconforming development using Option 1 or 2. If the applicant chooses Option 2, a separate nonconforming development assessment, covenant and compliance period will be required for the new nonconforming development.

Table 17.58--1
Compliance Periods for Option 2

Square footage of site	Compliance Period
Less than 150,000 sq. ft.	2 years
150,000 sq. ft. or more, up to 300,000 sq. ft.	3 years
300,000 sq. ft. or more, up to 500,000 sq. ft.	4 years
More than 500,000 sq. ft.	5 years

(Ord. 03-1014, Att. B3 (part), 2003)

17.58.045 Nonconforming signs.

The regulations for nonconforming signs are stated in Chapter 15.28, Signs. (Ord. 03-1014, Att. B3 (part), 2003)

17.58.050 Nonconforming parking.

When a site is nonconforming in the number of parking spaces, this subsection applies.

A. **Minimum Required Parking Spaces.** If changes to a use or building are made that increase the number of required parking spaces over the existing situation, only the number of spaces relating to the increase shall be provided.

B. **Maximum Allowed Parking Spaces.** If changes to a use or building are made, existing parking

spaces that are in excess of the maximum may be retained if none of the dimensions of the parking area are increased. Within the existing parking area, the layout of the parking spaces may be redesigned and the parking area re-striped if all requirements for setbacks, landscaping and parking space and aisle dimensions in Chapter 17.52, Off-Street Parking and Loading, are met. (Ord. 03-1014, Att. B3 (part), 2003)

17.58.060 Nonconforming structure review criteria.

A nonconforming structure review is processed as a Type II procedure. The following criteria shall be met:

- A. The proposal will be consistent with all the applicable sections and requirements of the Oregon City Municipal Code, other than those specific zoning standards to which the structure is nonconforming.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, design, location, topography, existence of improvements and natural features.
- C. All required public facilities and services exist to adequately meet the needs of the proposed development.
- D. The proposed alterations will not alter the character of the surrounding area in a manner which substantially limits, or precludes the use of surrounding properties for the uses listed as permitted in the zone.
- E. In considering whether to approve the alteration of the structure, the decision maker shall find that, with mitigation measures, there will be no new increase in the overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as:
 1. The hours of operation;
 2. Vehicle trips to the site and impact on surrounding on-street parking;
 3. Noise, vibration, dust, odor, fumes, glare and smoke;
 4. The amount, location and nature of any outside displays, storage, or activities; and
 5. The appearance of the new structure or development will not detract from the desired function, intent and character of the zone. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.60 VARIANCES

[17.60.010 Authority.](#)

[17.60.020 Variances--Procedures.](#)

[17.60.030 Variances--Grounds.](#)

17.60.010 Authority.

According to procedures set forth in Section 17.60.030, the planning commission or the planning director may authorize variances from the requirements of this title. In granting a variance, the planning commission or planning director may attach conditions to protect the best interests of the surrounding property or neighborhood and otherwise achieve the purposes of this title. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. (Ord. 03-1014, Att. B3 (part), 2003: prior code §11-8-1)

17.60.020 Variances--Procedures.

A. A request for a variance shall be initiated by a property owner or authorized agent by filing an application with the city recorder. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. When relevant to the request, building plans may also be required. The application shall note the zoning requirement and the extent of the variance requested. Procedures shall thereafter be held under Chapter 17.50. In addition, the procedures set forth in subsection D of this section shall apply when applicable.

B. A nonrefundable filing fee, as listed in Section 17.50.480, shall accompany the application for a variance to defray the costs.

C. Before the planning commission may act on a variance, it shall hold a public hearing thereon following procedures as established in Chapter 17.50. A variance shall address the criteria identified in Section 17.60.030, Variances-Grounds.

D. Minor variances, as defined in subsection E of this section, shall be processed as a Type II decision, shall be reviewed pursuant to the requirements in Section 17.50.030(B), and shall address the criteria identified in Section 17.60.030, Variance-Grounds.

E. For the purposes of this section, minor variances shall be defined as follows:

1. Variances to setback and yard requirements to allow additions to existing buildings so that the additions follow existing building lines;
2. Variances to width, depth and frontage requirements of up to ten percent;

3. Variances to residential yard/setback requirements of up to twenty percent, provided that no side yard shall be less than five feet;
4. Variances to nonresidential yard/setback requirements of up to ten percent;
5. Variances to lot area requirements of up to five percent;
6. Variances to the minimum required parking stalls of up to five percent; and
7. Variances to the floor area requirements and minimum required building height in the mixed use districts. (Ord. 04-1016, Att. 1 (part), 2004: prior code §11-8-2)

17.60.030 Variances--Grounds.

A variance may be granted only in the event that all of the following conditions exist:

- A. That the variance from the requirements is not likely to cause substantial damage to adjacent properties by reducing light, air, safe access or other desirable or necessary qualities otherwise protected by this title;
- B. That the request is the minimum variance that would alleviate the hardship;
- C. Granting the variance will equal or exceed the purpose of the regulation to be modified.
- D. Any impacts resulting from the adjustment are mitigated;
- E. No practical alternatives have been identified which would accomplish the same purpose and not require a variance; and
- F. The variance conforms to the comprehensive plan and the intent of the ordinance being varied. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 03-1014, Att. B3 (part), 2003: Ord. 00-1003 §12, 2000; prior code §11-8-4)

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Chapter 17.62 SITE PLAN AND DESIGN REVIEW

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[17.62.090 Enforcement.](#)

[17.62.100 Fees.](#)

17.62.010 Purpose.

The purposes of site plan and design review are to: encourage site planning in advance of construction; protect lives and property from potential adverse impacts of development; consider natural or man-made hazards which may impose limitations on development; conserve the city's natural beauty and visual character and minimize adverse impacts of development on the natural

environment as much as is reasonably practicable; assure that development is supported with necessary public facilities and services; ensure that structures and other improvements are properly related to their sites and to surrounding sites and structure; and implement the city's comprehensive plan and land use regulations with respect to development standards and policies. (Ord. 94-1002 §1 (part), 1994)

17.62.020 Preapplication review.

Prior to filing for site plan and design review approval, the applicant shall confer with the principal planner pursuant to Section 17.50.030. The principal planner shall identify and explain the relevant review procedures and standards. (Ord. 94-1002 §1 (part), 1994)

17.62.030 When required.

Site plan and design review shall be required for all development of real property in all zones except the R-10, R-8, R-6 and R-3.5 zoning districts, unless otherwise provided for by this title or as a condition of approval of a permit. Site plan and design review shall also apply to all conditional uses and nonresidential uses in all zones and partitions and residential development within overlay districts. No building permit or other permit authorization for development shall be issued prior to site plan and design review approval. Parking lots and parking areas accessory to uses regulated by this chapter also shall require site plan and design review approval. Site plan and design review shall not alter the type and category of uses permitted in zoning districts. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 94-1002 §1 (part), 1994)

17.62.035 Minor site plan and design review.

This section provides for a minor site plan and design review process. This section is a Type II decision subject to administrative proceedings described in OCMC 17.50. This section may be utilized as the appropriate review process only when authorized by the community development director. The purpose of this type of review is to expedite design review standard for uses and activities that require only a minimal amount of review, typical of minor modifications and/or changes to existing uses or buildings.

A. Generally. Minor site plan and design review applies to the following uses and activities:

1. Modification of an office, commercial, industrial, institutional, public or multi-family structure for the purpose of enhancing the aesthetics of the building and not increasing the interior usable space (for example covered walkways or entryways, addition of unoccupied features such as clock tower, etc.).
2. A maximum addition of up to one thousand square feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage.

Revisions to parking alignment and/or related circulation patterns.

3. Other land uses and activities may be added if the community development director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or

scale of activities/uses listed above.

B. Application. The application for the minor site plan and design review shall contain the following elements:

1. Submittal requirements of Chapter 17.50.
2. A narrative explaining all aspects of the proposal in detail and addressing each of the criteria listed in Section 17.62.035(C) below.
3. Site plan drawings showing existing conditions/uses and proposed conditions/uses.
4. Architectural drawings, including building elevations and envelopes, if architectural work is proposed.
5. Additional submittal material may be required by the community development director on a case-by-case basis.

C. Development Standards for Minor Site Plan and Design Review.

1. All development shall comply with Section 17.62.050(1-6 and 8-15) when deemed applicable by the community development director. The community development director may add conditions of approval to ensure the proposed modification meets the requirements and standards of site plan and design review. (Ord. 03-1014, Att. B3 (part), 2003)

17.62.040 Plans required.

A complete application for site plan and design review shall be submitted. Except as otherwise in subsection I of this section, the application shall include the following plans and information:

A. A site plan or plans, to scale, containing the following:

1. Vicinity information showing streets and access points, pedestrian and bicycle pathways, transit stops and utility locations;
2. The site size, dimensions, and zoning, including dimensions and gross area of each lot or parcel and tax lot and assessor map designations for the proposed site and immediately adjoining properties;
3. Contour lines at two foot contour intervals for grades zero to ten percent, and five-foot intervals for grades over ten percent;
4. The location of natural hazard areas on and within one hundred feet of the boundaries of the site, including:
 - a. Areas indicated on floodplain maps as being within the one hundred-year floodplain,
 - b. Unstable slopes, as defined in Section 17.44.020,
 - c. Areas identified on the seismic conditions map in the comprehensive plan as subject to earthquake and seismic conditions;
5. The location of natural resource areas on and within one hundred feet of the boundaries of the site, including fish and wildlife habitat, natural areas, wooded areas, areas of significant trees or vegetation, and areas designated as being within the water resources overlay district;
6. The location of inventoried historic or cultural resources on and within one hundred feet of the boundaries of the site;

7. The location, dimensions, and setback distances of all existing permanent structures, improvements and utilities on or within twenty-five feet of the site, and the current or proposed uses of the structures;
 8. The location, dimensions, square footage, building orientation and setback distances of proposed structure, improvements and utilities, and the proposed uses of the structures by square footage;
 9. The location, dimension and names, as appropriate, of all existing and platted streets, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle accessways and other pedestrian and bicycle ways, transit street and facilities, neighborhood activity centers, and easements on and within two hundred fifty feet of the boundaries of the site;
 10. The location, dimension and names, as appropriate, of all proposed streets, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle accessways and other pedestrian and bicycle ways, transit streets and facilities, neighborhood activity centers, and easements on and within two hundred fifty feet of the boundaries of the site;
 11. All parking, circulation, loading and servicing areas, including the locations of all carpool, vanpool and bicycle parking spaces as required in Chapter 52 of this title;
 12. Site access points for automobiles, pedestrians, bicycles and transit;
 13. On-site pedestrian and bicycle circulation;
 14. Outdoor common areas proposed as open space;
 15. Total impervious surface created (including buildings and hard ground surfaces).
- B. A landscaping plan, drawn to scale, showing the location and types of existing trees (six inches or greater in caliper measured four feet above ground level) and vegetation proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties, sizes and spacings of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain plant materials.
- C. Architectural drawings or sketches, drawn to scale and showing floor plans, elevations accurately reflected to grade, and exterior materials of all proposed structures and other improvements as they will appear on completion of construction.
- D. A materials board, no longer in size than eight and one-half inches by fourteen inches clearly depicting all building materials with specifications as to type, color and texture of exterior materials of proposed structures.
- E. An erosion/sedimentation control plan, in accordance with the requirements of Chapter 17.47 and the Public Works Erosion and Sediment Control Standards, and a drainage plan developed in accordance with city drainage master plan requirements, Chapter 13.12 and the Public Works Stormwater and Grading Design Standards. The drainage plan shall identify the location of drainage patterns and drainage courses on and within one hundred feet of the boundaries of the site. Where development is proposed within an identified hazard area, these plans shall reflect concerns identified in the hydrological/geological/ geotechnical development impact statement.
- F. The legal description of the site.
- G. An exterior lighting plan, drawn to scale, showing type, height, and area of illumination.
- H. Such special studies or reports as the principal planner may require to obtain information to ensure that the proposed development does not adversely affect the surrounding community or identified natural resource areas or create hazardous conditions for persons or improvements on the

site. The principal planner shall require an applicant to submit one or more development impact statements, as described in Section 16.12.050, upon determination that (1) there is a reasonable likelihood that traffic safety or capacity improvements may be required; (2) the proposal could have significant adverse impacts on identified natural resource areas, including areas designated as being within the water resources overlay district; or (3) the proposal would be located on or could have significant adverse impacts on natural hazard areas, including unstable slopes and areas within the flood plain overlay district. The principal planner shall determine which types of development impact statements are necessary and provide written reasons for requiring the statement(s). The development impact statements shall include the information described in Sections 16.12.070, 16.12.080, and 16.12.120.

I. The principal planner may waive the submission of information for specific requirements of this section or may require information in addition to that required by a specific provision of this section, as follows:

1. The principal planner may waive the submission of information for a specific requirement upon determination either that specific information is not necessary to evaluate the application properly, or that a specific approval standard is not applicable to the application. If submission of information is waived, the principal planner shall, in the decision, identify the waived requirements, explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority. If the matter is forwarded to the planning commission for initial review, the information required by this paragraph shall be included in the staff report;

2. The principal planner may require information in addition to that required by a specific provision of this section upon determination that the information is needed to evaluate the application properly and that the need can be justified on the basis of a special or unforeseen circumstance. If additional information is required, the principal planner shall, in the decision, explain the reasons for requiring the additional information.

J. If the applicant has not already done so as some other part of the land use review process, the applicant shall submit an erosion control plan that complies with the applicable requirements of Chapter 17.74 of this code. (Ord. 99-1029 §§10 and 11, 1999; Ord. 96-1005 §2, 1996; Ord. 95-1004 §1, 1995; Ord. 94-1002 §1 (part), 1994)

17.62.050 Standards.

A. All development shall comply with the following standards:

1. A minimum of fifteen percent of the lot area being developed shall be landscaped. Natural landscaping comprised of native species shall be retained where possible to meet the landscaping requirement. Landscape design and landscaping areas shall serve their intended functions and not adversely impact surrounding areas. The landscaping plan shall be prepared by a registered landscape architect and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.). No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees. The community development department shall maintain a list of trees, shrubs and vegetation acceptable for landscaping. for properties within the downtown design district, and for major remodeling in all zones subject to this chapter, landscaping shall be required to the extent practicable up to the fifteen percent requirement. Landscaping also shall be visible from public thoroughfares to the extent practicable.

