

7.1.1 GENERAL CODE PROVISIONS

7.1.101 TITLE

7.1.102 PURPOSE AND SCOPE

- 7.1.102.01 Purpose
- 7.1.102.02 Conformance Required
- 7.1.102.03 Administration
- 7.1.102.04 Interpretation
- 7.1.102.05 Effect on Other Public and Private Regulations and Restrictions
- 7.1.102.06 Violations
- 7.1.102.07 Savings Clause
- 7.1.102.08 Conflicting City Provisions

7.1.103 ESTABLISHMENT OF ZONING DISTRICTS

- 7.1.103.01 Districts
- 7.1.103.02 Comprehensive Plan Designation and Zoning Districts
- 7.1.103.03 Boundaries

7.1.2 DEFINITIONS

7.1.200 DEFINITIONS

- 7.1.200.01 General Provisions
- 7.1.200.02 Grammatical Interpretation
- 7.1.200.03 Definitions

7.2.1 LAND USE ZONING

7.2.101 GENERAL PROVISIONS

- 7.2.101.01 Interpretation of Uses

7.2.102 SINGLE FAMILY RESIDENTIAL - (R-1)

- 7.2.102.01 Purpose
- 7.2.102.02 Permitted Uses
- 7.2.102.03 Special Permitted Uses
- 7.2.102.04 Conditional Uses
- 7.2.102.05 Dimensional Standards
- 7.2.102.06 Development Standards

7.2.103 LIMITED DENSITY RESIDENTIAL - (R-2)

- 7.2.103.01 Purpose 7.2.1-9
- 7.2.103.02 Permitted Uses 7.2.1-9
- 7.2.103.03 Special Permitted Uses 7.2.1-9
- 7.2.103.04 Conditional Uses 7.2.1-10
- 7.2.103.05 Dimensional Standards 7.2.1-10
- 7.2.103.06 Development Standards 7.2.1-11

7.2.104 MEDIUM DENSITY RESIDENTIAL - (R-3)

- 7.2.104.01 Purpose
- 7.2.104.02 Permitted Uses
- 7.2.104.03 Special Permitted Uses
- 7.2.104.04 Conditional Uses
- 7.2.104.05 Dimensional Standards
- 7.2.104.06 Development Standards

7.2.105 COMMERCIAL RESIDENTIAL - (CR)

- 7.2.105.01 Purpose
- 7.2.105.02 Permitted Uses
- 7.2.105.03 Special Permitted Uses
- 7.2.105.04 Conditional Uses
- 7.2.105.05 Dimensional Standards
- 7.2.105.06 Development Standards

7.2.106 COMMERCIAL - (C)

- 7.2.106.01 Purpose
- 7.2.106.02 Permitted Uses
- 7.2.106.03 Special Permitted Uses
- 7.2.106.04 Conditional Uses
- 7.2.106.05 Dimensional Standards
- 7.2.106.06 Development Standards

7.2.107 INDUSTRIAL - (I)

- 7.2.107.01 Purpose
- 7.2.107.02 Permitted Uses
- 7.2.107.03 Special Permitted Uses
- 7.2.107.04 Conditional Uses
- 7.2.107.05 Dimensional Standards
- 7.2.107.06 Development Standards

7.2.108 PUBLIC - (P)

- 7.2.108.01 Purpose
- 7.2.108.02 Permitted Uses
- 7.2.108.03 Special Permitted Uses
- 7.2.108.04 Conditional Uses
- 7.2.108.05 Dimensional Standards
- 7.2.108.06 Development Standards

7.2.109 (Reserved

for Future Use)

7.2.110 LIMITED USE OVERLAY ZONE - (LUO)

- 7.2.110.01 Purpose
- 7.2.110.02 Overlay Zone Requirements
- 7.2.110.03 Procedures and Criteria
- 7.2.110.04 Official Zoning Map
- 7.2.110.05 Site Plan Requirement
- 7.2.110.06 Recorded Provisions

7.2.111 CENTRAL BUSINESS AREA OVERLAY ZONE - (CBO)

- 7.2.111.01 Purpose
- 7.2.111.02 Central Business Area Defined
- 7.2.111.03 Development Requirements
- 7.2.111.04 Parking
- 7.2.111.05 Landscaping
- 7.2.111.06 Building Standards
- 7.2.111.07 Signs
- 7.2.111.08 Modification of Site Design Standards

7.2.112 HISTORICAL PROPERTY OVERLAY ZONE - (HPO)

- 7.2.112.01 Purpose
- 7.2.112.02 Conformance Required
- 7.2.112.03 Definitions
- 7.2.112.04 Landmark and District Designation
- 7.2.112.05 Demolition and Moving
- 7.2.112.06 Exterior Alteration and New Construction
- 7.2.112.07 Notice and Public Hearing

7.2.113 FLOOD PLAIN OVERLAY DISTRICT - (FPO)

- 7.2.113.01 Purpose
- 7.2.113.02 Definitions
- 7.2.113.03 General Provisions
- 7.2.113.04 Uses - Exempt
- 7.2.113.05 Uses - Permitted
- 7.2.113.06 Conditional Use Procedures and Requirements
- 7.2.113.07 Flood Protection Standards
- 7.2.113.08 Generalized Flood Plain Areas
- 7.2.113.09 Variances
- 7.2.113.10 Variance Criteria
- 7.2.113.11 Warning and Disclaimer of Liability

7.2.114 RESTRICTED DEVELOPMENT OVERLAY DISTRICT (RD)

- 7.2.114.01 Purpose
- 7.2.114.02 Application
- 7.2.114.03 Review of Uses
- 7.2.114.04 Review Process
- 7.2.114.05 Review Standards and Criteria
- 7.2.114.06 Riparian Vegetation
- 7.2.114.07 Residential Density
- 7.2.114.08 Preservation Methods

7.2.2 GENERAL DEVELOPMENT PROVISIONS

7.2.201 GENERAL STANDARDS

- 7.2.201.01 Minimum Requirements
- 7.2.201.02 Building Permits
- 7.2.201.03 Lots of Record
- 7.2.201.04 Access to a Public Street
- 7.2.201.05 Unsafe Building
- 7.2.201.06 Structures to be on a Lot
- 7.2.201.07 Division or Alteration of Lots

7.2.202 GENERAL EXCEPTIONS

- 7.2.202.01 Building Height Limitation
- 7.2.202.02 Additions to Existing Structures
- 7.2.202.03 Public Dedications

7.2.203 PERMITTED USES GENERALLY

- 7.2.203.01 Permitted Uses
- 7.2.203.02 Permitted Residential Accessory Structures and Uses
- 7.2.203.03 Permitted Non-residential Accessory Structures and Uses

7.2.203.04 Permitted Temporary Uses

7.2.204 NONCONFORMING USES

7.2.204.01 Continuation

7.2.204.02 Discontinuation

7.2.204.03 Restoration

7.2.204.04 Alteration and Change of Use

7.2.204.05 Exemptions

7.2.3 GENERAL DEVELOPMENT STANDARDS

7.2.301 GENERAL PROVISIONS

7.2.301.01 Purpose

7.2.301.02 Application of Standards

7.2.301.03 Application of Public Facility Standards

Table: Public Facilities Improvement Requirements

7.2.302 STREET STANDARDS

7.2.302.01 Purpose

7.2.302.02 Scope

7.2.302.03 General Provisions

7.2.302.04 General Right-of-Way and Improvement Widths Table: Street Standards

7.2.302.05 Modification of Right-of-Way and Improvement Widths

7.2.302.06 Construction Specifications

7.2.302.07 Private Streets

7.2.302.08 Private Access Easements

7.2.303 OFF-STREET PARKING AND LOADING

7.2.303.01 Purpose

7.2.303.02 Scope

7.2.303.03 General Provisions Off-Street Parking and Loading

7.2.303.04 Location and Use Provisions

7.2.303.05 Shared Use

7.2.303.06 Off-Street Vehicle Parking Requirements

Table: Parking Requirements

7.2.303.07 Standards for Disabled Person Parking Spaces

7.2.303.08 Commercial and Industrial Off-Street Loading Requirements

7.2.303.09 Parking and Loading Area Development Requirements

7.2.303.10 Residential Parking Provisions

7.2.304 STORM DRAINAGE

7.2.304.01 Purpose

7.2.304.02 Scope

7.2.304.03 Plan for Storm Drainage and Erosion Control

7.2.304.04 General Standards

7.2.305 UTILITY LINES AND FACILITIES

7.2.305.01 Purpose

7.2.305.02 Standards

7.2.306 SITE AND LANDSCAPING DESIGN

7.2.306.01 Purpose

7.2.306.02 Scope

7.2.306.03 General Provisions

7.2.306.04 Screening and Buffering

7.2.306.05 Site Plan Requirements

7.2.306.06 Contiguous Open Space Provisions for Multifamily Residential Development

7.2.307 DEVELOPMENT STANDARDS FOR LAND DIVISIONS

7.2.307.01 Purpose

7.2.307.02 Scope

7.2.307.03 Standards for Lots or Parcels

7.2.307.04 Additional Design Standards for Subdivisions

7.2.307.05 Improvement Requirements - Partitions

7.2.307.06 Improvement Requirements - Subdivisions

7.2.307.07 Improvement Procedures

7.2.308 YARD AND LOT STANDARDS

7.2.308.01 Lot Coverage, Generally

7.2.308.02 Yard and Yard Area, Generally

7.2.308.03 Separation of Lot or Yard Areas

7.2.308.04 No Parking in Front Yard, Yards Adjacent to Streets

7.2.308.05 Front Yard Projections

7.2.308.06 Side Yard Projections

7.2.308.07 Rear Yard Projections

7.2.308.08 Clear Vision Area

7.2.308.09 Fences, Walls and Hedges

7.2.309 ACCESSORY STRUCTURES

7.2.309.01 Single Family and Duplex

7.2.309.02 Multi-Family, Commercial, Industrial Structures

7.2.310 SINGLE FAMILY DWELLING DESIGN STANDARDS

7.2.311 PLANNED UNIT DEVELOPMENT (PUD)

7.2.311.01 Purpose

7.2.311.02 Applicant for Planned Unit Development Projects

7.2.311.03 Uses Permitted

7.2.311.04 Development Requirements

7.2.311.05 Process

7.2.4 SUPPLEMENTAL STANDARDS FOR SPECIAL USES

7.2.401 GENERAL PROVISIONS

7.2.402 ACCESSORY RESIDENTIAL HOUSING

7.2.403 ATTACHED DWELLING UNITS

7.2.404 MANUFACTURED HOMES ON INDIVIDUAL LOTS

7.2.405 MANUFACTURED HOME PARKS

7.2.405.01 General Requirements

7.2.405.02 Design Standards

7.2.405.03 Park Development Requirements

7.2.406 HOME OCCUPATIONS

7.2.407 BED AND BREAKFAST ESTABLISHMENT

7.2.408 RECREATIONAL VEHICLE PARKS

7.2.408.01 Scope

7.2.408.02 Definitions

7.2.408.03

7.2.408.04 Operational Requirements

7.2.409 SERVICE STATIONS

7.2.410 AUTOMOTIVE SERVICES

7.3.1 APPLICATION REQUIREMENTS AND REVIEW PROCEDURES

7.3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

7.3.101.01 Type I Action

7.3.101.02 Type II Action

7.3.101.03 Type III Action

7.3.101.04 Type IV Action

Table: Land Use Application Process

7.3.102 GENERAL PROVISIONS

7.3.102.01 Scope

7.3.102.02 Approval of a Land Use Application

7.3.102.03 Conditions of Approval

7.3.102.04 Financial Assurances

7.3.102.05 Time Limit

7.3.102.06 Time Extension

7.3.103 MINOR VARIANCES

7.3.103.01 Purpose

7.3.103.02 Review and Approval Process

7.3.103.03 Application and Fee

7.3.103.04 Applicability

7.3.103.05 Criteria and Procedure

7.3.104 PROPERTY LINE ADJUSTMENTS

7.3.104.01 Area of Application

7.3.104.02 Validity

7.3.104.03 Submittal Requirements for Preliminary Review

7.3.104.04 Process for Preliminary Review

7.3.104.05 Review Criteria

7.3.104.06 Completion of a Lot Line Adjustment

7.3.105 PARTITIONS

7.3.105.01 Area of Application

7.3.105.02 General Provisions

7.3.105.03 Submittal Requirements for Preliminary Review

7.3.105.04 Process for Preliminary Review

7.3.105.05 Review Criteria

7.3.105.06 Process for Final Plat Approval

7.3.105.07 Expedited Land Division

7.3.106 SITE DEVELOPMENT REVIEW

7.3.106.01 Purpose

7.3.106.02 Applicability of Provisions

7.3.106.03 Review and Approval Process

7.3.106.04 Application and Fee

7.3.106.05 Submittal Requirements

7.3.106.06 Evaluation of Site Development Plan

7.3.107 CONDITIONAL USE PERMITS

- 7.3.107.01 Purpose
- 7.3.107.02 Review and Approval Process
- 7.3.107.03 Application and Fee
- 7.3.107.04 Criteria for Approval

7.3.108 MAJOR VARIANCES

- 7.3.108.01 Purpose
- 7.3.108.02 Review and Approval Process
- 7.3.108.03 Application and Fee
- 7.3.108.04 Applicability
- 7.3.108.05 Criteria and Procedure

7.3.109 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS

- 7.3.109.01 Area of Application
- 7.3.109.02 Submittal Requirements
- 7.3.109.03 Review Procedures
- 7.3.109.04 Review Criteria
- 7.3.109.05 Form of Final Subdivision Plat
- 7.3.109.06 Final Plat Review for Subdivision 26
- 7.3.109.07 Expedited Land Division

7.3.110 COMPREHENSIVE PLAN AMENDMENTS

- 7.3.110.01 Process
- 7.3.110.02 Application and Fee
- 7.3.110.03 Criteria for Approval

7.3.111 ZONE CHANGE

- 7.3.111.01 Process
- 7.3.111.02 Application and Fee
- 7.3.111.03 Criteria for Approval
- 7.3.111.04 Zone Change Conditions

7.3.112 TEXT AMENDMENTS

- 7.3.112.01 Process
- 7.3.112.02 Application and Fee
- 7.3.112.03 Criteria for Approval

7.3.113 ANNEXATION

- 7.3.113.01 Authority of City to Annex
- 7.3.113.02 General Annexation Procedure
- 7.3.113.03 Annexation by Election
- 7.3.113.04 Annexation Procedure Without City Election
- 7.3.113.05 Annexation Procedure With Election in Proposed Territory
- 7.3.113.06 Island Annexation
- 7.3.113.07 Submission of Annexation Reports
- 7.3.113.08 Effective Date of Annexation
- 7.3.113.09 Zone Designation of Annexed Property

7.3.114 SIMILAR USES

- 7.3.114.01 Purpose and Scope
- 7.3.114.02 Review and Approval Process
- 7.3.114.03 Application and Fee

- 7.3.114.04 Review Criteria
- 7.3.114.05 Conditions of Approval
- 7.3.114.06 Site Development

7.3.2 ADMINISTRATIVE PROCEDURES

7.3.201 GENERAL PROVISIONS

- 7.3.201.01 Multiple Applications
- 7.3.201.02 Multiple Processing Types
- 7.3.210.03 Generalized Area
- 7.3.201.04 Time Limit
- 7.3.201.05 Performance Bonding

7.3.202 PROCEDURES

- 7.3.202.01 Procedures for a Type I Review
- 7.3.202.02 Procedures for Type II and Type III Actions

7.3.203 TYPE IV ACTIONS

- 7.3.203.01 Initiation
- 7.3.203.02 Procedure for Type IV Actions

7.3.204 PUBLIC NOTICE REQUIREMENTS

- 7.3.204.01 Type I Actions
- 7.3.204.02 Type II and Type III Actions
- 7.3.204.03 Type IV Actions
- 7.3.204.04 Notice for Appeals
- 7.3.204.05 Public Hearing Notice Requirements

7.3.205 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

- 7.3.205.01 General Provisions
- 7.3.205.02 Public Hearing Procedures
- 7.3.205.03 Evidence
- 7.3.205.04 Record of Hearing
- 7.3.205.05 Limits on Oral Testimony
- 7.3.205.06 Exhibits

7.3.206 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL

- 7.3.206.01 General Provisions
- 7.3.206.02 Hearings by City Council
- 7.3.206.03 Appeal Review by City Council

7.3.207 APPEAL PROVISIONS

- 7.3.207.01 Appeal Period
- 7.3.207.02 Form of Appeal
- 7.3.207.03 Notice Requirement

7.3.208 FEES

- 7.3.208.01 Purpose
- 7.3.208.02 General Provisions

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Search

GO



[Home](#)

[Mayor & Council](#)

[Departments](#)

[Municipal Code](#)

[City Committees](#)

[Contact Us](#)

[Local Business](#)

[Moving to Dayton?](#)

[Dayton History](#)

[Mary Gilkey City Library](#)

[Municipal Court](#)

[FAQ'S](#)

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[City Forms](#)

[Community Events](#)

[City Job Opportunities](#)

[Who Do I Contact?](#)

[Lost & Found](#)

Section 7.1.1 - General Code Provisions

[Printer-friendly Version](#)

- [7.1.101 TITLE](#)
- [7.1.102 PURPOSE AND SCOPE](#)
- [7.1.103 ESTABLISHMENT OF ZONING DISTRICTS](#)

7.1.101 TITLE

The provisions of Chapters 7.1 to 7.3 of Title 7 shall known as the "Dayton Land Use and Development Code."

7.1.102 PURPOSE AND SCOPE

7.1.102.01 Purpose

This Development Code is enacted to implement the goals and policies of the City of Dayton Comprehensive Plan; provide methods of administering and enforcing the provisions of this Code; and promote the public health, safety, and general welfare of the community.

7.1.102.02 Conformance Required

In Municipal Code:

Except as otherwise noted, effective from the date of the adoption of this Code, the use of all land, including construction, reconstruction, enlargement, structural alteration, use, or occupation of any structure within the City of Dayton shall conform to the requirements of this Code.

7.1.102.03 Administration

The Development Code shall be administered by the City Administrator of the City of Dayton. Unless otherwise specifically prohibited, the City Administrator has the authority to delegate his/her duties under this Code.

7.1.102.04 Interpretation

The provisions of this Code shall be interpreted as minimum requirements. When this Code imposes a greater restriction than is required by other provisions of

7.1.1 General Provisions

law, or by other regulations, resolutions, easements, covenants or agreements between parties, the provisions of this Code shall control.

When a certain provision of the Development Code conflicts with another provision of this Code, or is unclear, the correct interpretation of the Code shall be determined by the City Administrator. The Administrator may, at his/her discretion, request that City Legal Counsel, the Planning Commission or the City Council resolve the conflict or uncertainty.

7.1.102.05 Effect on Other Public and Private Regulations and Restrictions

It is not the intent of the Development Code to interfere with other laws or Codes relating to the use of structures, vehicles or land, or, relating to the construction or alteration of any buildings or improvements. It is not the intent of this Code to interfere with any easement, deed restriction, covenant or other legally enforceable restriction imposed on the use or development of land more restrictive than the provisions of this Code. Further, it is not the intent of this Code to enforce deed restrictions, covenants and similar legal instruments.

7.1.102.06 Violations

Violations of the Development Code are subject to the violation provisions of the City.

7.1.102.07 Savings Clause

Should any section, clause, or provision of this Code be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Code as a whole or of the remaining sections. Each section, clause, and phrase is declared severable.

7.1.102.08 Conflicting City Provisions

City of Dayton Ordinances [*insert appropriate Ord. numbers*] and all other ordinances, codes or parts thereof in conflict herewith are hereby repealed.

7.1.103 ESTABLISHMENT OF ZONING DISTRICTS

7.1.103.01 Districts

For the purposes of this Code, the City of Dayton is divided into the following zoning districts:

<u>Classification</u>	<u>Abbreviation</u>
Single Family Residential	R-1
Limited Density Residential	R-2
Medium Density Residential	R-3
Commercial Residential	CR
Commercial	C
Industrial	I
Public	P

For the purposes of this Code, the following overlay zones are placed in certain areas of the City of Dayton:

Limited Use Overlay Zone	LUO
Central Business Area Overlay Zone	CBO
Historic Property Overlay Zone	HPO
Restricted Development Overlay Zone	RDO
Flood Plain Overlay Zone	FPO

7.1.103.02 Comprehensive Plan Designation and Zoning Districts

Zone classifications implement the Comprehensive Plan map designations. Only the following zoning districts allowed in each Comprehensive Plan designation.

<u>Comprehensive Plan Designation</u>	<u>Zone Classification</u>
Residential	R-1, R-2, R-3
General Commercial	CR, C
General Industrial	I
Public Facility	P
Open Space	RDO

7.1.103.03 Boundaries

A. Zoning Map. The zoning district boundaries are shown on the zoning map of the City of Dayton. This map is made a part of this Code and shall be filed in City Hall. The City Administrator shall amend the map as required. The map shall be available for public review with copies provided at reasonable cost.

B. Zoning Map Interpretation. The City Administrator shall resolve any dispute over the exact location of a zoning district boundary. In interpreting the location of the zoning boundaries, the Administrator shall rely on the Dayton Comprehensive Plan Map and the following guidelines:

1. Right-of-way. Boundaries indicated as approximately following the centerline or the right-of-way boundary of streets, highways, railways or alleys shall be construed to follow such centerline or boundary.
2. Lot Lines. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
3. Water Courses. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline.
4. Extensions. Boundaries indicated as parallel to or extensions of features indicated in subsections 1., through 3., above, shall be so construed.
6. Specific Description. Where a Plan map designation or zoning action referenced a specific property description, that description shall establish the boundary. Where two or more property descriptions establish conflicting boundaries, the most recent description shall govern.

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Section 7.1.2 - Definitions

[Local Business](#)

[Moving to Dayton?](#)

[Printer-friendly Version](#)

[Dayton History](#)

- [7.1.200.01 - GENERAL PROVISIONS](#)
- [7.1.200.02 GRAMMATICAL INTERPRETATION](#)
- [7.1.200.03 DEFINITIONS](#)

[Mary Gilkey City Library](#)

[Municipal Court](#)

7.1.200.01 - GENERAL PROVISIONS

[FAQ'S](#)

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A. General and Specific Terms. The definitions contained in this Section include those that are applicable to the entire Code (general), and those terms that are apply to specific Sections (specific). Terms used in specific Sections are identified as follows:

[City Forms](#)

[Community Events](#)

- [Flood] Flood plain Overlay Zone; Section 7.2.1.
- [Historic] Historical Landmark Overlay Zone; Section 7.2.1.
- [RV Park] Recreational Vehicle Park; Section 7.2.4.

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7.1.200.02 GRAMMATICAL INTERPRETATION

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Words used in the masculine include the feminine, and feminine the masculine. Words used in the present tense include the future, and the singular includes the plural. The word "shall" is mandatory. Where terms or words are not defined, they shall have their ordinary accepted meanings within the context of their use. The contemporary edition of Webster's Third New International Dictionary of the English Language (principal copyright 1961) shall be considered as providing accepted meanings.

In Municipal Code:

B. Interpretation. When there are two definitions for the same word or phrase, then the definition most applicable for the given situation shall apply. If appropriate, specific terms may be applied to general situations.

7.1.200.03 DEFINITIONS

The following words and phrases, when used in this Code, shall have the meanings ascribed to them in this Section:

Access: The way or means by which pedestrians and vehicles have ingress and

7.1.2 Definitions

egress to a property.

Accessory Residential Housing: A subordinate dwelling unit the use of which is incidental to the main building and is used as a dwelling or living quarters.

Accessory Structure: A detached, subordinate building or portion of a main building, the use of which is incidental to the main building or use of the land.

Accessory Structure [Flood]: Sheds or small garages that are exempt from elevation or flood proofing requirements. This definition shall be limited to detached structures less than 480 square feet in area.

Accessory Use: A use incidental and subordinate to the main use of the parcel, lot or building.

Adult Care Facility: See Nursing Home.

Adult Foster Care: See Residential Home and Residential Facility.

Alteration [Historic]: A change, addition, or modification to the exterior of a building.

Appeal: A request for a review of a decision authority's action on an application.

Applicant: The property owner of record, contract purchaser or agent authorized to work on behalf of, or represent, an owner.

Approved: Means approved by the City Administrator, Planning Commission or City Council having the authority to grant such approval.