2. The size, shape, height, and spatial and visual arrangement of uses, structures, fences and walls,

including color and material selection, shall be compatible with existing surroundings and future allowed uses. Consideration may be given to common driveways, shared parking, increased setbacks, building heights, and the like.

3. Grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.
4. Development subject to the requirements of the unstable slopes overlay district shall comply with the requirements of that district. The review authority may impose such conditions as are necessary to minimize the risk of erosion and slumping and assure that landslides and property damage will not occur.
5. Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.
6. Parking, including carpool, vanpool and bicycle parking, shall comply with city off-street parking standards, Chapter 17.52. Off-street parking and loading/un-loading facilities shall be provided in a safe, well-designed and efficient manner. Off-street parking design shall consider the layout of parking, opportunities to reduce the amount of impervious surface, storage of all types of vehicles and trailers, shared parking lots and common driveways, garbage collection and storage points; and the surfacing, lighting, screening, landscaping, concealing and other treatment of the same. The review authority, at its discretion, may reduce the required number of off-street parking spaces for the purpose of preserving an existing specimen tree.
7. Sidewalks and curbs shall be provided in accordance with the city's transportation master plan and street design standards. Upon application, the planning commission may waive this requirement in whole or in part in those locations where there is no probable need, or comparable alternative location provisions for pedestrians are made.
8. Circulation boundaries within the boundary of the site shall facilitate direct and convenient pedestrian and bicycle access. Consideration shall include the layout of the site with respect to the location, number, design and dimensions of all vehicular and pedestrian accesses, exits, drives, walkways, bikeways, pedestrian/bicycle access ways, buildings, emergency equipment ways, and other related facilities. Ingress and egress locations on public thoroughfares shall be located in the interest of public safety and determined by the review authority. Reasonable access for emergency services (fire and police) shall be provided.
9. There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.
10. Outdoor lighting shall be provided in a manner that enhances security, is appropriate for the use, and avoids adverse impacts on surrounding properties. Glare shall not cause illumination on other properties in excess of a measurement of 0.5 foot-candles of light.
11. Site planning, including the siting of structures, roadways and utility easements, shall provide for the protection of tree resources. Trees of six-inch caliper or greater measured four feet from ground level shall, whenever practicable, be preserved. Where the community development director determines that it is impractical or unsafe to preserve such trees, the trees shall be replaced in accordance with an approved landscape plan that includes new plantings of at least two inches in caliper, and the plan must at a minimum meet the requirements of Table 16.12.310-1.

Table 16.12.310-1Tree Replacement Requirements

Size of Tree Removed (Inches in diameter)	Number of Trees to be Planted.
6 to 12	3 trees
13 to 18	5 trees
19 to 24	8 trees
25 to 30	10 trees
31 and over	15 trees

Specimen trees shall be preserved where practicable. Where these requirements would cause an undue hardship, the review authority may modify the requirements in a manner which, in its judgment, reasonable satisfies the purposes and intent of this subsection. The review authority may impose conditions to avoid disturbance to tree roots by grading activities and to protect trees and other significant vegetation identified for retention from harm. Such conditions may include, if deemed necessary by the review authority, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance and management program to provide protection to the resources as recommended by the arborist or horticulturist.

12. Development shall be planned, designed, constructed and maintained to protect water resources in accordance with the requirements of the city's water resources overlay district, Chapter 17.49, as applicable.

13. Development shall comply with applicable city regulations protecting natural resources. For inventoried natural resources, the siting and design of buildings and other improvements shall be appropriate to protect these resources as provided by the comprehensive plan and this title. Elsewhere, development shall be planned, designed and constructed to avoid or minimize adverse impacts on natural resources to the extent practicable.

14. All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the principal planner or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.

15. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service

providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The city may require over sizing of facilities where necessary to meet standards in the city's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the city for over sizing based on the city's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.

16. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided, consistent with the city's transportation master plan and design standards and this title. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation.

When approving land use actions, Oregon City requires all relevant intersections to be maintained at the minimum acceptable level of service (LOS) upon full build-out of the proposed land use action. The minimum acceptable LOS standards are as follows:

- a. For signalized intersection areas of the city that are located outside the Regional Center boundaries a LOS of "D" or better for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of critical movements.
- b. For signalized intersections within the Regional Center boundaries a LOS "D" can be exceeded during the peak hour; however, during the second peak hour, LOS "D" or better will be required as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0.
- c. For unsignalized intersection throughout the city a LOS "E" or better for the poorest approach and with no movement serving more than twenty peak hour vehicles operating at worse than LOS "F" will be tolerated for minor movements during a peak hour.

17. Major industrial, institutional, retail and office developments shall provide direct, safe and convenient bicycle and pedestrian travel as appropriate both within the development and between the development and other residential or neighborhood activity centers such as shopping, schools, parks and transit centers. Where practicable, new office parks and commercial developments shall enhance internal pedestrian circulation through clustering of buildings, construction of pedestrian ways, or similar techniques. Bicycle parking facilities shall be required as part of new multifamily residential developments of four units or more, new retail, office and institutional developments, and all transit transfer stations and park-and-ride lots.

18. If Tri-Met, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, bus landing pad or transit stop connection be constructed at the time of development, the review authority shall require such improvement, using designs supportive of transit use, if the development is of a type which generates transit rider ship and the review authority determines that the recommended condition is reasonably related to the scale and intensity of the development. Where transit service is or reasonably can be made available to serve the site, the development shall include sidewalks or pedestrian easements as necessary to provide safe and direct access to transit stops.

19. All utility lines shall be placed underground.

20. Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.

21. Pedestrian/bicycle access ways shall be provided as appropriate in accordance with the requirements and standards in Chapter 12.24 and such other design standards as the city may adopt.

22. In office parks and commercial centers, clustering of buildings shall be provided to the extent reasonably practicable to facilitate off-site pedestrian access. If located along transit streets, clustering of buildings near the transit street shall be provided to the extent reasonably practicable to facilitate access by transit.

23. For a residential development, site layout shall achieve at least eighty percent of the maximum density of the base zone for the net developable area. Net developable area excludes all areas for required right-of-way dedication, land protected from development through water resource and steep slopes, and required open space or park dedication.

B. The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria, including standards set out in city overlay districts, the city's master plans, and city public works design standards. Such conditions shall apply as described in Sections 17.50.310, 17.50.320 and 17.50.330. The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure compliance with this chapter, the review authority may require an applicant to sign or accept a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the city attorney. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 03-1014, Att. B3 (part), 2003; Ord. 01-1002 §1, 2001; Ord. 00-1003 §13, 2000; Ord. 99-1029 §12, 1999; Ord. 95-1004 §§2, 3, 1995; Ord. 94-1002 §1 (part), 1994)

17.62.055 Institutional and commercial building standards.

A. Purpose. This section is intended to promote the design of an urban environment that is built to human scale and to encourage street fronts that create a pedestrian-conducive environment, while also accommodating vehicular movement. The primary objective of the regulations contained in this section is to provide a range of design choices that would promote creative, functional, and cohesive development compatible with the surrounding areas.

B. Applicability. In addition to Section 17.62.050 requirements, institutional and commercial buildings shall comply with design standards contained in this section.

C. Relationship between zoning district design standards and requirements of this section.

1. Building design shall contribute to the uniqueness of the underlying zoning district by applying appropriate materials, elements, features, color range and activity areas tailored specifically to the site and its context.

2. A standardized prototype design shall be modified if necessary to meet the provisions of this section.

3. In the case of a multiple building development, each individual building shall include predominant characteristics shared by all buildings in the development so that the development forms a cohesive

place within the underlying zoning district or community.

4. With the exception of standards for building orientation and building front setbacks, in the event of a conflict between a design standard in this section and a standard or requirement contained in the underlying zoning district, the standard in the zoning district shall prevail.

D. Relationship of Buildings to Streets and Parking.

1. Buildings shall be placed no farther than five feet from the front property line. A larger front yard setback may be approved through site plan and design review if the setback area incorporates enhanced pedestrian spaces and amenities such as plazas, arcades, outdoor cafe, benches, street furniture, public art, kiosks, or additional landscaping.

2. At least one main entrance of any building shall be oriented toward the street and shall be accessed from a public sidewalk. Primary building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.

3. Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.

E. Variation in Massing.

1. A single, large, dominant building mass shall be avoided in new buildings and, to the extent reasonably feasible, in development projects involving changes to the mass of existing buildings.

2. Horizontal masses shall not exceed a height: width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements.

3. Changes in mass shall be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect. False fronts or parapets create an insubstantial appearance and are prohibited.

F. Facade Treatment.

1. Minimum Wall Articulation.

a. Facades shall add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size. No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding thirty feet without including, but not be limited to, at least two of the following:

i. Change in plane,

ii. Change in texture or masonry pattern,

iii. Windows, treillage with vines, or

iv. An equivalent element that subdivides the wall into human scale proportions.

b. Facades greater than one hundred feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the facade and extending at least twenty percent of the length of the facade. No uninterrupted length of any facade shall exceed one hundred horizontal feet.

c. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than sixty percent of their horizontal length.

d. Building facades must include a repeating pattern that includes any one or more of the following elements:

- i. Color change;
 - ii. Texture change;
 - iii. Material module change.
- e. Facades shall have an expression of architectural or structural bays through a change in plane no less than twelve inches in width, such as an offset, reveal or projecting rib.
- f. Facades shall have at least one of elements subsections (F)(1)(b), (c) or (d) of this section repeat horizontally. All elements shall repeat at intervals of no more than thirty feet, either horizontally or vertically.

2. Facade Transparency. The main front elevation shall provide at least sixty percent windows or transparency at the pedestrian level. The side elevation shall provide at least thirty percent transparency. The transparency is measured in lineal fashion (For example, a one-hundred-foot long building elevation shall have at least sixty feet (60% of 100 feet) of transparency in length).

3. Side or rear walls that face walkways may only include false windows and door openings defined by frames, sills and lintels, or similarly proportioned modulations of the wall, only when actual doors and windows are not feasible because of the nature of the use of the building.

4. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades shall be prohibited.

5. Trellises, canopies and fabric awnings may project up to five feet into front setbacks and public rights-of-way, provided that the base is not less than eight feet at the lowest point and no higher than ten feet above the sidewalk. Awnings shall be no longer than a single storefront, unless multiple storefronts exist. If multiple storefronts exists, trellises, canopies, and fabric awnings shall create uniform cover without breaks.

G. Roof Treatments.

1. All facades shall have a recognizable "top" consisting of, but not limited to:

a. Cornice treatments, other than just colored "stripes" or "bands," with integrally textured materials such as stone or other masonry or differently colored materials; or

b. Sloping roof with overhangs and brackets; or

c. Stepped parapets;

d. Special architectural features, such as bay windows, decorative roofs and entry features may project up to three feet into street rights-of-way, provided that they are not less than nine feet above the sidewalk.

2. Buildings below an overlook area shall be required to have roof treatments incorporating architectural enhancement such as matting, latticework, or roof gardens.

H. Entryways. Institutional and commercial buildings shall have clearly defined, highly visible customer entrances including at least three of the following elements, listed below.

1. Canopies or porticos;

2. Overhangs;

3. Recesses/projections;

4. Arcades;

5. Raised corniced parapets over the door;

6. Peaked roof forms;
7. Arches;
8. Outdoor patios;
9. Display windows;
10. Architectural details such as tile work and moldings which are integrated into the building structure and design;
11. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

Where additional stores will be located in the large retail establishment, each such store shall have at least one exterior customer entrance, which shall conform to the same requirements. (Ord. 01-1002 §2, 2001)

17.62.056 Additional standards for large retail establishments.

- A. This section is intended to ensure that large retail building development is compatible with its surrounding area.
- B. Large retail establishment shall mean a retail establishment occupying more than ten thousand gross square feet of floor area.
- C. In addition to Sections 17.62.050 and 17.62.055 requirements, large retail buildings shall comply with design standards contained in this section.
- D. Development Standards.
 1. Roofs. Roofs shall include at least two of the following features:
 - a. Parapets concealing flat roofs and rooftop equipment from public view. The average height of such parapets shall not exceed fifteen percent of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatment;
 - b. Overhanging eaves, extending no less than three feet past the supporting walls;
 - c. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run;
 - d. Three or more roof slope planes.
 2. Site Design and Relationship to Surrounding Community. Retail establishments occupying more than twenty-five thousand gross square feet of floor area shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:
 - a. Patio/seating area;
 - b. Pedestrian plaza with benches;
 - c. Transportation center;
 - d. Window shopping walkway;
 - e. Outdoor playground area;

- f. Kiosk area, water feature;
- g. Clock tower;
- h. Or other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the appropriate decision maker, adequately enhances such community and public spaces.

Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape. (Ord. 01-1002 §3, 2001)

17.62.057 Multiple-family building standards.

- A. Purpose. This section is intended to promote the design of multiple-family buildings through a range of design choices that would ensure aesthetically pleasing and functional architecture.
- B. Applicability. In addition to Section 17.62.050 requirements, multiple-family buildings shall comply with design standards contained in this section.
- C. Housing Model Variety. "Housing model" is distinguished from other housing models, if it has at least three characteristics that clearly distinguish it from other housing models including, but not limited to, different floor plans, exterior materials, roof lines, garage placement, or building facades.
 - 1. Any development of ten or more multiple-family units shall have at least two different types of housing models.
 - 2. Any development of twenty-five or more multiple-family units shall have at least three different types of housing models.
 - 3. Any development of fifty or more multiple-family units shall have at least four different types of housing models.
- D. Relationship of Buildings to Streets and Parking.
 - 1. Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.
 - 2. Multiple-family developments shall be placed no farther than twenty feet from the front property line. A deeper front yard setback may be approved through site plan and design review if the setback area incorporates enhanced pedestrian spaces and amenities, including but not limited to, street furniture, public art or other such deliberately shaped area and/or a feature or amenity that, in the judgment of the appropriate decision maker, integrates well with adjoining areas.
 - 3. Street-facing facades for every building containing four or more dwelling units shall have at least one building entry or doorway facing any adjacent streets. The facade oriented to a street shall also include windows, doorways, and a structured transition from public to private areas using built elements such as porch features, arbors, low walls, trellis work and/or similar elements integrated with planting.
- E. Open Space.
 - 1. Open space shall be provided in all multiple-family developments.
 - 2. A minimum of twenty percent of the gross site area shall be designated and permanently reserved as common open space.
 - 3. Open space may include required setbacks and buffer yards. Streets, rights-of-way, driveways,

parking spaces, or public facilities shall not qualify as open space.