Area: The total area circumscribed by the boundaries of a lot or parcel, except:

1. When the legal instrument creating the property shows the boundary extending into a public street right-of-way, then for purposes of computing the lot or parcel area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and $\frac{1}{2}$ of existing right-of-way from the center of the traveled portion of the street.

2. Private access easements, and the access strips to flag-lots, shall not be included when calculating the area of a lot or parcel.

This definition shall not be construed to interpreted to establish property boundaries.

Area of Special Flood Hazard [Flood]: Land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

Automotive Repair: A business established for the purpose of maintaining and repairing automobiles, trucks, vans, motorcycles and similar vehicles. This definition includes regular maintenance, major overhauls such as engine rebuilding or transmission repair and auto body repair and painting.

Base Flood Level [Flood]: The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100 year flood plain).

Basement: The habitable portion of a building between floor and ceiling which is partly below and partly above grade, but located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Bed and Breakfast: A facility providing overnight accommodations, with limited services and amenities, and serving a single meal, usually breakfast.

Block: A parcel of land bounded by 3 or more through streets.

Building: A structure having a roof and built for the support, shelter, or enclosure of persons, animals, or property of any kind. Recreational vehicles and tents shall not be considered buildings.

Building Height: The vertical distance from the average elevation of the finished grade to the highest point of the structure. By definition, building height does not include architectural and building features specifically exempted from height restrictions.

Building Official: An individual empowered by the City to administer and enforce the Uniform Building Code (UBC).

Carport: A structure consisting of a roof and supports for covering a parking space and of which not more than one side shall be enclosed by a wall.

Cemetery: Land designed for the burial of the dead, and dedicated for cemetery purposes, including a columbarium, crematory, mausoleum, or mortuary, when operated in conjunction with and within the boundary of such cemetery.

Church: A permanently located building primarily used for religious worship, including accessory buildings for related religious activities and a residence.

City: The City of Dayton, Oregon.

Clear-Vision Area: A triangular area at the intersection of two right-of-ways, two sides of which are lines measured from the corner intersection of the right-of-way lines for a specific distance. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lines at the intersections have rounded corners the right-of-way lines will be extended in a straight line to a point of intersection.

Commission: The Planning Commission of Dayton, Oregon.

Comprehensive Plan: The officially adopted City of Dayton Comprehensive Plan.

Conditional Use: A use which may be permitted in a particular zone, but because of the type or nature of the uses conditions for its establishment and operation may be necessary to ensure compatibility with adjacent land uses.

Condominium: Development whereby the residences or buildings are owned by individuals and the underlying property and its maintenance is held jointly by a home owners association. Condominiums are subject to provisions in ORS Chapter 94.

Conforming: In compliance with the regulations of this Code.

Conveyance [Flood]: Refers to the carrying capacity of all or a part of the flood plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.

Council: The City Council of Dayton, Oregon.

Cultural Resource Inventory [Historic]: Historical buildings or sites placed on the historical resource inventory.

Day Care Facility: An establishment, not a part of a public school system, in which are commonly received 3 or more children, not of common parentage, under the age of 14 years, for a period not exceeding 12 hours per day for the purpose of being given care apart from their parents or guardians.

Decision: The formal act by which the City Administrator, Planning Commission or City Council makes its final disposition of a land use action.

Demolish [Historic]: To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district.

Density: The number of dwellings units per acre of land. "Land" includes all property within an "area" as defined in this section.

De Novo (hearing): Public hearing (on appeal) whereby the decision is not based solely on the existing public record but whereby new evidence may be presented.

Develop: To bring about growth or availability; to construct or alter a structure, to conduct a mining operation, to make a material or physical change in the use or appearance of land, to divide land into lots or parcels, or to create or terminate rights of access.

Development: Artificial changes to property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

Development [Flood]: Any activity that has the potential to cause erosion or increase the velocity or depth of floodwater. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.

Dwelling Unit: One or more rooms designed for occupancy by one family.

Dwelling, Multi-Family: A building containing three or more dwelling units designed for occupancy by families living independently of each other.

Dwelling, Single Family (Attached): A building, located on a single parcel or lot, containing one dwelling unit designed exclusively for occupancy by one family, but sharing a common wall or corner on one or two sides with a similar adjacent unit.

Dwelling, Single Family (Detached): A detached building, located on a single parcel or lot, containing one dwelling unit designed exclusively for

occupancy by one family.

Dwelling, Two-family (Duplex): A detached building, located on a single parcel or lot, containing two dwelling units designed for occupancy by two families living independently of each other.

Easement: A grant of right to use an area of land for a specific purpose.

Employees: All persons, including proprietors, performing work on a premises.

Encroachment: Any structure or use, or part of a structure or use, which is placed or advanced beyond the proper limits or boundaries such as a building encroaching into a required setback area.

Encroachment [Flood]: Any obstruction in the flood plain which affects flood flows.

Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision [Flood]: A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Code.

Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision [Flood]: The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

Family: An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or a group of not more than five unrelated individuals, living together as a single housekeeping unit.

Family Day Care Provider: A day care provider who regularly provides child care in the family living quarters of the home of the provider.

FEMA [Flood]: The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.

Fill [Flood]: The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc.

Final Decision: A decision made in accordance with, and pursuant to, the provisions of this Code, or decisions made by the Land Use Board of Appeals or the Courts, after the applicable appeal periods have expired.

Flood or Flooding [Flood]: A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

Flood Boundary Floodway Map (FBFM) [Flood]: The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is

delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).

Flood Elevation Certificate [Flood]: Certification by a professional surveyor or other authorized official indicating the height of the lowest floor of a building.

Flood Insurance Rate Map (FIRM) [Flood]: The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Dayton.

Flood Insurance Study (FIS) [Flood]: 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 and is on file with the City of Dayton.

Flood Plain [Flood]: Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Dayton.

Flood Proofing [Flood]: A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Floodway [Flood]: The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.

Floodway Fringe [Flood]: The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.

Floor Area: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

1. Attic space providing headroom of less than seven feet;
2. Basement, if the floor above is less than six feet above grade;
3. Uncovered steps or fire escapes;
4. Private garages, carports, or porches;
5. Accessory water towers or cooling towers;
6. Off-street parking or loading spaces.

Frontage: That portion of a lot or parcel which abuts a public street.

Garage: An accessory building or a portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

Grade: The average elevation of the finished ground at the centers of all walls of a building.

Hazardous Material: Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the

environment.

Historic Building or Site [Historic]: A building, structure or site identified as a significant historical resource in the Dayton Comprehensive Plan.

Historic District [Historic]: A geographically definable area, the boundaries of which have been adopted by the Council.

Home Occupation: A business or professional activity operated by a resident of a dwelling unit as a secondary use of the residence. This term does not include the lease or rental of a dwelling unit, the rental of guest rooms on the same premises, or the operation of a day care facility.

Hospital: An establishment which provides sleeping and eating facilities to persons receiving medical care and nursing service on a continual basis.

Hotel/Motel: A commercial building offering lodging to transients for compensation and not designed primarily for residential use.

Junk Yard/Wrecking Yard: The use of more than 200 square feet of the area of any lot for the storage of salvage materials, including scrap metals or other scrap materials, or for the dismantling or "wrecking" of automobiles or other vehicles or machinery.

Kenel: Any lot or premises on which four or more dogs and/or cats over the age of four months are kept for sale, lease, boarding, or training.

Land Division: Any partition or subdivision of a lot or parcel.

Land Use Action: An amendment to the City of Dayton Comprehensive Plan or this Code, or a decision on a zone change, variance, conditional use, partitioning or subdivision, site plan review or administrative permits, including appeals from any of the foregoing decisions. The issuance of a building permit is not a land use action.

Landmark [Historic]: Any site, object, buildings, or structure designated by the Council under Section 7.2.112.04.

Landscaped: Areas primarily devoted to the planting and preservation of trees, shrubs, lawn and other organic ground cover, together with other natural or artificial supplements such as watercourses, ponds, fountains, decorative lighting, benches, arbors, gazebos, bridges, rock or stone arrangements, pathways sculpture, trellises, and screens.

Legislative Action: Land use action involving amendments to the Comprehensive Plan, the text of this Code, or an amendment to the Comprehensive Plan map or Zoning map involving more than 5 separate property ownerships.

Livestock: Animals such as, but not limited to, horses, cattle and sheep, which are customarily found and raised on farms and ranches.

Loading Space: An off-street space on the same lot with a building, or group of buildings, used for the parking of a vehicle while loading or unloading merchandise, materials or passengers.

Lot: A unit of land created by a subdivision as defined in ORS 92.010 in

compliance with all applicable zoning and subdivision codes; or created by deed or land sales contract if there were no applicable zoning, subdivision or partitioning codes, exclusive of units of land created solely to establish a separate tax account. Such lots may consist of a single lot of record; a portion of a lot of record; or a combination thereof. Lots created judicially may be considered legal lots only if established as part of a formal judicial decree or settlement.

Lot, Corner: A lot abutting on two or more intersecting streets, other than an alley or private access easement. (See also Lot, Through.)

Lot, Flag: A lot or parcel of land with access by a relatively narrow strip of land between the major portion of the parcel and the point of public access to the parcel, all of which is in the same ownership.

Lot, Frontage: The distance between the two side lot lines measured at the minimum front setback line, parallel to the street line.

Lot, Interior: A lot other than a corner lot.

Lot, Through: An interior lot having frontage on two streets. (See also Lot, Corner.)

Lot Area: The total area of a lot, measured in a horizontal plane within the lot boundary lines, and exclusive of public and private roads and easements of access to other property. For the purposes of establishing the minimum lot area requirements of this Code, the access strip of a flag-shaped lot and a private access easement shall be excluded from the measurement.

Lot Depth: The horizontal distance measured from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot Line, Front: In the case of an interior lot having only one street or private access easement frontage, the lot line separating the lot from the street right-of-way or the nearest boundary line of a private access easement. Where no street separation exists, the lot line which the architecturally designed front of the building faces.

Lot Line, Rear: A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front line.

Lot Line, Side: Any property line which is not a front or rear lot line.

Lot Line, Zero: A lot line shared by a common wall of two attached dwellings, or, a condition whereby a residence is located adjacent to a side lot line without a setback.

Lot of Record: A lawfully created lot or parcel established by plat, deed, or contract as duly recorded in Yamhill County property records.

Lot Width: The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

Lowest Floor [Flood]: 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 non-elevation design requirements of this Code.

Major Public Improvement [Historic]: The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property within a district or on a landmark site, except for the repair or maintenance of existing public improvements.

Manufactured Home: A home, a structure with a Department of Housing and Urban Development label certifying that the structure is constructed in accordance with the National Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), and constructed after June 15, 1976.

Manufactured Home [Flood]: 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 connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes as defined in this Section. For insurance and floodplain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufactured home park or subdivision [Flood]: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufactured Home Park: Any place where more than four manufactured homes are located within 500 feet of one another on property under the same ownership, the primary purpose of which is to rent or lease space to any person, or, to offer space free in connection with securing the trade or patronage of such person. Manufactured home park does not include lot(s) located within a subdivision being rented or leased for occupancy by no more than one manufactured home per lot if the subdivision was approved pursuant to this Code.

Mean sea level [Flood]: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Mini-storage Warehouse: A facility designed and intended to be used for the rental of storage units to individuals and businesses for the safekeeping of property.

Mobile home [Flood]: A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by this Section.

Modular Home: A home which is constructed off-site and so designed to be transported to, and/or assembled on, the permanent building site, and, which complies with the Uniform Building Code requirements for a single family home.

Motel: See [Hotel/Motel](#).

New Construction: Structures for which construction was initiated on or after

the effective date of this Code.

New Construction [Flood]: Any structure(s) for which the start of construction commenced on or after the original effective date of the Flood Plain Overlay Zone.

Non-Conforming Structure or Use: A lawfully existing structure or use at the time this Code, or any amendments, becomes effective, which does not conform to the requirements of the zone in which it is located.

Notification Area: An area bounded by a line, parallel to a boundary of a subject lot. As used in this section "subject lot" includes not only the lot that is the subject of the land use action, but also includes any contiguous lot in which any applicant or owner of the subject lot has either sole, joint, or common ownership, or an option to purchase. In the event that the application does not apply to the entire lot, the boundary of the notification area shall be measured from the lot line, not the boundary of the portion of the lot.

Notification List: A certified list prepared by a Title Company or the Yamhill County Assessor's Office which includes the names and addresses of all property owners within the notification area as shown in the County Assessor's records.

Nursing Home: A home, place or institution which operates and maintains facilities providing continual convalescent and/or nursing care. Convalescent care may include, but is not limited to, the procedures commonly employed in the nursing and caring for the aged and includes rest homes and convalescent homes, but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility.

Obstruction [Flood]: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.

Official Zoning Map: The map which indicates the zones in the City of Dayton.

Open Space: Land, usually in a natural state and minimally improved, set aside for the purpose of retaining natural features, providing recreation opportunities, limiting development of hazardous areas or providing a buffer for adjacent lands.

Overlay Zone: A separate zone which establishes specific development requirements addressing unique circumstances or situations on a property or group of properties. For example, the "flood plain overlay zone" establishes special requirements for development within the flood plain and is used in addition to, but does not supplant, the development requirements of the property's underlying zone.

Owner: For the purpose of land use, the owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel or property under written contract. For the purpose of a land use application, an "owner" may be considered a contract land sales purchaser with an earnest money agreement.

Parcel: A unit of land that is created by a partitioning of land.

Park: An area of land, usually in a natural state, set aside for the enjoyment and use by the public. Park includes land as well as facilities and improvements to the land.

Parking Lot or Area: An open area, building or structure, other than a street or alley, used for the parking of automobiles and other motor vehicles and available for use by persons patronizing a particular building, establishment or area.

Parking Space: A designated space in a parking lot or area for the parking of one motor vehicle.

Partition: To divide an area of land into two or three parcels within a calendar year when such area of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition" does not include:

1. Divisions of land resulting from lien foreclosures, divisions of land resulting from contracts for the sale of real property, and divisions of land resulting from the creation of cemetery lots; or,
2. Any adjustment of a property 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 code or,
3. A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).

Permit (noun): Any action granting permission to do an act or to engage in activity where such permission is required by this Code.

Permitted Use: Those uses permitted in a zone that are allowed without obtaining a conditional use permit.

Person: Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.

Pet: Domestic animal kept, and cared for, by the occupants of a dwelling for personal pleasure, and which are not raised for food, fur, or monetary gain. Pets may include dogs, cats, birds, small mammals and reptiles, but may not include fowl, herd animals, pigs, goats or horses of any type or breed.

Plan Map: An officially adopted map of the City, including urban growth boundary, showing land use designations identified in the Comprehensive Plan.

Planning Commission: The Planning Commission of Dayton, Oregon.

Plat: The final map which is a diagram, drawing, re-plat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition and consistent with the provisions in ORS Chapter 92.

Professional Office: An office occupied by an accountant, architect, attorney-at-law, engineer, surveyor, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts, or other professional

business similar in type, scale and character.

Property Line Adjustment: The realignment of a common boundary between two contiguous lots or parcels which does not create a new lot or parcel.

Public Facilities and Services: Projects, activities, and facilities which are necessary for the public health, safety, and welfare. These may include, but are not limited to, water, gas, sanitary sewer, storm sewer, electricity, telephone and wire communication service, cell towers and cable television service lines, mains, pumping stations, reservoirs, poles, underground transmission facilities, substations, and related physical facilities which do not include buildings regularly occupied by employees, parking areas, or vehicle, equipment or material storage areas.

Recreational Vehicle [RV]: A unit, with or without motive power, which is designed for human occupancy and intended to be used for recreational or temporary living purposes. Recreational vehicle includes:

1. Camping Trailer: A non-motorized vehicle unit mounted on wheels and constructed with sides that can be collapsed when the unit is towed by another vehicle.
2. Motor Home: A vehicular unit built on or permanently attached to a motorized vehicle chassis cab or van which is an integral part of the complete vehicle.
3. Travel Trailer: A vehicular unit without motive power which has a roof, floor, and sides and is mounted on wheels and designed to be towed by a motorized vehicle, but which is not of such size or weight as to require special highway movement permits.
4. Truck Camper: A portable unit which has a roof, floor, and sides and is designed to be loaded onto and unloaded out of the bed of a truck or pick-up truck.
5. Boat, licensed or un-licensed, including trailer.
6. All-terrain vehicle (ATV).

Recreational vehicle [Flood]: A "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801-350, and 801-565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in sub V., of this Section.

Recreational Vehicle Park [RV]: Any area operated and maintained for the purposes of providing space for overnight use by recreational vehicles.

Recreational Vehicle Space [RV]: The area occupied by a recreational vehicle.

Recycling Depot: A area used for the collection, sorting, and temporary storage of discarded materials which are taken elsewhere to be re-used or recycled. A "recycling depot" excludes a garbage transfer station.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" or "repairs" shall not include structural changes.

Residential Facility: A facility licensed by or under the authority of the

Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to and resident of the residential facility.

Residential Home: A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to ant resident of the residential facility.

Right-of-Way: The full length and width of a public street or way, either planned or constructed.

Rooming and Boarding House: A residential building or portion thereof with guest rooms, providing lodging, or lodging and meals, for 3 or more persons for compensation.

School, Elementary, Junior High or High School: An institution, public or private, offering instruction in the several branches of learning and study, in accordance with the rules and regulations of the State Department of Education.

School, Trade or Commercial: A building where the instruction is given to pupils for a fee, which fee is the principal reason for the existence of the school.

Scrap and Waste Materials Establishment: An business that is maintained, operated or used for storing, keeping, buying or selling old or scrap copper; brass, rope, rags, batteries, paper, rubber, or debris; waste or junked, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts (except wrecking yards), iron, steel, or other old scrap metal or non-metal materials. Scrap and waste materials establishments does not include drop stations, solid waste transfer stations, or recycling depot.

Semi-Public Use: A structure or use intended for a public purpose by a non-profit organization.

Service Station: A site and associated buildings designed for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhaul. "Major repair and overhaul", as used in this definition, shall be considered to include such activities at painting, bodywork, steam cleaning, tire recapping, and major engine or transmission overhaul or repair involving the removal of a cylinder head or crankcase.

Setback: The distance between a specified lot line and the foundation or exterior wall of a building or structure.

Site, Development, or Complex: A group of structures or other development that is functionally or conceptually integrated, regardless of the ownership pattern of the development or underlying land.

Space, Manufactured Home: An area or lot reserved exclusively for the use of a manufactured home occupant located within an manufactured home park. This definition excludes individual lots within a subdivision or individual parcels.

Special Permitted Use: A use allowed outright within a zone but requiring special design or development requirements identified elsewhere within the Code.

Start of Construction: The actual start of construction, repair, reconstruction, placement or other improvement.

Start of Construction [Flood]: The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 sheds not occupied as dwelling units or not used as part of the main structure.

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than 6 feet above grade as defined herein, such basement or cellar shall constitute a story.

Street: The entire width between the boundary lines of every way of travel which provides for ingress and egress for vehicular and pedestrian traffic and the placement of utilities to one or more lots, parcels, areas, or tracts of land. Streets shall follow the street designation identified in the Dayton Comprehensive Plan. A private way that is created to provide ingress and egress to land in conjunction with the use of such land for forestry, mining, or agricultural purposes is excluded from this definition.

1. **Alley:** A narrow street through a block for access to the back or side of properties fronting on another street.

2. **Arterial:** A street of considerable continuity which is used primarily for through traffic and interconnection between major areas of the City.

3. **Collector:** A street supplementary to the arterial street system, used partly by through traffic and partly for access to abutting properties.

4. **Cul-de-sac (dead-end):** A short street with one end open to traffic and the other terminated by a vehicle turn-around.

5. **Half Street:** A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in

another subdivision of development.

6. **Local Street:** A street intended primarily for access to abutting properties, but protected from through traffic.

7. **Private Street:** A street generally narrower in width and designed to a construction standard less than that of a public street and maintained by adjacent property owners, homeowners association or similar association approved by the City.

8. **Private Access Easement:** An easement across private property granted by the property owner to owners of one or more lots or parcels and allowing vehicles access from a street to those lots or parcels.

Structural Alteration: Any change to the supporting members of a structure, including foundation bearing walls or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

Structure: That which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner.

Structure [Flood]: Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.

Substantial Improvement [Flood]: Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the assessed value of the structure before the start of construction of the improvement:

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 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 structures. The term does not include:

a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.

b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure.

Subdivide: To divide an area or tract of land into four or more lots within a calendar year for the purpose of transfer of ownership or building development when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the division of property.

Subdivision: Divisions of property which create four or more lots in a single calendar year.

Tract: An area created as part of a partition or subdivision set aside for the purpose of dedication to the City, or held in ownership by an association, and

not intended for residential development.

Urban Growth Boundary: An adopted boundary around the City which defines the area in which the City expects to grow, where public facilities will be extended, and where joint planning responsibilities are exercised with Yamhill County.

Use: The purpose for which land or a structure is designed, arranged or intended, or, for which it is occupied or maintained.

Vehicle: For purpose of this Code vehicle shall have the same meaning as the definition in the rules and regulations of the State Department of Motor Vehicles.

Warehouse: A place for the safekeeping of goods and materials for an industrial or commercial enterprise (also see "Mini-Storage Warehouse).

Watercourse [Flood]: A natural or artificial channel in which a flow of water occurs either continually or intermittently in identified floodplain.

Wetland: Land identified as generally containing wet or spongy soil, and the plants associated with such soils, and regulated by the Division of State Lands.

Wrecking Yard: See Junk Yard/Wrecking Yard.

Yard: An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Code.

Yard, Front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel to the nearest point of the foundation of the main building.

Yard, Rear: A yard extending across the full width of the lot between the most rear portion of a main building and the rear lot line; but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the foundation of the main building.

Yard, Side: A yard, between the main building and side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

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[City Job Opportunities](#)

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Section 7.2.1 Land Use Zoning

[Printer-friendly Version](#)

- [7.2.101 GENERAL PROVISIONS](#)
- [7.2.102 SINGLE FAMILY RESIDENTIAL \(R-1\)](#)
- [7.2.103 LIMITED DENSITY RESIDENTIAL \(R-2\)](#)
- [7.2.104 MEDIUM DENSITY RESIDENTIAL \(R-3\)](#)
- [7.2.105 COMMERCIAL RESIDENTIAL \(CR\)](#)
- [7.2.106 COMMERCIAL \(C\)](#)
- [7.2.107 INDUSTRIAL \(I\)](#)
- [7.2.108 PUBLIC \(P\)](#)
- [7.2.110 LIMITED USE OVERLAY ZONE \(LUO\)](#)
- [7.2.111 CENTRAL BUSINESS AREA OVERLAY ZONE \(CBO\)](#)
- [7.2.112 HISTORICAL PROPERTY OVERLAY ZONE \(HPO\)](#)
- [7.2.113 FLOOD PLAIN OVERLAY DISTRICT \(FPO\)](#)
- [7.2.114 RESTRICTED DEVELOPMENT OVERLAY DISTRICT \(RD\)](#)

In Municipal Code:

7.2.101 GENERAL PROVISIONS

7.2.101.01 Interpretation of Uses

A. Types of Uses. Within each zone, uses are classified as "permitted," "special permitted" and "conditional." Further, uses are functionally classified by description of the particular activity (such as "single-family residence").

B. Interpretation of Uses. Where a use is not otherwise defined in Section 7.1.2, the words of this zoning Code describing such use are to be given their ordinarily accepted meaning, except where the context in which they are used otherwise clearly requires.

C. Prohibited Uses. Uses not specifically identified as permitted, special permitted or conditionally permitted within the zone, or, otherwise allowed through interpretation, shall be considered prohibited uses.

7.2.102 SINGLE FAMILY RESIDENTIAL (R-1)

7.2.102.01 Purpose

The purpose of the R-1 zone is to allow development of single family homes on individual lots provided with urban services at urban densities. Other uses compatible with residential development are also appropriate. These areas are

7.2.1 - Land Use Zoning

designated as Residential in the Comprehensive Plan.

7.2.102.02 Permitted Uses

The following uses, when developed under the applicable development standards in this Code, are permitted in the R-1 zone:

- A. One detached single family dwelling on a separate lot or parcel.
- B. Residential homes.
- C. Child day care service, including family day care provider, for 12 or fewer children.