4. Each development shall include at least one common open space area that contains a minimum of five hundred square feet, with no horizontal dimension less than twenty feet.

a. Any development of ten or more multiple-family units shall have at least five hundred square feet of open space.

b. Any development of twenty or more multiple-family units shall have at least one thousand square feet of common open space.

c. Any development of thirty or more multiple-family units shall have at least one thousand five hundred square feet of common open space.

d. Any development of forty or more multiple-family units shall have at least two thousand square feet of common open space.

e. Any development of fifty or more multiple-family units shall have at least two thousand five hundred square feet of common open space.

f. For each additional ten units, an additional five hundred square feet shall be required.

5. Each multiple-family development shall provide individual private open space for each dwelling unit. Private open space is a semi-enclosed area, which is intended for use strictly by the occupants of one dwelling unit. Private open space may include porches, balconies, terraces, roof top gardens, verandas, and decks. Dwellings located at finished grade, or within five feet of finished grade, shall provide a minimum of ninety-six square feet of private open space per dwelling unit, with no dimension less than six feet. Dwellings located more than five feet above finished grade shall provide a minimum of forty-eight square feet with no dimension less than six feet.

6. Ground level private open space shall be visually and physically separated from common open space through the use of perimeter landscaping or fencing. (Ord. 01-1002 §4, 2001)

17.62.060 Building structures.

A. Building structures shall be complimentary to the surrounding area as provided by the design guidelines adopted by the city commission. All exterior surfaces shall present a finished appearance. In historic areas and where development could have a significant visual impact, the review authority may request the advisory opinions of appropriate experts designated by the city manager from the design fields of architecture, landscaping and urban planning. The applicant shall pay the costs associated with obtaining such independent professional advice; provided, however, that the review authority shall seek to minimize those costs to the extent practicable. (Ord. 94-1002 §1 (part), 1994)

17.62.070 On-site pedestrian access.

All commercial, industrial, institutional and multi-family residential developments shall provide an on-site pedestrian circulation system that provides convenient, accessible and direct route design.

A. The on-site pedestrian circulation system shall provide direct and barrier-free connections between buildings and existing public rights-of-way, pedestrian/bicycle access ways and other on-site pedestrian facilities while minimizing out-of-direction travel. The pedestrian circulation system

and pedestrian walkways and facilities shall be designed and constructed, as appropriate, to connect:

1. The main building entrance(s) of the primary structure(s) on the site with the nearest sidewalk or other walkway leading to a sidewalk;
2. New building entrances on a development site with other new and existing building entrances except those used for loading and unloading;
3. Other pedestrian-use areas on-site, such as parking areas, transit stops, recreation or play areas, common outdoor areas, and any pedestrian amenities such as plazas, resting areas and viewpoints;
4. To adjacent developments where feasible. Development patterns shall not preclude eventual site-to-site pedestrian connections where feasible, even if infeasible at the time of development. Public and private schools, and parks over one acre in size, shall provide direct pedestrian access from adjacent neighborhoods, using multiple-access points in all directions as reasonably practicable to minimize neighborhood walking distance to a site. Walkway linkages to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially-zoned land.

B. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be increased to seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the safety of the pedestrian must be assured by raising the walkway or separating it from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel.

C. The on-site pedestrian circulation system shall be lighted to a minimum level of 0.5 foot-candles, a 1.5 foot-candle average, and a maximum to minimum ratio of seven-to-one to enhance pedestrian safety and allow employees, residents, customers or the public to use the walkways at night. Pedestrian walkway lighting through parking lots shall be lighted to a 0.5 foot-candle average and a maximum to minimum ratio of ten-to-one to light the walkway and enhance pedestrian safety. Artificial lighting which may be provided shall enhance security, be appropriate for the use, and avoid adverse impacts on surrounding properties and the night sky through appropriate shielding. The lighting shall not cause a measurement in excess of 0.5 foot-candles of light on other properties.

D. On-site vehicular and pedestrian circulation patterns shall be designed to minimize vehicular/pedestrian conflicts through measures such as minimizing driveway crossings, creating separate pedestrian walkways through the site and parking areas, and designating areas for pedestrians by marking crossings with changes in textural material. Such textural material shall be consistent with Chapter 31 of the Uniform Building Code. Pedestrian walkways in parking areas shall comply with the requirements of Section 17.52.080. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 95-1004 §4 (part), 1995)

17.62.080 Special development standards along transit streets.

A. Purpose. This section is intended to provide direct and convenient pedestrian access to retail, office and institutional buildings from public sidewalks and transit facilities and to promote pedestrian and transit travel to commercial and institutional facilities.

B. Applicability. Except as otherwise provide in this section, the requirements of this section shall

apply to the construction of new retail, office and institutional buildings which front on a transit street.

C. Development Standards.

1. All buildings shall have at least one main building entrance oriented towards the transit street or a street intersecting the transit street. A main building entrance is oriented toward a transit street or a street intersecting a transit street if it is directly located on the transit street or the intersecting street, or if it is linked to the transit street or the intersecting street by an on-site pedestrian walkway that does not cross off-street parking areas.

a. If the site has frontage on more than one transit street, or on a transit street and a street intersecting a transit street, the building shall provide one main building entrance oriented to the transit street or the intersecting street or to the corner where the two streets intersect.

b. For building facades over three hundred feet in length on a transit street or a street intersecting a transit street, two or more main building entrances shall be provided as appropriate and oriented towards the transit street or the intersecting street.

2. Main building entrances shall be well lighted and visible from the transit street. The minimum lighting level for building entries shall be three foot-candles. Lighting shall be a pedestrian scale with the source light shielded to reduce glare.

3. In the event a requirement of this section conflicts with other requirements in Title 17, the requirements of this section shall control.

D. Exemptions. The following permitted uses are exempted from meeting the requirements of subsection C of this section:

1. Heavy equipment sales;

2. Motor vehicle service stations, including convenience stores associated therewith;

3. Solid waste transfer stations; and

4. Truck stops, including convenience stores, eating or drinking establishments, overnight accommodations or other similar services associated therewith. (Ord. 03-1014, Att. B3 (part), 2003; Ord. 01-1002 §5, 2001; Ord. 00-1003 §14, 2000; Ord. 95-1004 §4 (part), 1995)

17.62.090 Enforcement.

A. Applications for site plan and design review shall be reviewed in the manner provided in Chapter 17.50. The city building official may issue a certificate of occupancy only after the improvements required by site plan and design review approval have been completed, or a schedule for completion and a bond or other financial guarantee have been accepted by the city. If construction has not begun within one year from the date of site and design review approval, such approval shall expire unless an extension is requested and granted.

B. In performing site plan and design review, the review authority shall consider the effect of additional financial burdens imposed by such review on the cost and

availability of needed housing types. Consideration of such factors shall not prevent the imposition of conditions of approval found necessary to meet the requirements of this section. The cost of such conditions of approval shall not unduly increase the cost of housing beyond the minimum necessary to achieve the provisions of this title, nor shall such cost prevent the construction of needed housing types. The use of the site plan and design review provisions of this section shall have no effect on

dwelling unit densities. (Ord. 95-1004 §4 (part), 1995: Ord. 94-1002 §1 (part), 1994)

17.62.100 Fees.

Pursuant to Section 17.50.480, a nonrefundable application fee shall accompany the application for site plan and review. (Ord. 95-1004 §4 (part), 1995: Ord. 94-1002 §1 (part), 1994)

[Title 17 ZONING](#)

Chapter 17.65 MASTER PLANS

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17.65.010 Purpose and intent.

It is the intent of this chapter to foster the growth of major institutions and other large-scale development, while identifying and mitigating the impacts of such growth on surrounding properties and public infrastructure. The city recognizes the valuable services and employment opportunities that these developments bring to Oregon City residents. The master plan process is intended to facilitate an efficient and flexible review process for major developments and to provide them with the assurance they need over the long term so that they can plan for and execute their developments in a phased manner. To facilitate this, the master plan process is structured to allow an applicant to address the larger development issues, such as adequacy of infrastructure and transportation capacity, and reserve capacity of the infrastructure and transportation system before expenditure of final design costs. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.020 What is included in a master plan.

A. A master plan is a two-step process that includes a concept development plan and a detailed development plan.

1. A concept development plan incorporates the entire area where development is planned in the next five to twenty years, including the identification of one or more development phases. The concept development plan may encompass land that is not currently under the applicant's control, but which eventually may be controlled by the applicant during the duration of the master plan. The plan shall have no effect for lands not currently controlled by the applicant. "Controlled" shall be defined as leased or owned by the applicant.

2. A detailed development plan is the phase or phases of the concept development plan that are proposed for development within two years.

B. A master plan identifies the current and proposed use of the development, as defined by the concept development plan boundary. If approved, the concept development plan may be used to allow existing legal non-conforming uses. If conditions of approval from a previous land use decision have not been completed, they must be modified through the concept development plan or completed with new development.

C. A master plan identifies future development impacts, thresholds for mitigation and mitigation improvements and implementation schedules.

1. A threshold for mitigation is the point that determines when or where a mitigation improvement will be required. Examples of "thresholds" include vehicle trips, square feet of impervious surface area, water usage measured in gallons per minute, construction of a building within a concept development plan and construction of a building within a certain distance of a residential lot.

2. Mitigation improvements are improvements that will be made or constructed by an institution when a threshold for mitigation is reached. Examples include road dedication, intersection improvement, road widening, construction of a stormwater or water quality facility, installation of vegetative buffering and wetland restoration or enhancement. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.030 Applicability of the master plan regulations.

A. Submission. A master plan shall be submitted for any Institutional development on a site over ten acres in size. If the boundaries of an institutional development exceed ten acres in size, the proposed development shall be master planned using the regulations of this chapter. No permit under this title shall be issued for any institutional development in excess of ten acres in total acreage unless it is accompanied by or preceded by a master plan approval under this chapter.

The provisions of this chapter do not apply to modifications to existing institutional developments unless the modification results in a cumulative square footage increase of over ten thousand total building square feet in an existing Institutional development over ten acres.

B. When Required as Part of Previous Land Use Review. The master plan regulations may be used to fulfill a condition of approval from a previous land use decision-requiring master planning for a development.

C. When Identified in the Oregon City Comprehensive Plan. The master plan regulations are required for all properties identified for master planning in the Land Use section of the Oregon City Comprehensive Plan.

D. Voluntarily. An applicant may voluntarily submit a master plan as part of a land use review. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.040 Procedure.

A. Preapplication Review. Prior to filing for either concept development plan or detailed development plan approval, the applicant shall confer with the community development director pursuant to Section 17.50.030.

B. Concept Development Plan. An application for a concept development plan shall be reviewed through a Type III procedure. An applicant must have an approved concept development plan before any detailed development plan may be approved, unless both are approved or amended concurrently. Amendments to an approved concept development plan shall be reviewed under a Type III procedure pursuant to Section 17.65.080.

C. Detailed Development Plan. An application for a detailed development plan, whether for all or part of an approved concept development plan, is processed through a Type II procedure, as long as it is in conformance with the approved concept development plan. If review of impacts from a development phase of the concept development plan that requires a Type III procedure was deferred, and the detailed development plan is part of that development phase, the detailed development plan shall be processed through a Type III procedure. Amendments to an approved detailed development plan shall be processed pursuant to Section 17.65.080. Once a development has an approved detailed development plan, Chapter 17.62 site plan and design review will not be required.

D. Concurrent Review. An applicant may concurrently apply for a concept development plan and a detailed development plan, or any phase of a detailed development plan. Such a concurrent application is reviewed through a Type III procedure. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.050 Concept development plan.

A. Existing Conditions Submittal Requirements.

1. Narrative Statement. An applicant must submit a narrative statement that describes the following:

- a. Current uses of and development on the site, including programs or services;
- b. History or background information about the mission and operational characteristics of the institution that may be helpful in the evaluation of the concept development plan;
- c. A vicinity map showing the location of the Concept Development Plan boundary relative to the larger community, along with affected major transportation routes, transit, and parking facilities. At least one copy of the vicinity map must be 8.5 x 11 inches in size, and black and white reproducible;
- d. Non-institutional uses that surround the development site. May also reference submitted maps, diagrams or photographs.
- e. Previous land use approvals within the concept development plan boundary and related conditions of approval.
- f. Existing utilization of the site. May also reference submitted maps, diagrams or photographs; and
- g. Site description, including the following items. May also reference submitted maps, diagrams or photographs.

- i. Physical characteristics;
 - ii. Ownership patterns;
 - iii. Building inventory;
 - iv. Vehicle/bicycle parking;
 - v. Landscaping/usable open space;
 - vi. FAR/lot coverage;
 - vii. Natural resources that appear on the city's adopted Goal 5 inventory;
 - viii. Cultural/historic resources that appear on the city's adopted Goal 5 inventory; and,
 - ix. Location of existing trees six inches in diameter or greater when measured four feet above the ground. The location of single trees shall be shown. Trees within groves may be clustered together rather than shown individually.
- h. Existing transportation analysis, including the following items. May also reference submitted maps, diagrams or photographs.
- i. Existing transportation facilities, including highways, local streets and street classifications, and pedestrian and bicycle access points and ways;
 - ii. Transit routes, facilities and availability;
 - iii. Alternative modes utilization, including shuttle buses and carpool programs; and
 - iv. Baseline parking demand and supply study (may be appended to application or waived if not applicable).
- i. Infrastructure facilities and capacity, including the following items.
- i. Water;
 - ii. Sanitary sewer;
 - iii. Stormwater management; and
 - iv. Easements.