7.2.102.03 Special Permitted Uses

The following uses, when developed under the applicable standards in this Code and special development requirements, are permitted in the R-1 zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. Two-family dwellings (duplexes) subject to the following:

The duplex shall be located on a corner lot.

2. Access shall be subject to the following:

- a. Where both adjacent streets are of the same street designation (e.g. local street) the duplex may obtain access from each adjacent street or share a single access.
- b. Where the adjacent streets are of a different street designation (e.g. local and collector) a shared access shall be required from the lower street designation.

E. The following uses, subject to the applicable standards in Section 7.2.4:

- 1. Manufactured homes on individual lots (Section 7.2.404)
- 2. Home occupations (Section 7.2.406).

7.2.102.04 Conditional Uses

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Private or public elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreation facilities; and other public or semi-public uses.
- C. Child day-care services for 13 or more children.
- D. Churches.

7.2.102.05 Dimensional Standards

A. Minimum Lot Dimension and Height Requirements

(Revised by

Ordinance #541,

6/03/02 -

Effective 07/03/02)

DIMENSION	RESIDENTIAL USES	NON-RESIDENTIAL USES
Lot Size	7,000 sq ft - Single Family 9,000 sp ft - Duplex	(1)
Average Width	50	(1)
Average Depth	80	(1)
Maximum Height	35 Feet	35 Feet

(1) Adequate to comply all applicable development standards

B. Minimum Yard Setback Requirements

SETBACKS	RESIDENTIAL USES	NON-RESIDENTIAL USES
Front	15 feet	20 feet
Side	5 feet	10 feet
Rear	15 feet - 1 story 20 feet - 2 story	20 feet
Street-side	15 feet	20 feet
Garage (1)	20 feet	20 feet

(1) The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

7.2.102.06 Development Standards

All development in the R-1 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.

B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.

C. Site Development Review: Manufactured home parks and non-residential uses

shall require a Site Development Review, pursuant to Section 7.3.1.

D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:

Maximum building coverage (primary building): 35%
Maximum parking area coverage (including garage): 30%
Combined maximum lot and parking area coverage: 60%

E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306.

F. Density: Subdivisions shall be developed at a minimum density of four dwelling units per acre with a maximum density of six dwelling units per acre.

G. Redevelopment Plan: A redevelopment plan shall be required to place a single family home on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:

1. The redevelopment plan shall indicate how the remaining undeveloped portion of the property could be developed at a density consistent with the requirements of the R-1 zone.

2. The plan may be revised or modified at the time of development provided the revised plan complies with the applicable development requirements of the R-1 zone.

7.2.103 LIMITED DENSITY RESIDENTIAL (R-2)

7.2.103.01 Purpose

The R-2 zone is intended to provide for detached and attached dwellings on a lot or multiple dwellings on a lot at an intermediate density. Other uses compatible with residential development are also appropriate. R-2 zones are located in areas designated Residential in the Comprehensive Plan.

7.2.103.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the R-2 zone:

A. One detached single family dwelling on a separate lot or parcel.

B. Buildings with two or more dwelling units.

C. Combination of permitted attached or detached dwellings on a lot.

D. Residential homes and facilities.

E. Child day care service, including family day care provider, for 12 or fewer children.

7.2.103.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the R-2 zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.
- D. The following uses, subject to the applicable standards in Section 7.2.4:
 - 1. Accessory residential housing (Section 7.2.402).
 - 2. Attached dwelling units (Section 7.2.403).
 - 3. Manufactured homes on individual lots (Section 7.2.404).
 - 4. Manufactured home parks (Section 7.2.405).
 - 5. Home occupations (Section 7.2.406).

7.2.103.04 Conditional Uses

The following uses require approval of a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day-care services for 13 or more children.
- D. Churches.

7.2.103.05 Dimensional Standards

A. Minimum Lot Dimension and Height Requirements
(Revised by

*Ordinance #541,
6/03/02 -
Effective 07/03/02)*

DIMENSION	SINGLE FAMILY	DUPLEX	MULTI-FAMILY	NON-RESIDENTIAL
Lot Size	6000 sq ft	7000 sq ft	9000 sq ft	(3)
Maximum Height	35 feet	35 feet	35 feet	35 feet

(1) Attached single family dwellings shall have a minimum lot area of 3500 square feet.

2) Multi-family development must comply with the density standard in Section 2.103.06.

(3) Parcel size shall be adequate to contain all structures within the required yard setbacks.

B. Minimum Yard Setback Requirements

SETBACKS	SINGLE FAMILY	DUPLEX	MULTI-FAMILY	NON-RESIDENTIAL
Front	15 feet	15 feet	15 feet	20 feet
Side	5 feet (1)	5 feet	(3)	10 feet
Rear	(2)	(2)	(3)	20 feet
Street-side	15 feet	15 feet	15 feet	20 feet
Garage (4)	20 feet	20 feet	20 feet	20 feet

(1) Zero side yard dwelling units are subject to the setback provisions in Section 7.2.404.

(2) The rear yard setback shall be as follows: 15 feet for a 1-story home; 20 feet for a 2 or more stories.

(3) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.

(4) The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

7.2.103.06 Development Standards

All development in the R-2 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.

B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.

C. Site Development Review: Manufactured home parks, multi-family residential development and non-residential uses shall require a Site Development Review, pursuant to Section 7.3.1.

D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:

Maximum building coverage (primary building): 40%
 Maximum parking area coverage (including garage): 35%
 Combined maximum lot and parking area coverage: 70%

E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. *(Last Sentence Added by Ordinance #530,*

6/4/01 - Effective
7-04-01)

Multiple family developments shall comply with provisions in Section 7.2.306.06.

F. Density: The following density provisions shall apply:

1. Subdivisions: The minimum density shall be 6 units per acre; the maximum density shall be 8 units per acre.

2. Manufactured home parks: The minimum density shall be 6 units per acre; the maximum density shall be 10 units per acre.

3. Multi-family development: The minimum density shall be 8 units per acre; the maximum density shall be 12 units per acre.

G. Redevelopment Plan: A redevelopment plan shall be required to place a single family home on a parcel containing more than 1 acre. This plan shall be approved by the City prior to the issuance of a building permit. The following shall apply:

1. The redevelopment plan shall indicate how the remaining undeveloped portion of the property can be developed at a density consistent with the requirements of the R-2 zone.

2. The plan may be revised or modified at the time of development provided the revised plan complies with the density requirement of the R-2 zone.

7.2.104 MEDIUM DENSITY RESIDENTIAL (R-3)

7.2.104.01 Purpose

The R-3 zone is intended for multiple family development on a parcel at higher residential densities. Other uses compatible with residential development are also appropriate. RM zoned property is suited to locations near commercial areas and along collector, and preferably, arterial streets. The appropriate Comprehensive Plan designation is Residential.

7.2.104.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the R-3 zone:

A. Residential buildings containing two or more dwelling units.

B. Residential homes and facilities.

C. Child day care service, including family day care provider, for 12 or fewer children.

7.2.104.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the RM zone:

A. Partitions, subject to the provisions in Section 7.2.307.

B. Subdivision, subject to the provisions in Section 7.2.307.

C. Accessory structures and uses prescribed in Section 7.2.203 and subject to

the provisions in Section 7.2.309.

D. The following uses subject to the applicable standards in Section 7.2.4:

1. Manufactured home parks (Section 7.2.405).
2. Home occupations (Section 7.2.406).

7.2.104.04 Conditional Uses

The following uses require a Conditional Use Permit and are subject to a Site Development Review:

- A. Public or private schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day care service for 13 or more children.
- D. Churches.

7.2.104.05 Dimensional Standards

A. Minimum Lot Dimension and Height Requirements

DIMENSION	RESIDENTIAL	NON-RESIDENTIAL
Lot Size	6,000 sq ft (1) (2)	Adequate to comply with all applicable development standards
Maximum Height	35 feet	35 feet

(1) Multi-family development must comply with the density standard in Section 7.2.104.06.

(2) Manufactured home parks must comply with the density requirements in Section 7.2.104.06 and the minimum area requirements in Section 7.2.403.

B. Minimum Yard Setback Requirements

SETBACKS	RESIDENTIAL	NON-RESIDENTIAL
Front	(1)	20 feet
Side	(2)	10 feet
Rear	(2)	20 feet
Street-side	20 feet	20 feet
Garage (3)	20 feet	20 feet

(1) 15 feet where the front of the dwelling units face the street; otherwise 20

feet.

(2) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.

(3) The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

7.2.104.06 Development Standards

All development in the R-3 Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

A. Offstreet Parking: Parking shall be as specified in Section 7.2.303.

B. Yards and Lots: Yards and lots shall conform to the standards of Section 7.2.308.

C. Site Development Review: All uses shall require a Site Development Review, pursuant to Section 7.3.1.

D. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:

Maximum building coverage (primary building):	45%
Maximum parking area coverage (including garage):	35%
Combined maximum lot and parking area coverage:	75%

E. Landscaping: Undeveloped areas of the property shall be landscaped, including all required yards. Landscaping shall be provided pursuant to requirements in Section 7.2.306. *(Following*

added by Ordinance

#530, 6/4/01

Effective 07/04/01)

Multiple family developments shall comply with provisions in Section 7.2.306.06.

F. Density: The following density provisions shall apply:

1. Manufactured home park: The minimum density shall be 6 units per acre; the maximum density shall be 10 units per acre.

2. Multi-family development: The minimum density shall be 12 units per acre; the maximum density shall be 20 units per acre.

7.2.105 COMMERCIAL RESIDENTIAL (CR)

7.2.105.01 Purpose

To provide areas for the development of a mixture of single family, multi-family, and manufactured homes, and limited retail and service commercial uses.

7.2.105.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Code, are permitted in the CR zone:

A. The following residential uses are permitted in the CR zone:

1. Single family dwellings, detached
2. Duplexes.
3. Multi-family dwellings.
4. Residential care homes and facilities
5. Child day care service, including family day care provider, for 12 or fewer children

B. The following commercial uses are permitted:

1. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, brokerages, loan companies, and investment companies; television and radio broadcast studios (excepting a broadcast antennae or dish), and, miscellaneous offices such as detective agencies, drafting services or contractors offices.
2. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
3. Banks and other financial institutions.
4. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, artist supplies, hobby or photography store, florist, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, clothing, jewelry, gift, and other types retail activities but excluding liquor stores.
5. Restaurants, bakeries, coffee and snack shops but excluding taverns, bars and similar establishments.
6. Retail and service related stores such as TV and radio sales and service, bicycle shop, gunsmith, upholstery shop or other similar activities where a service department is customarily a secondary activity to the retail use.
7. Service related businesses such as barber shops, beauty shops, tailors, advertising agencies, travel agencies, art or craft studios, self-serve laundry, dry cleaning (except bulk dry cleaning plants), parcel service, printing or photocopying, video rental, or other activities where the primary activity is the providing of a service to retail customers.
8. Accessory structures and uses customarily provided for retail activities.

7.2.105.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the CR zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Subdivision, subject to the provisions in Section 7.2.307.
- C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.

D. The following uses subject to the applicable standards in Section 7.2.4:

1. Attached dwelling units (Section 7.2.403).
2. Manufactured homes on individual lots (Section 7.2.404).
3. Home occupations (Section 7.2.406).
4. Bed and breakfast establishments (Section 7.2.407).

7.2.105.04 Conditional Uses

*(amended effective
9/6/07, Ordinance
#583)*

The following uses require a Conditional Use Permit:

- A. Public or private schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day care service for 13 or more children.
- D. Churches.
- E. Commercial activities which do not comply with the provisions in Section 7.2.105.02.C.
- F. Wineries with retail sales *(amended effective 9/6/07, Ordinance #583)*

7.2.105.05 Dimensional Standards

The following dimensional standards shall be the minimum requirements for all development in the CR District.

A. Minimum Lot Area and Density Standards

1. Single-family dwelling, detached 5,000 square feet
Single-family dwelling, attached 3,500 square feet
2. Duplex 7,000 square feet
3. Multi-family dwelling 9,000 square feet
(Multi-family development must comply with the density standards in Section 7.2.105.06).
4. Commercial Use 5,000 square feet
5. Mixed commercial and residential: Shall comply with the minimum for multi-family development.
6. Public utility structures: Lot area shall be adequate to contain all proposed structures within the required yard setbacks.

B. Minimum Yard Setback Requirements

1. Residential Uses

- a. Front Yard - 15 feet
Garage setback - 20 feet
- b. Rear Yard - 10 feet
- c. Side Yard (interior) - 5 feet
- d. Side Yard (adjacent to street) - 15 feet

2. Commercial Uses

- a. Front Yard - None
- b. Rear Yard
 - i. Abutting a non-residential district - None
 - ii. Abutting a residential district - 10 feet
- c. Side Yard
 - i. Abutting a non-residential district - None
 - ii. Abutting a residential district - 10 feet

3. Mixed commercial and residential

- a. Front Yard - 5 feet
- b. Rear Yard
 - i. Abutting a non-residential district - 5 feet
 - ii. Abutting a residential district - 10 feet
- c. Side Yard
 - i. Abutting a non-residential district - 5 feet
 - ii. Abutting a residential district - 10 feet

4. Public

- a. Front Yard - 15 feet
Garage setback - 20 feet
- b. Rear Yard - 10 feet
- c. Side Yard (interior) - 5 feet
- d. Side Yard (adjacent to street) - 15 feet

C. Maximum Structure Height

- 1. Principal Structure - 30 feet
- 2. Accessory Structure - 20 feet

7.2.105.06 Development Standards *(amended effective 9/6/07, Ordinance #583)*

A. Use Restrictions. The following use restrictions shall apply:

- 1. No permitted, special permitted or conditionally permitted use shall in any way involve any of the slaughter, rendering or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses and similar products may be allowed as part of a permitted or conditionally permitted commercial business.

(amended effective 9/6/07, Ordinance #583)

2. All business, service, processing or merchandise displays shall be conducted wholly within an enclosed building, except for the following:

a. Off-street parking and loading.

b. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation.

B. Commercial Uses. Commercial uses in the CR zone shall comply with the following additional standards:

1. The activity shall be conducted wholly within an enclosed structure.

2. The maximum lot size for any commercial use shall be one acre.

3. Any new commercial structure shall maintain a residential appearance. Metal buildings, pole barns and similar structures are prohibited within the CR zone.

4. Commercial uses shall not engage in the manufacturing, processing, assembly or compounding of products other than those clearly incidental to the business conducted on the premises.

5. The commercial use shall have a maximum floor area of 2,500 square feet per lot.

6. Any outside storage space maintained in the CR Zone shall be enclosed by a 6 foot sight-obscuring fence or a hedge row not less than 3 feet high and capable of attaining a height of 6 feet.

C. Mixed Commercial and Residential Uses. Development of mixed commercial and residential uses shall be subject to the provisions in item B., above.

D. Unless otherwise exempted, all development in the CR Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

1. Offstreet parking. Parking shall be as specified in Section 7.2.303.

2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.

3. Subdivisions and Partitions. Land divisions shall be reviewed in accordance with the provisions of Section 7.2.307.

4. Site Development Review: Multi-family and/or commercial uses within the CR Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1. In addition, any conversion of an existing residence which includes a commercial use shall require a site development review.

5. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows:

a. Residential - 75%

b. Commercial - 85%

c. Mixed Residential and Commercial - 80%

6. Landscaping: All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306 and shall comply with the following coverage requirements:

- a. Residential - 25%
- b. Commercial - 15%
- c. Mixed Residential and Commercial - 20%

*(Following added by
Ordinance #530,
06/04/01
Effective 07/04/01)*

Multiple family developments shall comply with provisions in Section 7.2.306.06.

7.2.106 COMMERCIAL (C)

7.2.106.01 Purpose

The Commercial (C) Zone is the primary commercial zone within the City. The zone is specifically designed to provide area for commercial activities to serve the residents of the City and the surrounding area. The Commercial Zone is suitable for the Commercial Plan designation.

7.2.106.02 Permitted Uses *(amended effective 9/6/07, Ordinance #583)*

The following uses, when developed under the applicable development standards in the Zoning Code, are permitted in the C zone:

- A. Pre-schools, nurseries and kindergartens.
- B. Non-profit member organizations, such as business associations, labor unions, political organizations or fraternal lodges.
- C. Public and semi-public buildings, structures and uses, such as parks, parking, municipal offices, libraries, police and fire stations and hospitals.
- D. Public utility structures and buildings, such as pump stations, reservoirs, electric substations, and necessary right-of-way for public utilities.
- E. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, newspaper, periodical, publishing and printing offices, and, similar business offices.
- F. Professional offices and clinics including, but not limited to, medical, dental, engineering and legal services, but excluding veterinary clinics.
- G. Banks services, brokerages, loan companies, investment companies and other financial institutions.
- H. Hotels and motels.
- I. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, hobby or photography store, florist and garden supply including greenhouse, liquor store, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, jewelry, gift, and other types retail activities.

Restaurants, drive-ins, taverns, snack shops and other types of eating and drinking establishments, including entertainment facilities.

K. Retail and service related stores such as TV and radio sales and service, bicycle shop, equipment rental or other similar activities where a service department is customarily a secondary activity to the retail use.

L. Service related businesses such as barber shops, beauty shops, advertising agencies, printing or photocopying, or other activities which provide a service to retail customers.

M. Residences limited to second or upper stories.

N. Wineries with retail sales. (*amended effective 9/6/07, Ordinance #583*)

7.2.106.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the C zone:

A. Partitions, subject to the provisions in Section 7.2.307.

B. Subdivision, subject to the provisions in Section 7.2.307.

C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.

D. The following uses subject to the applicable standards in Section 7.2.4:

1. Home occupations (Section 7.2.406).

2. RV Parks (Section 7.2.408).

7.2.106.04. Conditional Uses: (*amended effective 9/6/07, Ordinance #583*)

The following uses require a Conditional Use Permit:

A. Automobile service station, including towing service and vehicle washing and polishing facilities, and services.

B. Automobile, truck, motorcycle, trailer, agricultural equipment, recreational vehicle and boat sales, lease and rentals.

C. Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales and service.

D. Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping and similar automotive repair facilities.

E. Part and accessory sales for automobiles, trucks, motorcycles, trailers, agricultural equipment, recreational vehicles and boats, including retail tire sales; but, specifically prohibiting junk yards, wrecking yards, or auto salvage and

restoration yards.

F. Laundry or dry cleaning.

G. Warehouse for short term storage, including mini-warehouse.

H. Lumber yard and contracting supplies for lumber, stone, masonry or metal.

I. Special trade contracting facilities such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting.

J. Cabinet shop where activities are conducted wholly within a building.

K. Welding and blacksmith shop.

L. Mortuary

Small-scale manufacturing businesses conforming to requirements in Section 7.2.405. (*amended effective 9/6/07, Ordinance #583*)

7.2.106.05 Dimensional Standards

A. Lot Dimension and Height Requirements

1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.

2. Maximum Height. The maximum height shall be 35 feet.

B. Minimum Yard Setback Requirements

1. Front: None.

2. Side, Rear Yard: None, provided the setback shall be no less than the minimum rear yard setback of the zone on the adjacent property.

7.2.106.06 Development Standards

A. Development Exemptions: Commercial property located in the Central Business Area shall be subject to the requirements in Section 7.2.111.

B. Use Restrictions. The following use restrictions shall apply:

1. No permitted, special permitted or conditionally permitted use shall in any way involve any of the slaughter, rendering or processing of animals. The processing of grains, fruits, vegetables, or dairy products for breads, wines, jams, cheeses and similar products may be allowed as part of a commercial business or small-scale manufacturing where permitted in the zone.

(*amended effective 9/6/07, Ordinance #583*)

2. All business, service, processing or merchandise displays shall be conducted wholly within an enclosed building, except for the following:

a. Off-street parking and loading.

- b. Drive-in windows.
- c. Temporary display and sales of merchandise; provided it does not interfere with pedestrian or automobile circulation.
- d. Outdoor seating for eating and drinking places.
- e. Outdoor display customary to a business (e.g. auto sales).

C. Unless otherwise exempted, all development in the C Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

- 1. Offstreet parking. Parking shall be as specified in Section 7.2.303.
- 2. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.
- 3. Site Development Review: Development within the C Zone shall be subject to the Site Development Review requirements and procedures in Section 7.3.1.
- 4. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be 90%.
- 5. Landscaping: All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 7.2.306. A minimum 10% of the property shall be landscaped.

7.2.107 INDUSTRIAL (I)

7.2.107.01 Purpose

The purpose of the I Zone is to provide areas suitable for warehousing, primary and secondary processing, packaging, fabricating of finished goods and equipment with related outdoor storage and incidental sales. The Industrial zone is appropriate in those areas designated Industrial in the Comprehensive Plan where the location has access to an arterial street or highway and where the noises, lights, odors, and traffic will not conflict with residential areas.

7.2.107.02 Permitted Uses

The following uses, when developed under the applicable development standards in this Zoning Code, are permitted in the I zone:

- A. Dwelling for a caretaker or watchman on the premises being cared for or guarded.
- B. Commercial activities:
 - 1. Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping and similar automotive repair facilities.
 - 2. Warehouse for short term storage, including mini-warehouse.
 - 3. Lumber yard and contracting supplies for lumber, stone, masonry or metal.
 - 4. Special trade contracting facilities, such as; floor laying, building equipment,

masonry and stone, plumbing, electrical, metal work or painting.

5. Cabinet shop.

6. Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales and service.

7. Welding and blacksmith shop.

8. Machine shop, and sales, service and repair of machinery

C. Manufacturing and Assembly, Secondary Processing

1. Food processing, including canning, freezing, drying, dairy products and similar food processing and preserving., beverage bottling facility, including warehousing and distribution. BUT EXCLUDING processes which involve the slaughter of animals.\

2. Textile mill products including apparel and other finished products made from fabrics and similar materials.

3. Furniture and fixtures including retail wood products.

4. Printing, publishing, and allied industries.

5. Rubber and miscellaneous plastics.

6. Leather and leather goods (31) BUT EXCLUDING leather tanning and finishing.

7. Cement, glass, clay and stone products manufacturing.

8. Fabricated metal products, BUT EXCLUDING metal forgings , metal plating, coating and engraving, ordnance and accessories.

9. Electrical and electronic equipment, machinery and supplies BUT EXCLUDING storage batteries and primary batteries, dry and wet.

10. Measuring, analyzing, and controlling instruments; photographic, medical, and optical goods; watches and clocks.

11. Freight terminals, including loading docks, storage, warehousing and wholesale distribution, cold storage lockers and similar personal storage facilities such as mini-storage warehouses.

E. Wholesale trade and distribution facilities, BUT EXCLUDING trade and distribution involving:

1. Metals and minerals

2. Machinery and equipment

3. Scrap and waste material

4. Farm-product raw materials

5. Chemicals and allied products

6. Petroleum and petroleum products

7.2.107.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the I zone:

A. Partitions, subject to the provisions in Section 7.2.307.

B. Subdivision, subject to the provisions in Section 7.2.307.

C. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.

7.2.107.04 Conditional Uses

The following uses shall require a Conditional Use permit:

A. Recycling depots, excluding composting.

B. Wrecking, demolition, junk yards.

C. Battery manufacture, sales and service.

D. Petroleum products storage and distribution, including asphalt plants.

E. Feed and seed facilities, grain elevators and storage; including agricultural chemical, fertilizer, insecticide storage and distribution

F. Chemical manufacturing including agricultural chemicals, fertilizers and insecticides.

G. Manufacture of primary and secondary wood products, including sawmills, paper and allied products.

H. Auction yard.

I. All uses not specifically identified as a permitted use in, or specifically excluded from, Section 7.2.107.02 or Section 7.2.107.03 may be established by a conditional use permit.

7.2.107.05 Dimensional Standards

A. Lot Dimension and Height Requirements

1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.

2. Maximum Height. 45 feet.

B. Minimum Yard Setback Requirements

ADJACENT PROPERTY USE:

SETBACKS	SINGLE FAMILY OR DUPLEX	MULTI-FAMILY	COMMERCIAL	INDUSTRIAL
Front	20 feet	20 feet	20 feet	20 feet
Side	(1), (2)	(1), (2)	(1)	(1)
Rear	(1), (2)	(1), (2)	(1)	(1)
Street-side	20 feet	20 feet	20 feet	20 feet

(1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. For the I zone, the rear yard setback is 0 feet.