2. Maps and Plans.

- a. Existing conditions site plan. Drawn at a minimum scale of one-inch equals one hundred feet that shows the following items. At least one copy must be 8.5 x 11 inches in size, and black and white reproducible.
 - i. Date, north point, and scale of drawing;
 - ii. Identification of the drawing as an existing conditions site plan;
 - iii. Proposed development boundary;
 - iv. All parking, circulation, loading and service areas, including locations of all carpool, vanpool and bicycle parking spaces as required in Chapter 17.52;
 - v. Contour lines at two-foot contour intervals for grades zero to ten percent, and five-foot intervals for grades over ten percent;
 - vi. A site plan or plans, to scale, for the Concept Development Plan site and surrounding properties containing the required information identified in:
 - (A) Section 17.62.040(A)(1), (2), (3), (4), (5), (6), (7), (9), (11), (12), (13), (14), and (15);

(B) Section 17.62.040(B);

(C) Section 17.62.040(F); and

(D) Section 17.62.040(G).

b. Vicinity Map. Depicting the location of the site sufficient to define its location, including identification of nearest cross streets. At least one copy of the vicinity map must be 8.5 x 11 inches in size, and black and white reproducible.

c. Aerial Photo. Depicting the subject site and property within two hundred fifty feet of the proposed development boundaries. At least one copy of the aerial photo must be 8.5 x 11 inches in size, and black and white reproducible.

B. Proposed Development Submittal Requirements.

1. Narrative Statement. An applicant shall submit a narrative statement that describes the following:

a. The proposed duration of the concept development plan.

b. The proposed development boundary. May also reference submitted maps or diagrams.

c. A description, approximate location, and timing of each proposed phase of development, and a statement specifying the phase or phases for which approval is sought under the current application. May also reference submitted maps or diagrams.

d. An explanation of how the proposed development is consistent with the purposes of Section 17.65, the institutional zone, and any applicable overlay district.

e. A statement describing the impacts of the proposed development on inventoried Goal 5 natural, historic or cultural resources within the development boundary or within two hundred fifty feet of the proposed development boundary.

f. An analysis of the impacts of the proposed development on the surrounding community and neighborhood, including:

i. Transportation impacts as prescribed in subsection (B)(1)(g) below;

ii. Internal parking and circulation impacts and connectivity to sites adjacent to the development boundary and public right-of-ways within two hundred fifty feet of the development boundary;

iii. Public facilities impacts (sanitary sewer, water and stormwater management) both within the development boundary and on city-wide systems;

iv. Neighborhood livability impacts;

v. Natural, cultural and historical resource impacts within the development boundary and within two hundred fifty feet of the development boundary.

g. A summary statement describing the anticipated transportation impacts of the proposed development. This summary shall include a general description of the impact of the entire development on the local street and road network, and shall specify the maximum projected average daily trips, projected a.m. and p.m. peak hour traffic and the maximum parking demand associated with build-out each phase of the master plan.

h. In addition to the summary statement of anticipated transportation impacts, an applicant shall provide a traffic impact study as specified by city requirements. The transportation impact study shall either:

i. Address the impacts of the development of the site consistent with all phases of the concept

development plan; or

ii. Address the impacts of specific phases if the city engineer determines that the traffic impacts of the full development can be adequately evaluated without specifically addressing subsequent phases.

i. If an applicant chooses to pursue option (h)(i), the applicant may choose among three options for implementing required transportation capacity and safety improvements:

i. The concept development plan may include a phasing plan for the proposed interior circulation system and for all on-site and off-site transportation capacity and safety improvements required on the existing street system as a result of fully implementing the plan. If this option is selected, the transportation phasing plan shall be binding on the applicant.

ii. The applicant may choose to immediately implement all required transportation safety and capacity improvements associated with the fully executed concept development plan. If this option is selected, no further transportation improvements will be required from the applicant. However, if a concept development plan is later amended in a manner so as to cause the projected average daily trips, the projected a.m. or p.m. peak hour trips, or the peak parking demand of the development to increase over original projections, an additional transportation impact report shall be required to be submitted during the detailed development plan review process for all future phases of the development project and additional improvements may be required.

iii. The applicant may defer implementation of any and all capacity and safety improvements required for any phase until that phase of the development reaches the detailed development plan stage. If this option is selected, the applicant shall submit a table linking required transportation improvements to vehicle trip thresholds for each development phase.

j. The applicant or city staff may propose objective development standards to address identified impacts that will apply within the proposed development on land that is controlled by the institution. Upon approval of the concept development plan, these standards will supercede corresponding development standards found in this code. Development standards shall address at least the following:

i. Pedestrian, bicycle and vehicle circulation and connectivity;

ii. Internal vehicle and bicycle parking;

iii. Building setbacks, landscaping and buffering;

iv. Building design, including pedestrian orientation, height, bulk, materials, ground floor windows and other standards of Chapter 17.62; and

v. Other standards that address identified development impacts.

2. Maps and Diagrams. The applicant must submit, in the form of scaled maps or diagrams, as appropriate, the following information:

a. A preliminary site circulation plan showing the approximate location of proposed vehicular, bicycle, and pedestrian access points and circulation patterns, parking and loading areas or, in the alternative, proposed criteria for the location of such facilities to be determined during detailed development plan review.

b. The approximate location of all proposed streets, alleys, other public ways, sidewalks, bicycle and pedestrian access ways and other bicycle and pedestrian ways, transit streets and facilities, neighborhood activity centers and easements on and within two hundred fifty feet of the site. The map shall identify existing subdivisions and development and un-subdivided or unpartitioned land ownerships adjacent to the proposed development site and show how existing streets, alleys,

sidewalks, bike routes, pedestrian/bicycle access ways and utilities within two hundred fifty feet may be extended to and/or through the proposed development.

c. The approximate location of all public facilities to serve the proposed development, including water, sanitary sewer, stormwater management facilities.

d. The approximate projected location, footprint and building square footage of each phase of proposed development.

e. The approximate locations of proposed parks, playgrounds or other outdoor play areas; outdoor common areas and usable open spaces; and natural, historic and cultural resource areas or features proposed for preservation. This information shall include identification of areas proposed to be dedicated or otherwise preserved for public use and those open areas to be maintained and controlled by the owners of the property and their successors in interest for private use.

C. Approval Criteria for Concept Development Plan. The planning commission shall approve an application for concept development plan approval only upon finding that the following approval criteria are met.

1. The proposed concept development plan is consistent with the purposes of Section 17.65.

2. The transportation system has sufficient capacity based on the city's level of service standards and is capable of safely supporting the development proposed in addition to the existing and planned uses in the area, or will be made adequate by the time each phase of the development is completed.

3. Public services for water supply, police, fire, sanitary waste disposal, and storm-water disposal are capable of serving the proposed development, or will be made capable by the time each phase of the development is completed.

4. The proposed concept development plan protects any inventoried Goal 5 natural, historic or cultural resources within the proposed development boundary consistent with the provisions of applicable overlay districts.

5. The proposed concept development plan, including development standards and impact mitigation thresholds and improvements adequately mitigates identified impacts from each phase of development. For needed housing, as that term is defined in ORS 197.303(1), the development standards and mitigation thresholds shall contain clear and objective standards.

D. Duration of Concept Development Plan. A concept development plan shall involve a planning period of at least five years and up to twenty years. An approved concept development plan shall remain in effect until development allowed by the plan has been completed through the detailed development plan process, the plan is amended or superceded, or the plan expires under its stated expiration date. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.060 Detailed development plan.

A. Submittal Requirements.

1. A transportation impact study documenting the on- and off-site transportation impacts, as specified in Section 17.65.050(B)(1)(h)(i). If such an analysis was submitted as part of the concept development plan process, the scope of the report may be limited to any changes which have occurred during the interim and any information listed below which was not a part of the initial study.

The on-site portion of the analysis shall include the location, dimensions and names of all proposed

streets, alleys, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle access ways and other pedestrian and bicycle ways, transit streets and facilities, neighborhood activity centers, and easements on and within two hundred fifty feet of the boundaries of the site. The map shall identify existing subdivisions and development and un-subdivided or unpartitioned land ownerships adjacent to the proposed development site and show how existing streets, alleys, sidewalks, bike routes, pedestrian/bicycle access ways and utilities within two hundred fifty feet may be extended to and/or through the proposed development.

2. The location within the development and in the adjoining streets of existing and proposed sewers, water mains, culverts, drain pipes, underground electric, cable television and telephone distribution lines, gas lines, and the location of existing aerial electric, telephone and television cable lines, if any, to be relocated within the development.

3. A site plan or plans, to scale, containing the required information identified in:

- a. Section 17.62.040(A)(8), (10), (11), (12), (13), (14), and (15);
- b. Section 17.62.040(B);
- c. Section 17.62.040(C);
- d. Section 17.62.040(D);
- e. Section 17.62.040(E);
- f. Section 17.62.040(G);
- g. Section 17.62.040(H); and
- h. Section 17.62.040(J).

4. Any other information the community development director deems necessary to show that the proposed development will comply with all of the applicable Chapter 17 requirements.

B. Approval Criteria. The community development director shall approve an application for detailed development plan approval only upon findings that:

1. All development standards and impact mitigation meet the requirements of the approved concept plan, including conditions of approval.
2. Any other applicable zoning regulations that are not addressed in the concept development plan are met, unless an adjustment to those regulations has been applied for and is approved. The approval standards applicable to adjustments required as part of a master plan are contained in Section 17.65.070.

3. The detailed development plan conforms with the standards contained in Chapter 17.62, unless adjusted as provided in Section 17.65.070.

C. Duration of Detailed Development Plan. Unless substantial expenditures have been made to implement the approved detailed development plan, defined as the submittal to the city of engineered plans for approval, a detailed development plan shall expire twenty-four months from the notice of decision date. The date of final approval includes the resolution of all appeals. Upon the receipt from the applicant of a written request and payment of the required fee prior to the expiration dated of the detailed development plan, the community development director may, on a one-time basis, grant a twelve-month extension. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.070 Adjustments to development standards.

A. Purpose. In order to implement the purpose of the city's master plan process, which is to foster the growth of major institutions and other large-scale development, while identifying and mitigating their impacts on surrounding properties and public infrastructure, an applicant may request one or more adjustments to the applicable development regulations as part of the master planning process.

B. Procedure. Requests for adjustments shall be processed concurrently with a concept development plan. An adjustment request at the detailed development plan review shall cause the detailed development plan to be reviewed as a Type III application.

C. Regulations That May Not be Adjusted. Adjustments are prohibited for the following items:

1. To allow a primary or accessory use that is not allowed by the regulations;
2. To any regulation that contains the word "prohibited";
3. As an exception to a threshold review, such as a Type III review process; and
4. Any exception to allow a use not identified as a permitted or conditional use in the underlying zone.

D. Approval Criteria. A request for an adjustment to one or more applicable development regulations under this section shall be approved if the review body finds that the applicant has shown the following criteria to be met.

1. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;
2. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project that is still consistent with the overall purpose of the zone;
3. City-designated Goal 5 resources are protected to the extent otherwise required by Title 17;
4. Any impacts resulting from the adjustment are mitigated; and
5. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.080 Amendments to approved plans.

A. When Required. An amendment to an approved concept development plan or detailed development plan is required for any use or development that is not in conformance with the applicable plan, as provided below. The approval criteria contained in Section 17.65.050 will apply to concept development plan amendments, the approval criteria contained in Section 17.65.060 will apply to detailed development plan amendments. The thresholds and procedures for amendments are stated below.

B. Type III Procedure. Unless the approved concept development plan or detailed development plan specifically provides differently, amendments to either plan that require a Type III procedure are:

1. Any proposed development on the site that is within one hundred feet of the master plan boundaries, unless a greater distance is stated in the master plan;
2. A proposed expansion of the approved boundary;
3. A proposed reduction in the approved boundary that affects a condition of approval, or takes the site out of conformance, or further out of conformance, with a development standard;
4. Proposals that increase the amount, frequency, or scale of a use over ten percent of what was

approved (examples include the number of students, patients or members; the number of helicopter flights; the number or size of special events);

5. New uses not covered in the plan that will increase vehicle transportation to the site, except for those that are replacing another use so that there is no net increase in vehicles drawn to the site;
6. Increases in overall floor area of development on the site of over ten percent;
7. A increases/decrease greater than ten percent in the amount of approved or required parking; and
8. Proposed uses or development which were reviewed, but were denied because they were found not to be in conformance with an approved plan.

C. Type II Procedure. Unless an approved plan specifically provides otherwise, amendments to a concept development plan or detailed development plan not specifically stated in subsection B or D are processed through a Type II procedure.

D. Type I Procedure. Unless an approved plan specifically provides otherwise, the following amendments to a concept development plan or detailed development plan shall be processed through a Type I procedure:

1. Accessory uses and structures that meet applicable development regulations;
2. Reconfiguration of approved parking or landscape designs that do not alter the points of ingress or egress, and do not change the number of parking spaces required, so long as the reconfiguration meets applicable development regulations; and
3. Structures for approved uses that do not exceed one thousand five hundred square feet in size and that meet applicable development regulations. (Ord. 03-1014, Att. B3 (part), 2003)

17.65.090 Regulations that apply.

An applicant is entitled to rely on land use regulations in effect on the date its concept development plan application was initially submitted, pursuant to ORS 227.178(3), as that statute may be amended from time to time. After a concept development plan is approved, and so long as that concept development plan is in effect, an applicant is entitled to rely on the land use regulations in effect on the date its concept development plan application was initially submitted, as provided above, when seeking approval of detailed development plans that implement an approved concept development plan. At its option, an applicant may request that a detailed development plan be subject to the land use regulations in effect on the date its detailed development plan is initially submitted. (Ord. 03-1014, Att. B3 (part), 2003)

[Title 17 ZONING](#)

Chapter 17.68 ZONING CHANGES AND AMENDMENTS

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17.68.010 Initiation of the amendment.

A text amendment to this title or the comprehensive plan, or an amendment to the zoning map or the comprehensive plan map, may be initiated by:

- A. A resolution request by the commission;
- B. An official proposal by the planning commission;
- C. An application to the planning division presented on forms and accompanied by information prescribed by the planning commission.

All requests for amendment or change in this title shall be referred to the planning commission. (Ord. 91-1007 §1 (part), 1991: prior code §11-12-1)

17.68.020 Criteria.

The criteria for a zone change are set forth as follows:

- A. The proposal shall be consistent with the goals and policies of the comprehensive plan.
- B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy.