(2) Yards adjacent to residential zones shall be contained by a sight-obscuring fence, wall, or hedge a minimum of 8 feet in height.

7.2.107.06 Development Standards

All development in the I Zone shall comply with the applicable provisions of this Code. The following includes referenced items as well as additional development requirements:

A. Offstreet Parking. Parking shall be as specified in Section 7.2.303.

B. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.

C. Site Development Review: Development within the I Zone shall be subject to the Site Development Review procedures in Section 7.3.1.

D. Landscaping: A minimum of 10% of the property shall be landscaped, including all required setback areas. Landscaped areas shall be landscaped as provided in Section 7.2.309.

E. Lot Coverage: The combined maximum building and parking area coverage shall not exceed 90%.

F. Open Storage: Open storage of equipment and materials used for the manufacture or assembly of goods is prohibited in required setback areas. Otherwise, such storage shall be enclosed within a sight-obscuring fence, wall or berm a minimum of 8 feet in height.

7.2.108 PUBLIC (P)

7.2.108.01 Purpose

The purpose of the P (PUBLIC) zone is to provide areas appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. The Public zone is applicable to those properties designated Public in the Comprehensive Plan.

7.2.108.02 Permitted Uses

The following uses, when developed under the applicable development standards in this Zoning Code, are permitted in the P zone:

- A. Parks, playgrounds and other recreational facilities.
- B. All public and governmental buildings such as fire stations, police stations, libraries, schools, hospitals, clinics, and community centers.
- C. Utility facilities necessary for public service except public power generation and treatment facilities.

7.2.108.03 Special Permitted Uses

The following uses, when developed under the applicable standards in the Code and special development requirements, are permitted in the I zone:

- A. Partitions, subject to the provisions in Section 7.2.307.
- B. Accessory structures and uses prescribed in Section 7.2.203 and subject to the provisions in Section 7.2.309.

7.2.108.04 Conditional Uses

The following uses shall require a conditional use permit:

- A. Power generating facilities.
- B. Water and sewage treatment facilities.
- C. Cemetery.

7.2.108.05 Dimensional Standards

A. Lot Dimension and Height Requirements

- 1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
- 2. Maximum Height. 45 feet.

B. Minimum Yard Setback Requirements

ADJACENT PROPERTY USE

SETBACKS	SINGLE FAMILY OR DUPLEX	MULTI-FAMILY	COMMERCIAL	INDUSTRIAL
Front	20 feet	20 feet	20 feet	20 feet
Side	(1)	(1)	(1)	(1)
Rear	(1)	(1)	(1)	(1)
Street-side	20 feet	20 feet	20 feet	20 feet

(1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. For the P zone, the rear yard setback is 10 feet.

7.2.108.06 Development Standards

All development in the P Zone shall comply with the applicable provisions of this Code. The following references additional development requirements:

A. Offstreet Parking. Parking shall be as specified in Section 7.2.303.

B. Yards and Lots. Yards and lots shall conform to the standards of Section 7.2.308.

C. Site Development Review: Development within the P Zone shall be subject to the Site Development Review procedures in Section 7.3.1. Development of property for public uses consistent with a Master Plan adopted by the Dayton City Council shall not require a Site Development Review.

D. Lot Coverage: The combined maximum building and parking area coverage shall not exceed 80%.

E. Landscaping: A minimum of 20% of the property shall be landscaped, including all required setback areas. Landscaped areas shall be landscaped as provided in Section 7.2.309.

F. Open Storage: Open storage of equipment and materials used for the manufacture or assembly of goods is prohibited in required setback areas. Otherwise, such storage shall be enclosed within a sight-obscuring fence, wall or berm a minimum of 8 feet in height.

7.2.110 LIMITED USE OVERLAY ZONE (LUO)

7.2.110.01 Purpose

The purpose of the Limited Use Overlay Zone is to reduce the list of permitted uses in a zone to those that are suitable for a particular location. Zones permit a number of uses without notification or opportunity for a hearing. These uses are included in the zone because they are considered basically equivalent in terms of the type and intensity of activity. However, on a particular property certain permitted uses may conflict with adjacent land uses. Rather than reject an otherwise acceptable zone change request because the proposed zone would permit an objectionable use, the Limited Use Overlay can be used to identify the appropriate uses and require a conditional use permit for other uses normally permitted in the zone. It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.

7.2.110.02 Overlay Zone Requirements

When the Limited Use Overlay zone is applied, the uses permitted in the underlying zone shall be limited to those permitted uses specifically referenced in the order or ordinance adopting the Limited Use Overlay zone. Until the Overlay zone has been removed or amended, the only permitted uses in the zone shall be those specifically referenced in the adopting ordinance. Uses that would otherwise be permitted may only be allowed if a conditional use permit is approved.

7.2.110.03 Procedures and Criteria

The Limited Use Overlay zone is applied at the time the underlying zone is being changed. It shall not be necessary to mention in the hearing notice of a rezoning application that this overlay zone may be applied. The order or ordinance adopting the overlay zone shall include findings to the following:

- A. No zone has a list of permitted uses where all uses would be appropriate.
- B. The proposed zone is the best suited to accommodate the desired uses.
- C. It is necessary to limit the uses permitted in the proposed zone.
- D. The maximum number of acceptable uses in the zone have been identified and will be permitted.

The order or ordinance adopting the overlay zone shall by section reference, or by name, identify those permitted uses in the zone that will remain permitted uses. A permitted use description may be segmented to require a conditional use for distinct uses that may not be compatible.

7.2.110.04 Official Zoning Map

The official zoning map shall be amended to show an LUO suffix on any parcel where the Limited Use Overlay zone has been applied.

7.2.110.05 Site Plan Requirement

In addition to limiting the uses in the zone, it may be necessary to require City approval of the location of buildings, access and parking, screening and other site planning considerations in order to ensure the compatibility of the permitted uses with the area. This requirement may be added by specific reference in the adopting order or ordinance. The document shall indicate any special concerns or locational requirements that must be addressed in the site plan and approved by the City.

7.2.110.06 Recorded Provisions

When a LUO zone is applied to a property, a copy of the decision and restrictions shall be recorded against the deed record of the property at Yamhill County.

7.2.111 CENTRAL BUSINESS AREA OVERLAY ZONE (CBO)

7.2.111.01 Purpose

The purpose of the Central Business Area Overlay Zone is to establish development requirements which are specifically designed to address the unique challenges the City's downtown.

7.2.111.02 Central Business Area Defined

For the purposes of this Section, the Central Business Area shall be defined as follows: C zoned land located south of Church Street, east of Fifth Street, north of Alder Street, and west of Second Street.

7.2.111.03 Development Requirements

A. General Requirements: Notwithstanding provisions contained elsewhere in this Code, the following regulations shall apply to the development of new buildings within the Central Business Area.

B. Permitted Uses. Unless specifically modified by this Section, regulations in this Section do not prohibit or restrict, nor alter the development requirements of, permitted, specially permitted or conditionally permitted uses within the Commercial zone.

C. Use Restrictions. In addition to the use limitations in Section 7.2.106.06.B., drive-ups and drive-in windows shall be prohibited.

7.2.111.04 Parking

Off-street parking and loading areas shall not be required within the Central Business Area. Off-street parking installed at the option of the owner shall comply with the following:

A. Parking spaces shall be located behind the primary building. For corner lots, this shall be identified as being opposite, and furthest from, the primary building access.

B. Improvements, such as driveways and parking space dimensions, shall otherwise comply with Code requirements.

7.2.111.05 Landscaping

All new development within the Central Business Area fronting a public or private street shall provide street trees and landscaping in accordance to the following:

A. Type of Trees. Street trees shall be limited to an approved City of Dayton list. The list of acceptable tree species and planting methods shall be established by the Department of Public Works.

B. Minimum Size to be Installed. Street trees shall have a minimum caliper of 2 inches when measured 4 feet in height at the time of installation.

C. Spacing. The spacing of street trees by tree size shall be as follows:

1. Small sized trees (under 25' tall and less than 16' wide) shall be spaced no greater than 20 feet apart.

2. Medium sized trees (25' - 40' tall and more than 16' wide) shall be spaced no greater than 30 feet apart.

3. Large trees (over 40' tall and more than 35' wide) shall be spaced no greater than 40 feet apart.

D. Placement. The placement of trees is subject to the site design review process. Tree placement shall not interfere with utility poles, light standards, power lines, utility services, visual clearance areas or sidewalk access.

E. Exemption to Street Tree Requirements. Exemptions to these requirements is subject to the site design review process and may be granted if:

1. The location of the proposed tree would cause potential problems with existing utility lines; or,

2. The tree would cause visual clearance problems; or,

3. There is not adequate space in which to plant the trees; or,

4. Street trees are already in place on the site.

F. Landscaping, General. Those areas not constructed upon or devoted to parking and access shall be landscaped in accordance to provisions in Section 7.2.306.

7.2.111.06 Building Standards

New buildings shall comply with the following standards:

A. Setbacks. The maximum building setback from a street-side property line shall be 10 feet. The street-side setback area shall be landscaped. Otherwise, there shall be no minimum nor maximum building setbacks.

B. Building Height. New buildings shall be within 25% of the average height of existing buildings located on the same street side.

C. Orientation. The main entrance to a building shall face a public street.

D. Building Facade. Building facades visible from a public street shall be of brick or wood construction.

E. Special Design Requirements. For property located on the south side of Ferry Street, between Third and Fourth Streets, the following additional design standards shall apply:

1. Setbacks. The maximum building setback from a street-side property line shall be 0 feet.

2. Building Height. New buildings shall be within 10% of the average height of existing buildings.

3. Building Facade. The building facade visible from a public street shall be predominantly of brick.

4. Building Design. New buildings shall be similar in character and design with existing structures.

7.2.111.07 Signs.

Signs shall comply with the following standards:

A. Permitted Sign Types. Signs shall be limited to wall signs or projecting signs. The edge of a projecting sign nearest the wall shall not extend more than 18 inches from a wall.

B. Maximum Allowable Area. The maximum allowable sign area shall be computed as follows: one (1) square foot of sign area for each one foot of building street-side frontage. This maximum area shall apply to all signs located on the building.

C. Number. There shall be no limit to the number of signs, provided the total sign area for all signs does not exceed the maximum allowable area for the building.

D. Illumination. Direct or in-direct illumination shall be permitted, provided all illumination is directed away from adjacent property.

E. Prohibited Sign Types. Signs extending above the roof line, balloon/tethered signs, blinking or flashing lights, electronic message signs, and free standing signs shall be prohibited.

F. Exempt Signs. Window signs shall be exempt from the maximum allowable sign area requirements. Portable signs shall also be exempt provided they do not exceed 16 square feet in area (all-sides).

G. State Highway Requirements. Applicants are advised to contact the State Highway Division of the Oregon Department of Transportation regarding other

possible sign regulations adjacent to Ferry Street and Third Street.

7.2.111.08 Modification of Site Design Standards

The Planning Commission, as part of the site design review process, may allow modification to the site design requirements in the Central Business Area when both of the following criteria are satisfied:

A. The modification is necessary to provide design flexibility where:

1. Conditions unique to the site require such modification; or,
2. Parcel shape or configuration precludes compliance with provisions; or,
3. A modification is necessary to preserve trees, other natural features or visual amenities determined by the Planning Commission to be significant to the aesthetic character of the area.

B. Modification of the standards in this Section shall only be approved if the Planning Commission finds that the specific design proposed is substantially in compliance with the intent and purpose of the Central Business Area design provisions.

7.2.112 HISTORICAL PROPERTY OVERLAY ZONE (HPO)

7.2.112.01 Purpose

The purpose of this Overlay Zone is to:

- A. Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration and protection of those buildings, structures, sites, districts, and objects of historic interest within the city;
- B. Foster civic pride in the accomplishments of the past; and
- C. Carry out the provisions of the Land Conservation and Development Commission Goal 5.

7.2.112.02 Conformance Required

No land shall be used, and no building, site, object, district, or structure of significance, or part thereof, shall be demolished, moved, or altered, nor shall any new construction take place within a district or on a landmark site except in conformity with this Code.

7.2.112.03 Definitions

The following definitions shall apply to this Section: otherwise:

Alteration: A change, addition, or modification to the exterior of a building.

Cultural Resource Inventory: Historical buildings or sites identified as "significant" on the Goal 5 historical resource inventory.