Service shall be sufficient to support the range of uses and development allowed by the zone.

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.

D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment. (Ord. 91-1007 §1 (part), 1991: prior code §11-12-2)

17.68.025 Zoning changes for land annexed into the city.

A. Notwithstanding any other section of this chapter, when property is annexed into the city from the city/county dual interest area with any of the following comprehensive plan designations, the property shall be rezoned upon annexation to the corresponding city zoning designation as follows:

Plan Designation	Zone
Low-density residential	R-10
Medium-density residential	R-3.5
High-density residential	R-2
General commercial	C
Industrial	CI campus industrial
Mixed-use downtown	MUD
Mixed-use employment	MUE
Mixed-use commercial	MUC-1

B. Applications for these rezonings shall be reviewed pursuant to the requirements in Section 17.50.030(A) (with respect to nondiscretionary zone changes) and 17.50.030(D) (with respect to discretionary zone changes). (Ord. 03-1014, Att. B3 (part), 2003: Ord. 00-1003 §15, 2000; Ord. 92-1025 §1, 1992)

17.68.030 Public hearing.

A public hearing shall be held pursuant to standards set forth in Chapter 17.50.

A. Quasi-judicial reviews shall be subject to the requirements in Sections 17.50.210 through 17.50.250.

B. Legislative reviews shall be subject to the requirements in Section 17.50.260. (Ord. 91-1007 §1 (part), 1991: prior code §11-12-3)

17.68.040 Approval by the commission.

If the planning commission approves such request or application for an amendment, or change, it shall forward its findings and recommendation to the city commission for action thereon by that body. (Ord. 91-1007 §1 (part), 1991: prior code §11-12-4)

17.68.050 Conditions.

In granting a change in zoning classification to any property, the commission may attach such conditions and requirements to the zone change as the commission deems necessary in the public interest, in the nature of, but not limited to those listed in Section 17.56.010:

- A. Such conditions and restrictions shall thereafter apply to the zone change;
- B. Where such conditions are attached, no zone change shall become effective until the written acceptance of the terms of the zone change ordinance as per Section 17.50.330. (Ord. 91-1007 §1 (part), 1991: prior code §11-12-5)

17.68.060 Filing of an application.

Applications for amendment, or change in this title shall be filed with the planning division on forms available at city hall. At the time of filing an application, the applicant shall pay the sum listed in the community development department fee schedule. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 91-1007 §1 (part), 1991: prior code §11-12-6)

[Title 17 ZONING](#)

Chapter 17.70 VIOLATIONS-ENFORCEMENT

[17.70.010 Violations--Enforcement.](#)

17.70.010 Violations--Enforcement.

Any act or omission in violation of this chapter shall be deemed a nuisance. Violation of any provision of the zoning code is subject to the code enforcement procedures of Chapters 1.16, 1.20 and 1.24. (Ord. 99-1004 §30, 1999: Ord. 90-1051 §1, 1990: prior code §11-13-30)

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Chapter 17.80 COMMUNICATION FACILITIES

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[17.80.150 Fees.](#)

17.80.010 Purpose.

The provisions of this chapter are designed to protect the visual, aesthetic, and historical features of Oregon City, to ensure that wireless communications services are located, designed, installed, maintained, and removed in an appropriate manner for the safety, health, and welfare of the citizens of Oregon City, and to provide for development consistent with the Oregon City Comprehensive Plan by achieving the following goals:

1. Promote maximum utilization and encourage collocation of new and existing wireless communication antennas to minimize the total number of support structures and towers throughout the city;
2. Encourage careful consideration of topography, greenways, and historical significance of potential telecommunication sites and the use of camouflaging and screening to ensure development has minimal impacts on the community, views, and historical areas;
3. Encourage the use of existing buildings, light or utility poles, or water towers as opposed to construction of new telecommunication towers; and
4. Encourage the location of monopole telecommunication towers and antenna arrays in non-residential areas. (Ord. 02-1009 §2 (part), 2002)

17.80.020 Definitions.

The following definitions shall apply to this chapter:

“Amateur radio operators,” also identified as “ham radio operators,” are licensed by the United States Government.

“Antenna” means any pole, panel, rod, reflection disc or similar device used for the transmission or reception of radio frequency signals, including, but not limited to omni-directional antenna (whip), directional antenna (panel), micro cell, and parabolic antenna (dish). The antenna does not include the support structure or tower.

“Attachment” means an antenna or other piece of related equipment affixed to a transmission tower, building, light, utility pole, or water tower.

“Array” means the combination of antennas mounted on a support structure or support tower.

“Auxiliary support equipment” means all equipment necessary to provide wireless communication signals and data, including but not limited to, electronic processing devices, air conditioning units, and emergency generators. For the purpose of this chapter, auxiliary support equipment shall also include the shelter, cabinets, and other structural facilities used to house and shelter necessary equipment. Auxiliary support equipment does not include support towers or structures.

“Camouflage” means the design and construction of a wireless communications facility (WCF) to resemble an object that is not a wireless communication facility and which is typically present in the environment.

“Collocation” means the use of a common wireless communications support structure or tower for two or more antenna arrays.

“Federal Aviation Administration (FAA)” means the federal regulatory agency responsible for the safety of the nation’s air traffic control system, including airspace impacted by wireless communications support structures and towers.

“Federal Communications Commission (FCC)” means the federal regulatory agency charged with

regulating interstate and international communications by radio, television, wire, satellite, and cable.

“Height.” Height shall mean the distance measured from the original grade at the base of the wireless communication facility to the highest point on the wireless communication facility, including the antenna(s) and lightning rod(s).

“Infrastructure provider” means an applicant whose proposal includes only the construction of new support towers or auxiliary structures to be subsequently utilized by service providers.

“Landscaping” means to modify or ornament an area with native vegetation.

“Lattice tower” means a support tower characterized by an open framework of lateral cross members that stabilize the tower.

“Micro cell” means a wireless communications facility consisting of an antenna that is either: (a) four feet in height and with an area of not more than five hundred eighty square inches; or (b) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

“Monopole” means a support tower composed of a single upright pole, engineered to be self-supporting, and used to support one or more antenna(s) or array(s). A monopole does not include towers requiring guy wires or lattice cross supports.

“Radio frequency (RF) energy” means the energy used by cellular telephones, telecommunications facilities, and other wireless communications devices to transmit and receive voice, video, and other data information.

“Screening” means to effectively obscure to a minimum height of six feet the view of the base of a wireless communication facility.

“Self-supporting” means characterized by the independent support of itself or its own weight.

“Setback.” For purposes of this chapter, a setback is the required distance from any structural part of a wireless communication facility (including support wires, support attachments, and auxiliary support equipment) to the property line of the parent parcel on which the wireless communication facility is located.

“Support structure” means an existing building or other structure to which an antenna is or will be attached, including, but not limited to, buildings, steeples, water towers, and billboard signs. Support structures do not include support towers, buildings or structures used for residential purposes, utility poles, light standards, or light poles.

“Support tower” means a structure designed and constructed exclusively to support a wireless communication facility or an antenna array, including, but not limited to, monopoles, lattice towers, guyed towers, and self-supporting towers.

“Temporary wireless communication facility (temporary WCF)” means any wireless communication facility that is to be placed in use for not more than sixty days, is not deployed in a permanent manner, and does not have a permanent foundation.

“Utility pole placement/replacement” means placement of antennas or antenna arrays on existing or replaced structures such as utility poles, light standards, and light poles for streets and parking lots.

“Wireless communications.” Wireless communications means any personal wireless services as defined by the Federal Telecommunications Act of 1996 as amended, including but not limited to cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging, similar Federal Communications Commission-licensed commercial wireless telecommunications services, and wireless telecommunications services for public safety that

currently exist or that may be developed in the future.

“Wireless communications facility (WCF)” means any un-staffed facility for the transmission and/or reception of radio frequency signals, which includes, but is not limited to, all auxiliary support equipment, any support tower or structure used to achieve the necessary elevation for the antenna, transmission and reception cabling and devices, and all antenna arrays. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 02-1009 §2 (part), 2002)

17.80.030 Applicability and exemptions.

A. Applicability. All wireless communication facilities that are not exempt pursuant to this section shall conform to the standards specified in this chapter.

B. Exemptions - The following are exempt from the provisions of this chapter and shall be allowed:

1. Wireless communication facilities that were legally established prior to the effective date of this chapter;
2. Temporary facilities used on the same property for sixty days or less;
3. Temporary wireless communications facilities of all types that are used by a public agency solely for emergency communications in the event of a disaster, emergency preparedness, or public health or safety purposes;
4. Any maintenance or repair of previously approved wireless communications facilities provided that such activity does not increase the height, width, or mass of the facility;
5. Dish antennas used for residential purposes;
6. VHF and UHF receive-only television antennas and radio transmitter antennas on public facilities used for public safety, provided they are fifteen feet or less above the existing or proposed roof;
7. Amateur stations on properties zoned residential are exempt from the standards of this chapter. Amateur stations on properties zoned non-residential are exempt from the standards of this chapter, provided the antenna is fifteen feet or less above the existing or proposed roof. Amateur stations located on: (1) public facilities/property; or (2) properties zoned non-residential with an antenna in excess of fifteen feet above the existing or proposed roof, shall be reviewed under the compatibility review process set forth in this chapter and shall be subject to the design standards of Section 17.80.110; and
8. Wireless communication facilities for public safety are exempt from the following Sections: Section 17.80.090(C)(17), Section 17.80.090(D)(2), Section 17.80.090(D)(5), and Section 17.80.100. (Ord. 02-1009 §2 (part), 2002)

17.80.040 Collocation of additional antenna(s) on existing support towers.

The following standards shall apply for the placement of antenna(s) and auxiliary support equipment on an existing wireless communication facility support tower.

A. Compatibility Review. Required for property zoned GI, CI, I, C, MUC-1, MUC-2, MUE, MUD or NC.

B. Site Plan and Design Review. Required for all cases other than those identified in Section 17.80.040(A). (Ord. 04-1016, Att. 1 (part), 2004: Ord. 02-1009 §2 (part), 2002)

17.80.050 Collocation of additional antenna(s) on support structures.

The following standards shall apply for the placement of antenna(s) and auxiliary support equipment on a support structure.

A. Compatibility Review. Required if the following exist:

1. Property is zoned GI, CI, I, C, MUC-1, MUC-2, MUE, MUD or NC; and
2. Property is not located in the McLoughlin or Canemah Historical Conservation Districts; and
3. Antenna(s) and auxiliary support equipment are setback a minimum of ten feet from each edge of the support structure and do not exceed a total height of twelve feet or a total width of eight feet, unless the antenna(s) is less than four inches in diameter and does not exceed a total height of twenty feet.

B. Site Plan and Design Review. Required if the property is zoned GI, CI, I, C, MUC-1, MUC-2, MUE, MUD or NC and does not meet all the criteria of Section 17.80.050(A).

C. Conditional Use Review. Required for all cases other than those identified in Sections 17.08.050 (A) and (B). (Ord. 04-1016, Att. 1 (part), 2004: Ord. 02-1009 §2 (part), 2002)

17.80.060 Collocation of additional antenna(s) on existing utility poles, light standards, and light poles.

The following standards shall apply for the collocation of additional antenna(s) on existing utility poles, light standards, and light poles that meet the following requirements:

A. Site Plan and Design Review. Required for property zoned GI, CI, I, C, MUC-1, MUC-2, MUE, MUD or NC.

B. Conditional Use Review. Required for all cases other than those identified in Section 17.80.060(A).

C. Permits. The applicant shall apply for and obtain all permits necessary for the construction, installation, and operation of its facilities in the streets. The applicant shall pay all applicable fees due for city permits. All construction and maintenance of any and all of the applicant's facilities within the streets incident to the applicant's provision of telecommunications services shall, regardless of who performs installation and/or construction, be and remain the responsibility of the applicant.

D. Installation of Equipment. The applicant's facilities shall be installed and maintained in accordance with the laws of the state of Oregon and the ordinances and standards of the city regulating such construction.

E. Common Users. The applicant's facilities shall be attached to utility poles, light standards, and light poles located within the streets. The applicant shall also allow and encourage other wireless carriers to collocate facilities on the utility poles, light standards, and light poles with the applicant's facilities, provided such collocation does not interfere with the applicant's facilities or jeopardize the physical integrity of the structure and provided the owner of the structure consents to such collocation.

F. Scale of Facilities. This section establishes standards for attaching facilities to utility poles, light standards, and light poles in the streets in a manner that minimizes the facilities' potential

incompatibility with adjacent uses.

1. Facilities may be collocated on existing utility poles, light standards, and light poles, provided:
 - a. Facilities do not jeopardize the physical integrity of the utility pole, light standard, or light pole;
 - b. Triangular “top hat” style antenna mounts are prohibited;
 - c. The device used to mount the facilities does not project more than ten feet above the utility pole, light standard, or light pole;
 - d. Antennas will be mounted flush with the device referenced in Section 17.80.060(F)(1)(c) or the existing utility pole, light standard, or light pole, within a unicell-style top cylinder, or on davit arms that are no greater than five feet in length as measured from the center of the utility pole, light standard, or light pole;
 - e. The visual impact of any facilities located in the streets must be minimized by utilizing the smallest antennas, equipment, and equipment cabinets available that will satisfy engineering requirements and the service objectives of the site. Whenever possible, facilities shall be painted or otherwise treated architecturally so as to minimize visual impacts;
 - f. All antennas, cabling, mounting hardware, and associated microcell/equipment cabinets mounted on an existing utility pole, light standard, or light pole must be painted to match the color of the utility pole, light standard, or light pole. If cabinets require a special heat-reducing paint finish, they must be a neutral color such as beige, off-white, or light gray; and
 - g. The existing utility pole, light standard, or light pole is not replaced with a taller utility pole, light standard, or light pole, except as authorized in Section 17.80.060(F)(2).
2. Replacement Utility Poles, Light Standards, and Light Poles. For purposes of this section, “replacement utility poles, light standards, and light poles” shall mean a utility pole, light standard, or light pole that:
 - (a) replaces an existing or original utility pole, light standard, or light pole to accommodate facilities; and
 - (b) does not result in an increase in the total number of utility, guy, or support poles in the streets. Facilities may be attached to replacement utility poles, light standards, and light poles in the streets, provided:
 - a. The replacement utility poles, light standards, and light poles are of sufficient integrity to support the facilities;
 - b. The replacement utility poles, light standards, and light poles, and any subsequent replacements, are no more than twenty feet taller than the original utility pole, light standard, or light pole; and
 - c. The utility pole, light standard, or light pole the replacement utility pole, light standard, or light pole replaces is promptly removed.
3. The applicant shall not locate any facilities, such as cabinets, at grade within the streets, but may connect its facilities in the streets to facilities located on property adjacent to the streets in accordance with applicable city codes and with the permission of the adjacent property owner. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 02-1009 §2 (part), 2002)

17.80.070 Construction or modification of a support tower.

A. Site Plan and Design Review. Required if the following exists:

1. Property is zoned GI, CI, I, C, MUC-2 or MUE; and

2. No adjacent parcel is zoned for residential use.

B. Conditional Use Review. Required for all cases other than those identified in Section 17.80.070(A).

C. Prohibited Zoning Districts and Locations. No new support towers shall be permitted within the Canemah Historic Neighborhood, McLoughlin Conservation District, The Oregon Trail-Barlow Road Historic Corridor, five hundred feet of the Willamette Greenway Corridor, or any new historic districts unless the applicant can demonstrate that failure to allow the support tower would effectively prevent the provision of communication services in that area. If the applicant makes such a demonstration, the minimum height required to allow that service shall be the maximum height allowed for the tower. (Ord. 04-1016, Att. 1 (part), 2004; Ord. 02-1009 §2 (part), 2002)

17.80.080 Site review process.

No wireless communications facilities, as defined in Section 17.80.020, may be constructed, collocated, modified to increase height, installed, or otherwise located within the city except as provided in this section. Depending on the type and location of the wireless communication facility, the facility shall be subject to the following review unless collocation or an increase in height was granted through a prior land use process. A conditional use review shall require site plan and design review to occur concurrently with the conditional use review process.

A. Compatibility Review. A wireless communication facility that, pursuant to Sections 17.80.030 through 17.80.050, is subject to a compatibility review shall be processed in accordance with standards of Section 17.80.110. The criteria contained in Section 17.80.110 shall govern approval or denial of the compatibility review application. No building permit shall be issued prior to completion of the compatibility review process.

B. Site Plan and Design Review. A wireless communication facility that, pursuant to Sections 17.80.040 through 17.80.070, is subject to site plan and design review shall be processed in accordance with the standards of Section 17.80.110 and Chapter 17.62, as applicable. The criteria contained in Section 17.80.110 and Chapter 17.62 shall govern approval or denial of the site plan and design review application. In the event of a conflict in criteria, the criteria contained in this chapter shall govern. No building permit shall be issued prior to completion of the site plan and design review process, including any local appeal.

C. Conditional Use Review. A wireless communication facility that, pursuant to Sections 17.80.050 through 17.80.070, is subject to conditional use review, shall be processed in accordance with the Standards of Section 17.80.110 and Chapter 17.56, as applicable. The criteria contained in Section 17.80.110 and Chapter 17.56 shall govern approval or denial of the conditional use review application. In the event of a conflict in criteria, the criteria contained in this chapter shall govern. No building permit shall be issued prior to completion of the conditional use review process, including any local appeal. (Ord. 02-1009 §2 (part), 2002)

17.80.090 Permit application requirements.

A. Compatibility review requirements. For an application under Sections 17.80.030(B)(7), 17.80.040(A) or 17.80.050(A), the following information is required:

1. Compatibility review fee;

2. Planning division land use application form;
 3. A narrative of the proposed project that includes a description of the following:
 - a. Need for the project;
 - b. Rationale and supporting evidence for the location; and
 - c. Description of the project design and dimensions.
 4. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antenna(s) are collocated on or in structures directly across from or adjacent to the antenna(s);
 5. Documentation that the auxiliary support equipment shall not produce sound levels in excess of standards contained in Section 17.80.110(G), or designs showing how the sound is to be effectively muffled to meet those standards;
 6. Signature of the property owner(s) on the application form or a statement from the property owner (s) granting authorization to proceed with building permit and land use process;
 7. Documentation of the integrity of the support tower, support structure, utility pole, light standard, or light pole to safely handle the load created by the collocation;
 8. Elevations showing all improvements and connections to utilities; and
 9. Color simulations of the site after construction demonstrating compatibility.
- B. Site plan and design review. For an application under Sections 17.80.040(B), 17.80.050(B), 17.80.060(A), or 17.80.070(A) the following information is required:
1. Site plan and design review fee and application requirements;
 2. Pre-application notes;
 3. Planning division land use application form;
 4. A narrative of the proposed project that includes a description of the following:
 - a. Need for the project;
 - b. Rationale and supporting evidence for the location; and
 - c. Description of the project design and dimensions.
 5. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antenna(s) are collocated on or in structures directly across from or adjacent to the antenna(s);
 6. Documentation that the auxiliary support equipment shall not produce sound levels in excess of standards contained in Section 17.80.110(G), or designs showing how the sound is to be effectively muffled to meet those standards;
 7. Signature of the property owner(s) on the application form or a statement from the property owner (s) granting authorization to proceed with building permit and land use processes;
 8. Documentation of the integrity of the support tower, support structure, utility pole, light standard, or light pole to safely handle the load created by the collocation;
 9. Elevations showing all improvements and connections to utilities;

10. Color simulations of the site after construction demonstrating compatibility;
 11. Response to Site Plan and Design Review Standards of Chapter 17.62.050; and
 12. For an application under Section 17.80.070, construction or modification of a support tower, the requirements listed under Section 17.80.090(D), supplemental information is required.
- C. Conditional use review. For an application under Sections 17.80.050(C), 17.80.060(B), or 17.80.070(B) the following information is required:
1. Conditional use fee and application requirements;
 2. Site plan and design review fee and application requirements;
 3. Pre-application notes;
 4. Planning division land use application form;
 5. A narrative of the proposed project that includes a description of the following:
 - a. Need for the project;
 - b. Rationale and supporting evidence for the location; and
 - c. Description of the project design and dimensions.
 6. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antenna(s) are collocated on or in structures directly across from or adjacent to the antenna(s);
 7. Documentation that the auxiliary support equipment shall not produce sound levels in excess of standards contained in Section 17.80.110(G), or designs showing how the sound is to be effectively muffled to meet those standards.
 8. Signature of the property owner(s) on the application form or a statement from the property owner (s) granting authorization to proceed with building permit and land use processes;
 9. Documentation of the integrity of the support tower, support structure, utility pole, light standard, or light pole to safely handle the load created by the collocation;
 10. Elevations showing all improvements and connections to utilities;
 11. Color simulations of the site after construction demonstrating compatibility;
 12. Response to site plan and design review standards of Chapter 17.62.050;
 13. For an application under Section 17.80.070, construction or modification of a support tower, the requirements listed under Section 17.80.090(D), supplemental information are required;
 14. Responses to conditional use review criteria under Chapter 17.56.010;
 15. For an application under Section 17.80.050(C), collocation of additional antenna(s) on support Structures, rationale for being unable to collocate in areas identified in Sections 17.80.050(A) and (B) shall be provided;
 16. For an application under Section 17.80.060(B), collocation of additional antenna(s) on utility poles, light standards, and light poles, rationale for being unable to collocate in areas identified in Section 17.80.060(A) shall be provided; and
 17. For an application under Section 17.80.070(B), construction or modification of a support tower, rationale for being unable to collocate in areas identified in Section 17.80.070(A) shall be provided.

D. Supplemental information. The applicant shall submit the following information:

1. The capacity of the support tower in terms of the number and type of antennas it is designed to accommodate;
2. A signed agreement, as supplied by the city, stating that the applicant shall allow collocation with other users, provided all safety, structural, technological, and monetary requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower.
3. Documentation demonstrating that the Federal Aviation Administration has reviewed and approved the proposal, and Oregon Aeronautics Division has reviewed the proposal. Alternatively, a statement documenting that notice of the proposal has been submitted to the Federal Aviation Administration and Oregon Aeronautics Division may be submitted. The review process may proceed and approval may be granted for the proposal as submitted, subject to Federal Aviation Administration approval. If Federal Aviation Administration approval requires any changes to the proposal as initially approved, then that initial approval shall be void. A new application will need to be submitted, reviewed, and approved through an additional site plan and design review or conditional use review process. No building permit application shall be submitted without documentation demonstrating Federal Aviation Administration review and approval and Oregon aeronautics division review.
4. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and auxiliary support equipment from at least five points within a one-mile radius. Such points shall be chosen by the provider with a review and approval by the planning manager to ensure that various potential views are represented.
5. Documentation that one or more wireless communications service providers will be using the support tower within sixty days of construction completion.
6. A site plan, drawn to scale, that includes:
 - a. Existing and proposed improvements;
 - b. Adjacent roads;
 - c. Parking, circulation, and access;
 - d. Connections to utilities, right-of-way cuts required, and easements required;
 - e. A landscape plan describing the maintenance plan and showing areas of existing and proposed vegetation to be added, retained, replaced, or removed; and
 - f. Setbacks from property lines or support structure edges of all existing and proposed structures. Plans that have been reduced, but have not had their scale adjusted, will not be accepted as satisfying this requirement.
7. An alternatives analysis for new support towers demonstrating compliance with the support tower location requirements of Chapter 17.80.100. (Ord. 02-1009 §2 (part), 2002)

17.80.100 Support tower location requirements.

No new support tower shall be permitted under the provisions of Chapter 17.80.070 unless the applicant demonstrates to the satisfaction of the planning manager, and the results are verified by a state of Oregon certified professional engineer, that no existing collocation or modification possibility can accommodate the service needs of the applicant's proposed support tower. All proposals for new

support towers must be accompanied by a statement and documentation from a qualified engineer, as determined by the planning manager, that the necessary service cannot be provided by collocation on, or modification to, an existing support tower or structure for one or more of the following reasons:

- A. No existing support towers or support structures are located within the geographic area required to meet the applicant's engineering requirements;
- B. Existing support towers or support structures are not of sufficient height to meet the applicant's engineering requirements;
- C. Existing support towers or support structures do not have sufficient structural strength to support the applicant's proposed antenna(s) and related equipment.
- D. The applicant's proposed antenna would cause electromagnetic interference with the antenna(s) on the existing support tower or support structure, or the existing antenna would cause interference with the applicant's proposed antenna(s);
- E. The applicant demonstrates that there are other limiting factors that render existing support towers and support structures unsuitable; or
- F. That fees, costs, or contractual provisions required by the owner in order to share or adapt to an existing support tower or support structure for collocation are unreasonable. (Ord. 02-1009 §2 (part), 2002)

17.80.110 Design standards.

Installation, collocation, construction, or modification of all support towers, structures, and antennas shall comply with the following standards, unless an adjustment is obtained pursuant to the provisions of Section 17.80.120.

- A. Support Tower. The support tower shall be self-supporting.
- B. Height Limitation. Support tower and antenna heights shall not exceed the maximum heights provided below.
 - 1. If the property is zoned:
 - a. GI, CI or I; and
 - b. No adjacent parcel is zoned residential; the maximum height of a support tower, including antennas, is one hundred twenty feet.
 - 2. If the property is zoned:
 - a. GI, CI or I, and an adjacent parcel is zoned residential; or
 - b. C, MUC-2 or MUE;the maximum height of a support tower, including antennas, is one hundred feet.
 - 3. If the property is zoned:
 - a. MUC-1, MUD or NC;the maximum height of a support tower, including antennas, is seventy-five feet.
 - 4. For all cases other than those identified in Section 17.80.110(B)(1)-(B)(3) above, the maximum

height of a support tower, including antennas, is seventy-five feet.

C. Collocation. New support towers shall be designed to accommodate collocation of additional providers.

1. New support towers of a height greater than seventy-five feet shall be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification of the tower.

2. New support towers of a height between sixty feet and seventy-five feet shall be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification of the tower.

D. Setbacks. The following setbacks shall be required from property lines, not the lease area, for support towers, auxiliary support equipment, and perimeter fencing.

1. Support towers not designed to collapse within themselves shall be setback from all property lines a distance equal to the proposed height of the support tower.

2. Support towers designed to collapse within themselves shall be setback from the property line a distance equal to the following:

a. If the property is zoned:

i. GI, CI, I, C, MUC-2 or MUE; and

ii. No adjacent parcel is zoned for a residential use; the underlying zone setback shall apply;

b. If the property is zoned:

i. GI, CI, I, C, MUC-2 or MUE and an adjacent parcel is zoned residential; or

ii. MUC-1, MUD or NC; the setback shall be a minimum of twenty-five feet from all adjacent residentially zoned property lines and the underlying zoning setback for all other adjacent property lines; or

c. For all cases other than those identified in Section 17.80.110(D)(2)(a) and (b) above, the setback shall be a minimum of twenty-five feet from all adjacent property lines.

E. Auxiliary Support Equipment. The following standards shall be required.

1. If the property is zoned:

a. For GI, CI, I, MUC-1, MUC-2, C, MUD, MUE or NC, the auxiliary support equipment footprint shall not exceed an area of three hundred forty square feet and fifteen feet in height at the peak;

b. For all cases other than those identified in Section 17.80.110(E)(1)(a) above, the auxiliary support equipment shall be:

i. Located in an underground vault to the maximum extent practicable; or

ii. The applicant shall demonstrate why locating the auxiliary support equipment underground would limit the applicant's ability to fully utilize camouflage technology that might better suit the particular situation, in which case the standards of Section 17.80.110(E)(1)(a) shall apply.

2. Only one auxiliary accessory cabinet shall be allowed per service provider located on a support structure.

F. Landscaping. In all zoning districts, existing vegetation shall be preserved to the maximum extent practicable. Screening of a site is mandatory.

1. If the property is zoned:

- a. GI or CI, and no adjacent parcel is zoned residential, landscaping may not be required if water quality issues are addressed and appropriate screening around the facility is proposed;
- b. For all cases other than those identified in Section 17.80.110(F)(1)(a) above, landscaping shall be placed completely around the perimeter of the wireless communication facility, except as required to gain access. The minimum planting height shall be a minimum of six feet at the time of planting, densely placed so as to screen the facility. The landscaping shall be compatible with vegetation in the surrounding area, and shall be kept healthy and well maintained as long as the facility is in operation. Failure to maintain the site will be grounds to revoke the ability to operate the facility.

G. Noise Reduction. Noise generating equipment shall be baffled to reduce sound level measured at the property line to the following levels except during short durations for testing and operation of generators in emergency situations:

1. For any property where no adjacent parcel is zoned residential, the sound level at the property line shall not be greater than fifty dB;
2. For all other cases, the sound level shall not be greater than forty dB when measured at the nearest residential parcel's property line.

H. Lighting.

1. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited.
2. Strobe lighting is prohibited unless required by the Federal Aviation Administration.
3. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment shall be initiated by motion detecting lighting. The lighting shall be the minimal necessary to secure the site, shall not cause illumination on adjacent properties in excess of a measurement of 0.5 footcandles at the property line, and shall be shielded to keep direct light within the site boundaries.

I. Color.

1. Unless otherwise required by the Federal Aviation Administration, all support towers and antennas shall have a non-glare finish and blend with the natural background.

J. Signage.

1. Support towers and antenna(s) shall not be used for signage, symbols, flags, banners, or other devices or objects attached to or painted on any portion of a wireless communication facility.

K. Access Drives.

1. On a site with an existing use, access shall be achieved through use of the existing drives to the greatest extent practicable. If adequate intersection sight distance is unavailable at the existing access intersection with a city Street, an analysis of alternate access sites shall be required.
2. Site shall be serviced by an access adequate to ensure fire protection of the site.
3. New access drives shall be paved a minimum of twenty feet deep from the edge of the right-of-way (though the use of pervious paving materials such as F-mix asphalt, pavers, or geotech webbing is encouraged) and designed with material to be as pervious as practicable to minimize stormwater runoff.
4. New access drives shall be reviewed for adequate intersection sight distances.

L. Informing the City. All service providers with facilities within Oregon City shall be required to report in writing to the planning manager any changes in the status of their operation.

1. An annual written statement shall be filed with the planning manager verifying continued use of each of their facilities in the city's jurisdiction as well as continued compliance with all state and federal agency regulations.
2. The report shall include any of the following changes:
 - a. Changes in or loss of Federal Communication Commission license from the Federal Communication Commission to operate;
 - b. Receipt of notice of failure to comply with the regulations of any other authority over the business or facility;
 - c. Change in ownership of the company that owns wireless communication facility or provides telecommunications services; or
 - d. Loss or termination of lease with the telecommunications facility for a period of six months or longer. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 02-1009 §2 (part), 2002)

17.80.120 Adjustments.

Adjustments to the standards of this chapter may be approved by the planning commission at a duly noticed public hearing. The planning commission may grant an adjustment under either of the following circumstances:

1. The planning commission may grant an adjustment when a gap in the applicant's service exists and the gap can only be alleviated through the adjustment of one or more of the standards in this section. If an adjustment is to be approved, the applicant must demonstrate each of the following:
 - a. A gap in coverage or capacity exists in the wireless communication provider's service network that results in network users being regularly unable to connect with the provider's network, or maintain connection;
 - b. The proposed facility will fill the existing service gap. The gap would be filled if the proposed facility would substantially reduce the frequency with which users of the network are unable to connect, or maintain connection, with the provider's network; and
 - c. The gap cannot be filled through collocation on existing facilities, or establishment of facilities that are consistent with the standards of this section on properties other than the proposed site or on the proposed site in a manner which does not require an adjustment under this subsection.
2. The planning commission may grant an adjustment to a standard when the proposed adjustment would utilize existing site characteristics to minimize demonstrated or potential impacts on the use of surrounding properties. For the purposes of this subsection, site characteristics shall include, but need not be limited to, the suitability of the proposed use considering size, shape, location, topography, existence of improvements, and natural features. Applicants for an adjustment under this provision must demonstrate that the adjustment will result in a lower level of impact on surrounding properties than would be generated if the standard were not adjusted. In considering the requested adjustment, the planning commission may consider the following:
 - a. Visual impacts;
 - b. Impacts on views;
 - c. Impacts on property values; and

d. Other impacts that the planning commission finds can be mitigated by an adjustment so that the proposed use will have greater compliance in not altering the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary use listed in the underlying district.

3. Requests for adjustments under this subsection shall only be considered concurrently with the applicable site review process as required by Section 17.80.080. If the site review process required by Section 17.80.080 is a compatibility review or a site plan and design review, the inclusion of an adjustment will require that the application be subject to a conditional use review under Section 17.80.090.C. (Ord. 02-1009 §2 (part), 2002)

17.80.130 Temporary facilities.

In order to facilitate continuity of services during maintenance or repair of existing installations, or prior to completion of construction of a new wireless communication facility, temporary wireless communication facilities shall be allowed subject to a Type I administrative review. Temporary wireless communication facilities shall not be in use in excess of six-month period. Temporary wireless communication facilities shall not have a permanent foundation, and shall be removed within thirty days of suspension of service they provide. (Ord. 02-1009 §2 (part), 2002)

17.80.140 Removal for discontinuance of service.

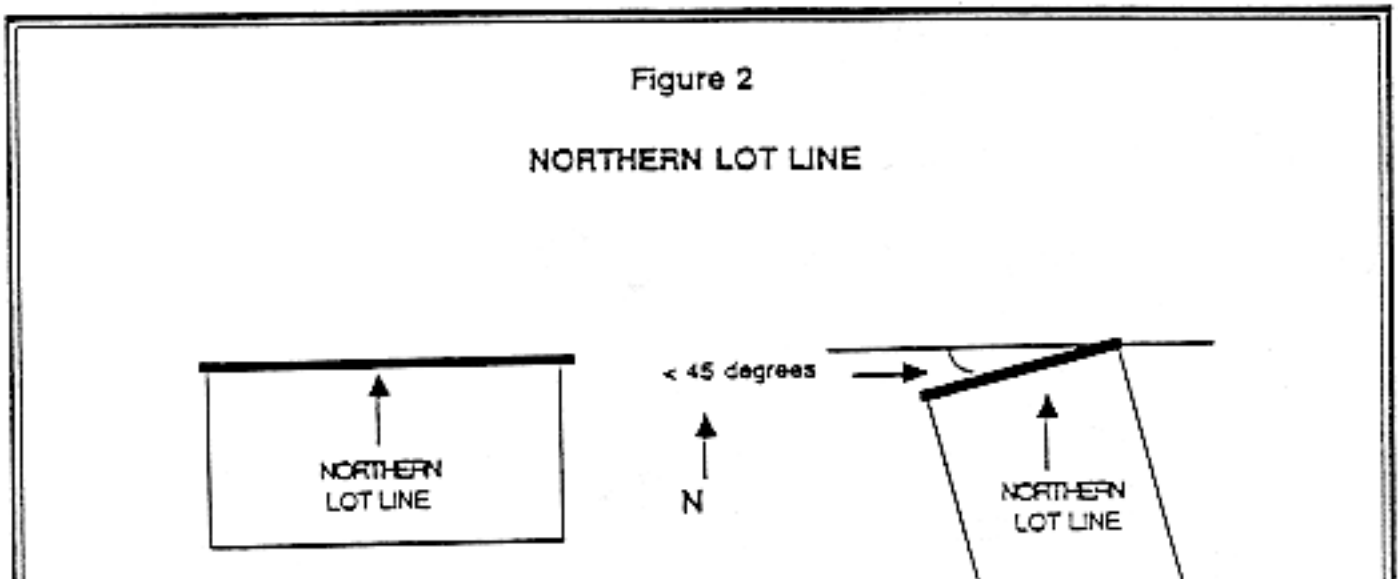
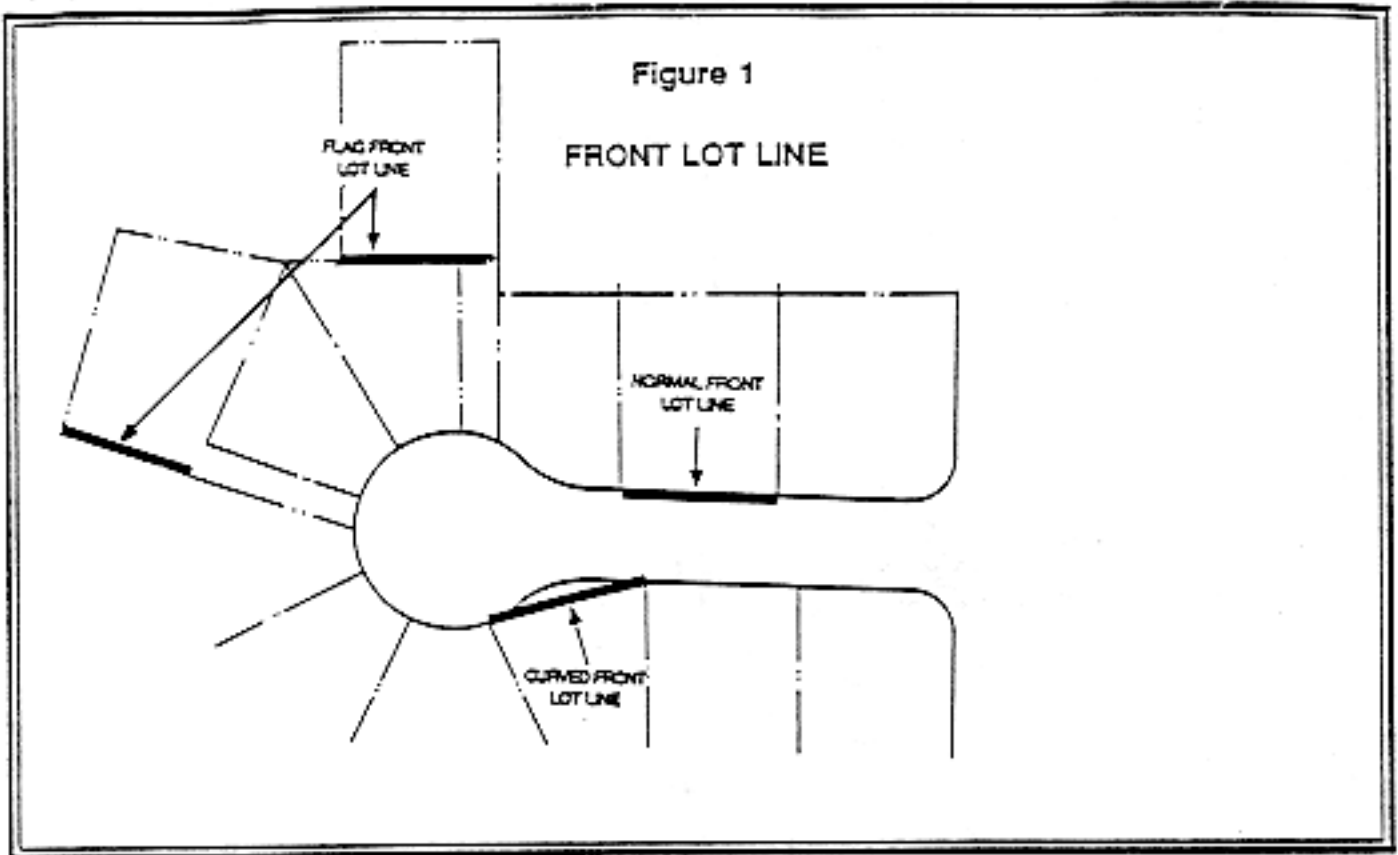
Any wireless communication facility that has not provided service for six months shall be deemed a nuisance and subject to removal as provided in Oregon City Municipal Code Chapter 8.08. The planning manager may grant a six-month extension where a written request has been filed, within the initial six months period, to reuse the support tower or antenna(s). (Ord. 02-1009 §2 (part), 2002)

17.80.150 Fees.

Notwithstanding any other provisions of this code, the community development director may require, as part of the application fees for land use permits, an amount sufficient to recover all of the city's costs in retaining consultants to verify statements made in conjunction with the permit application, to the extent that verification requires telecommunication experts. (Ord. 04-1016, Att. 1 (part), 2004: Ord. 02-1009 §2 (part), 2002)

Title 17 ZONING

Chapter 17 Figures



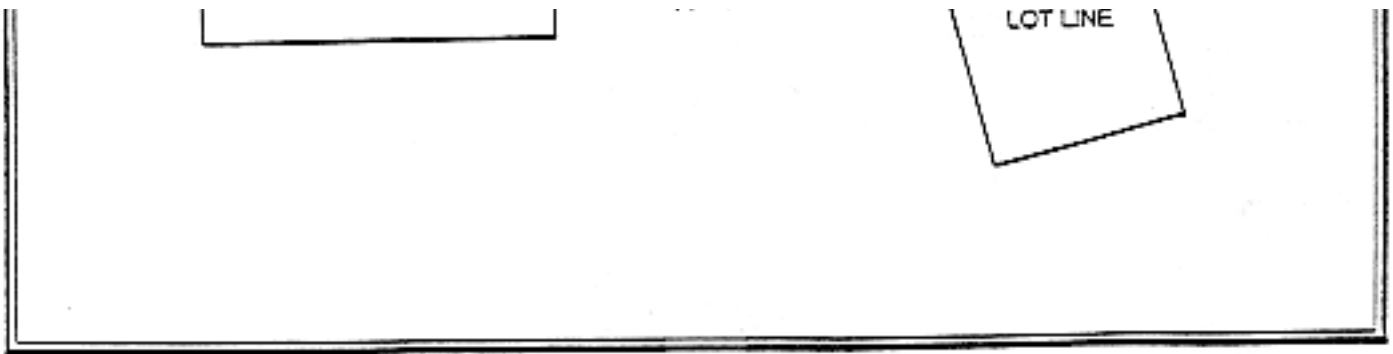


Figure 3

NORTH-SOUTH DIMENSION OF THE LOT

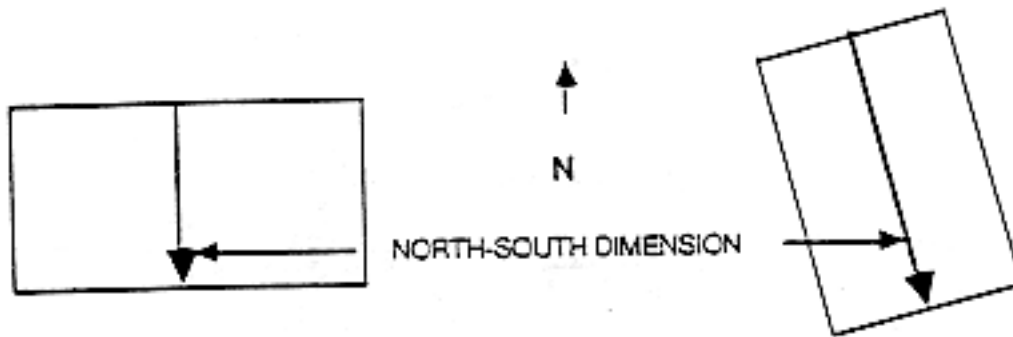
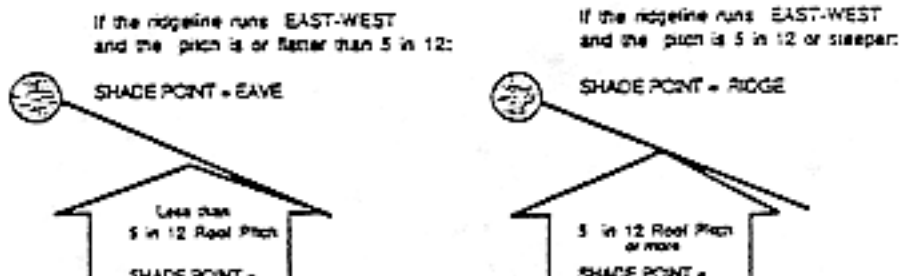


Figure 4

HEIGHT OF THE SHADE POINT OF THE STRUCTURE



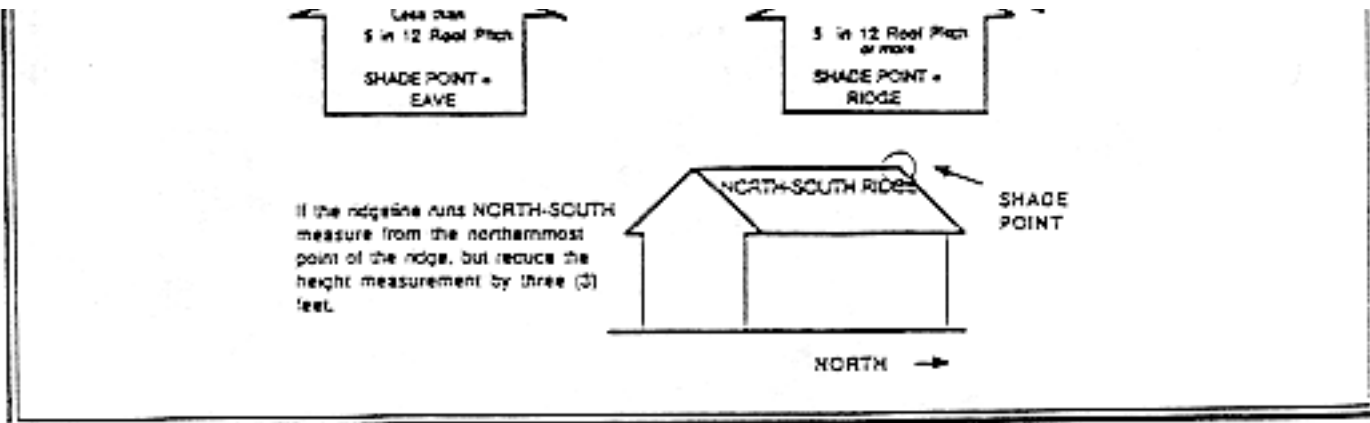


Figure 5

SHADE POINT HEIGHT

Measure to average grade at the front lot line.

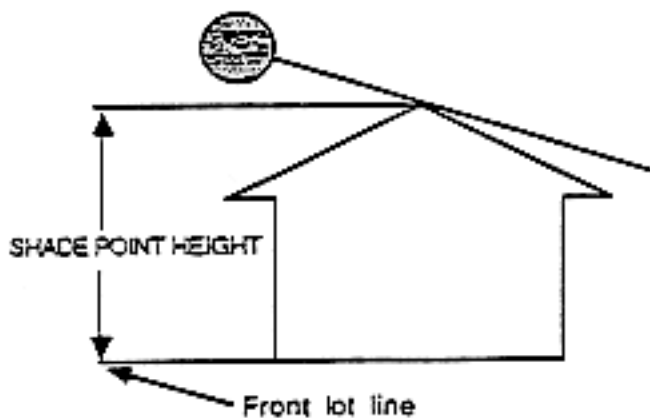


Figure 6

SHADE REDUCTION LINE

Shade Reduction Line
measured to Shade Point
from Northern Lot Line

The diagram shows a partial view of a house with a roof. An arrow points from the northern lot line to the peak of the roof, illustrating the measurement for the shade reduction line.

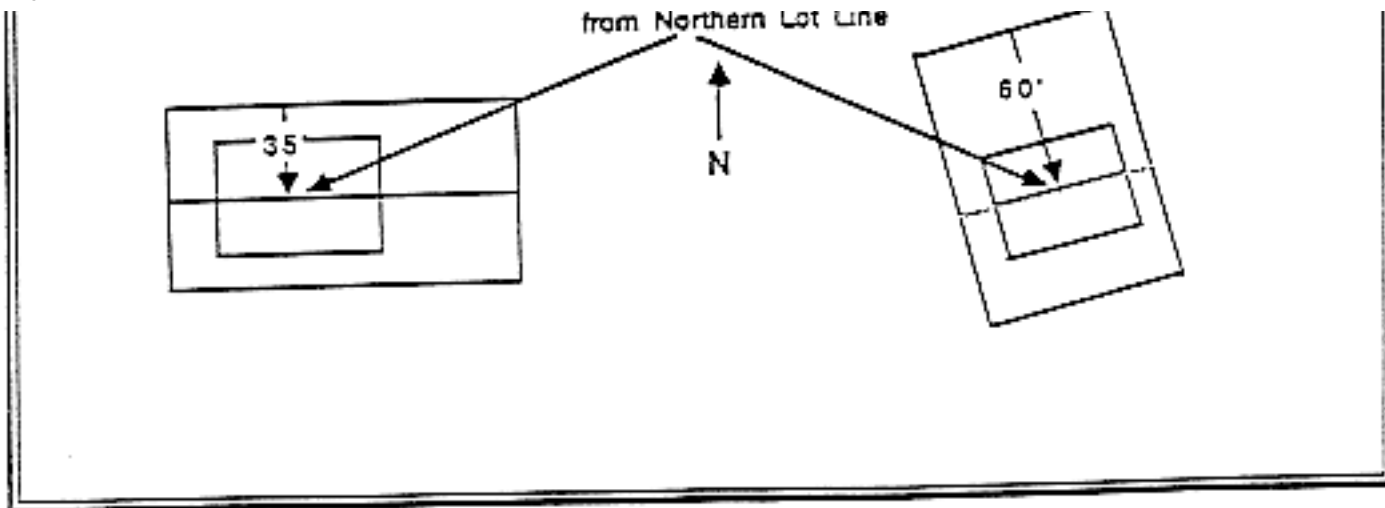


Figure 7
SOLAR GAIN LINE

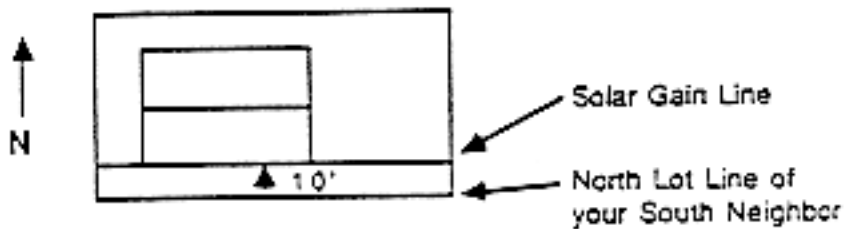
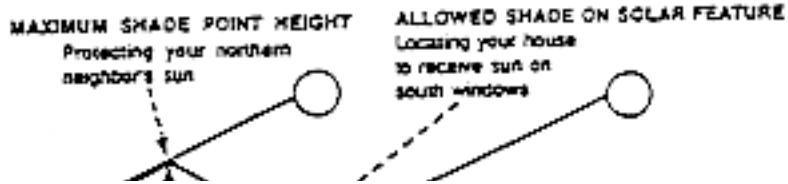


Figure 8
SOLAR BALANCE POINT STANDARD



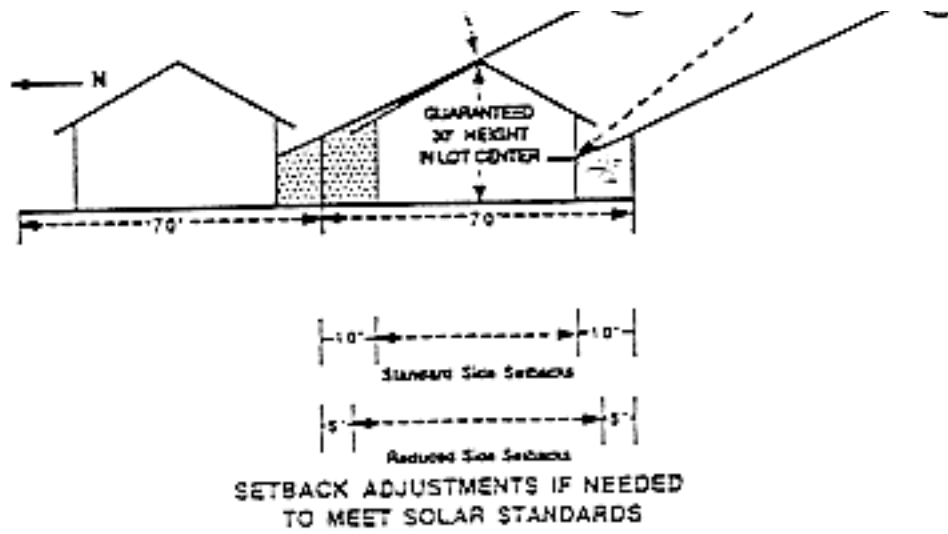


Figure 9

SOLAR LOT OPTION 1: BASIC REQUIREMENTS

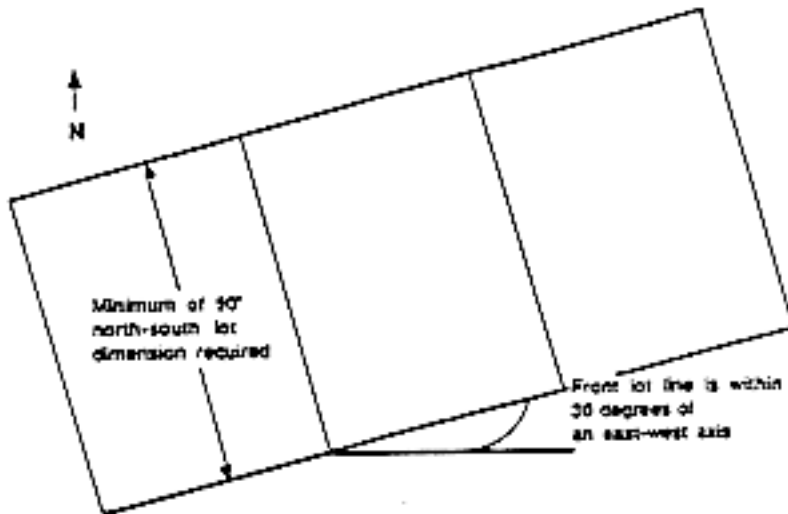


Figure 10

SOLAR LOT OPTION 2: PROTECTED SOLAR BUILDING LINE



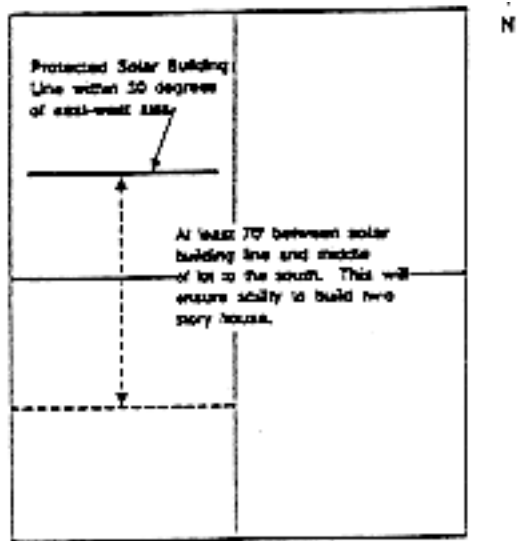


Figure 11

SOLAR ACCESS HEIGHT LIMIT

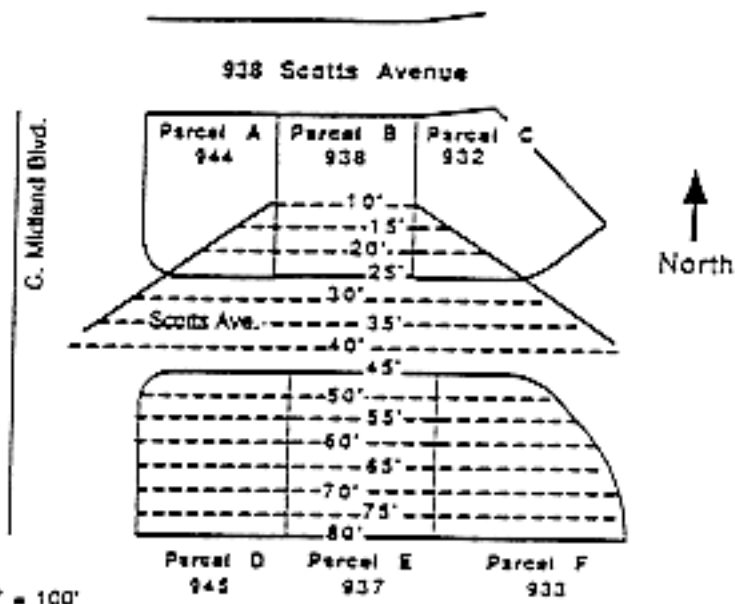


Figure 12

SHADOW PATTERN