Demolish: To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district.

Historic District: A geographically definable area, the boundaries of which have been adopted by the Council under Section 7.2.112.04.

Landmark: Any site, object, buildings, or structure designated by the Council under Section 7.2.112.04.

Major Public Improvement: The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property within a district or on a landmark site, except for the repair or maintenance of existing public improvements.

7.2.112.04 Landmark and District Designation

A. Process. The process for designating a landmark or historic district may be initiated by the Council, the Commission, or by any interested person who submits an application for designation to the City Administrator. At the time of application the Director shall provide the property owner and applicant with information regarding the benefits and restriction of designation.

B. Information. The following information shall be required in an application:

1. The applicant's name and address;
2. The owner's name and address, if different from the applicant;
3. A written description of the boundaries of the proposed district or the location 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:
 1. The reason(s) why the proposed district or landmark should be designated;
 2. The reason(s) why the boundaries of the proposed district are appropriate for designation;
 3. The potential impact, if any, which designation of the proposed district or landmark would have on the residents or other property owners in the area.
6. Any other information deemed necessary by the Director.

C. Council Action. Within seven days of receipt of a complete application, the City Administrator shall forward the request to the Council. The Council shall hold a public hearing within 45 days of receipt of the application pursuant to Section 7.3.2 of this Code. The Council shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request.

D. Decision Criteria. The Council shall consider the following criteria in determining whether to approve a proposed landmark or district:

1. Association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
2. Association with an event that has made a significant contribution to the city, county, state, or nation;
3. Association with broad patterns of political, economic, or industrial history in

the city, county, state, or nation;

4. Significance as an example of a particular architectural style, building type and/or convention;

5. Significance due to quality of composition, detailing, and/or craftsmanship;

6. Significance as an example of a particular material and/or method of construction;

7. Significance because the resource retains its original design features, materials, and/or character;

8. Significance as the only remaining, or one of the few remaining resources of a particular style, building type, design, material, or method of construction;

9. Significance as a visual landmark;

10. Significance because existing land-use surrounding the resource contribute to the integrity of the historic period represented;

11. Significance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;

12. Significance because the property is 50 years old or older in conjunction with other criteria listed above;

13. The resource is listed on the National Register of Historic Places.

E. Removal of Designation. The process for removing a landmark or historic district designation may be initiated by the Council, the Commission, or by any interested person who submits to the City Administrator an application for removal of the designation. The Council may amend or rescind its designation by following procedures required by this Code for designating a landmark, including the adoption of appropriate findings.

7.2.112.05 Demolition and Moving

A. City Administrator Approval. No person shall move, demolish, or cause to be demolished a landmark or a significant resource in an historic district, unless a permit to do so has first been obtained from the City Administrator. Application for a permit shall be on a form provided by the City.

B. Review Process. Upon receipt of a completed application, the City Administrator shall include the demolition request on the agenda for consideration at the next available Commission meeting. The Commission shall hold a public hearing pursuant to Section 7.3.2 of this Code within 45 days after a completed application has been received by the City. The Commission shall request comments from the City Historical Commission.

C. Decision Criteria. In determining whether the requested demolition or moving is appropriate, the Commission shall consider the following:

1. Plans, drawings, and photographs submitted by the applicant;

2. Information presented at the public hearing concerning the proposal;

3. The purpose of this Code as set forth in Section 2;

4. The criteria used in the original designation of the resource;
5. If within an historic district, the resource's contribution to the district and the subsequent integrity of the district if the resource is demolished or moved;
6. Whether denial of the request will involve substantial hardship to the applicant;
7. Whether issuance of the permit would act to the substantial detriment of the public welfare and be contrary to the purpose and scope of this Code;
8. The economic, social, environmental and energy consequences of demolishing or moving the resource compared to preserving it; and
9. The physical condition of the resource.
10. Comments of the City Historical Commission.

D. Planning Commission Approval. The Commission may approve the demolition or moving request after considering the criteria in this section. If no appeal is filed, the Administrator shall issue the permit in compliance with all other codes and ordinances of the City.

E. Planning Commission Denial. The Commission may disapprove the demolition or removal request if after considering the criteria in this section it determines that, in the interest of preserving historical or architectural values, the resource should not be demolished or moved.

F. Planning Commission Postponement. The Commission may postpone taking final action on a request for issuance of a demolition or moving permit for a period fixed by the Commission as follows:

1. No more that 60 days following the date of public hearing. Further postponements may be made for a period not to exceed a total of 120 days from the date of hearing, if the Commission makes the findings specified in subsection (c) of this section.

2. Further postponements as stated above may only be made if the Commission finds:

- a. There is a program of project underway that could result in public or private acquisition of the landmark or resource; and

- b. There is a reasonable ground for believing the program or project may be successful.

3. After granting a further postponement, the Commission may order the Administrator to issue the permit if it finds:

- a. All programs or projects to save the resource have been unsuccessful;

- b. The application for demolition or moving has not been withdrawn; and

- c. The application otherwise complies with City Codes and state law.

G. Appeals. A decision by the Commission to approve, disapprove or postpone

issuance of a demolition or moving permit or to grant a further postponement may be appealed to the Council by any aggrieved party who appeared orally or in writing, in person or through an attorney at the Commission hearing and presented or submitted testimony related to the request under consideration. The appeal shall comply with the requirements in Section 7.3.2.

H. Final Decision. If no decision on the application is made by the Commission within the periods specified above, the City Administrator shall issue the permit.

I. Alternative Actions. At the time a demolition or moving application is made the Administrator shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.

J. Additional Requirements. During a period of postponement, the Commission may require the property owner to:

1. List the resource for sale with a real estate agent for a period of not less than 90 days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days over a 5 week period.

2. Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the City and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for assuring that the sign is posted for a continuous 90-day period in conjunction with 1., above.

3. Prepare and made available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.

4. Assure that the owner has not rejected the highest bona fide offer for sale and removal of the resource.

K. Press Notification. Prior to issuance of a demolition permit, the Director shall issue a press release to local and state newspapers of general circulation in the county. The press release shall include, but not limited to, a description of the significance of the resource, the reasons for the proposed demolition or removal, and possible options for preserving the resource.

L. Permit Conditions. As a condition for approval of a demolition permit, the Commission may:

1. Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the county or other party determined appropriate by the Commission.

2. Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials. The applicant shall be provided with a list of persons capable of salvaging the resource.

M. Dangerous Building. This Code shall not be construed to make it unlawful for any person, without prior approval of the Commission, to comply with an order by the City Council to remove or demolish any landmark determined by the Council to be dangerous to life, health, or property.

7.2.112.06 Exterior Alteration and New Construction

A. Scope. No person shall alter a landmark or any significant resource in an historic district nor shall any new building or structure be constructed in an historic district or on a landmark site unless approval is first obtained under this section. In addition, no major public improvements shall be made on a landmark site or in an historic district unless approved by the Commission.

B. Application Process. Application for alteration of a landmark or new construction in an historic district or on a landmark site shall be made to the City Administrator. The application shall be on a form provided by the City.

C. Approval Requirements. The Administrator shall approve the alteration request if:

1. There is no change in the appearance or material of the resource as it exists; or
2. The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials.

D. Planning Commission Action. If a request for alteration does not meet the provisions of subsection (C) of this section, the Administrator shall forward the application to the Commission. The Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 of this Code, shall approve or disapprove issuance of the requested permit. The Commission may attach conditions to the approval which must be adhered to for the approval to remain valid.

E. Decision Criteria. The Commission shall consider the following criteria in determining whether to approve an alteration request:

1. The purpose of this Code;
2. The use of the resource, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in the preservation of the resource;
3. The value and significance of the resource;
4. The physical condition of the resource;
5. The effect of requested changes related to the original exterior design, arrangement, proportion, detail, scale, color, texture, and/or materials;
6. Pertinent aesthetic factors as identified by the Commission;
7. Economic, social, environmental and energy consequences of the proposed alteration; and
8. Any design guidelines adopted by the Commission.

F. Repair and Maintenance Provisions. Nothing in this Code shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material or appearance of such feature or which the Administrator shall determine is required for the public safety due to an unsafe or dangerous condition.

7.2.112.07 Notice and Public Hearing

A. Notice. Within 45 days of receipt of a complete application for designation, alteration, demolition or moving of a landmark, or for undertaking such activities or new construction in a historic district, the Commission shall conduct a public hearing to consider the application.

B. Application Process. The hearing shall be conducted as a Type II hearing and subject to the notice, procedural and appeal provisions in Section 7.3.2.

7.2.113 FLOOD PLAIN OVERLAY DISTRICT (FPO)

7.2.113.01 Purpose

The purpose of the Flood Plain Overlay Zone is to:

A. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.

B. Minimize expenditure of public money for flood control projects, rescue and relief efforts in areas subject to flooding.

C. Minimize flood damage to new construction by elevating or flood proofing all structures.

D. Control the alteration of natural flood plains, stream channels, and natural protective barriers which hold, accommodate or channel flood waters.

E. Control filling, grading, dredging and other development which may be subject to or increase flood damage.

F. Prevent or regulate the construction of flood barriers which may increase flood hazards in other areas.

G. Comply with the requirements of the Federal Insurance Administration to qualify the City of Dayton for participation in the National Flood Insurance Program.

H. Minimize flood insurance premiums paid by the citizens of the City of Dayton by reducing potential hazards due to flood damage.

I. Implement the flood plain policies in the City of Dayton Comprehensive Plan.

7.2.113.02 Definitions

For purposes of this Overlay Zone, the following terms shall mean:

A. **Accessory Structure**: Sheds or small garages that are exempt from elevation or flood proofing requirements. This definition shall be limited to detached structures less than 480 square feet in area.

B. **Area of Special Flood Hazard**: Land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year.

C. **Base Flood Level**: The flood level having a one (1) percent chance of being equaled or exceeded in any given year (100 year flood plain).

D. **Conveyance**: Refers to the carrying capacity of all or a part of the flood

plain. It reflects the quantity and velocity of flood waters. Conveyance is measured in cubic feet per second (CFS). If the flow is 30,000 CFS at a cross section, this means that 30,000 cubic feet of water pass through the cross section each second.

E. **Development:** Any activity that has the potential to cause erosion or increase the velocity or depth of flood water. Development may include, but is not limited to, residential and non-residential structures, fill, utilities, transportation facilities, and the storage and stockpiling of buoyant or hazardous materials.

F. **Encroachment:** Any obstruction in the flood plain which affects flood flows.

G. **Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision:** A parcel (or contiguous parcels) of land divided into two or more mobile/manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile/manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Code.

H. **Expansion to an Existing Mobile/Manufactured Home Park or Manufactured Home Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile/manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

I. **FEMA:** The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.

J. **Fill:** The placement of any material on the land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc.

K. **Flood or Flooding:** A general and temporary condition of partial or complete inundation of usually dry land areas from the unusual and rapid accumulation of runoff of surface waters from any source.

L. **Flood Boundary Floodway Map (FBFM):** The map portion of the Flood Insurance Study (FIS) issued by the Federal Insurance Agency on which is delineated the Flood Plan, Floodway (and Floodway Fringe), and cross sections (referenced in the text portion of the FIS).

M. **Flood Insurance Rate Map (FIRM):** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards (flood plain) and the risk premium zones applicable to the community and is on file with the City of Dayton.

N. **Flood Insurance Study (FIS):** 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 and is on file with the City of Dayton.

O. **Flood Plain:** Lands within the City that are subject to a one (1) percent or greater chance of flooding in any given year as identified on the official zoning maps of the City of Dayton.

P. **Flood Proofing:** A combination of structural or non-structural provisions, changes, or adjustments to structures, land or waterways for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Q. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must remain unobstructed to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. Once established, nothing can be placed in the floodway that would cause any rise in the base flood elevation.

R. **Floodway Fringe:** The area of the flood plain lying outside of the floodway as delineated on the FBFM where encroachment by development will not increase the flood elevation more than one foot during the occurrence of the base flood discharge.

S. **Hazardous Material:** Combustible, flammable, corrosive, explosive, toxic or radioactive substance which is potentially harmful to humans and the environment.

T. **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 non-elevation design requirements of this Code.

U. **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 connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes mobile homes as defined in sub Q., of this Section. For insurance and flood plain management purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

V. **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.

W. **Mean Sea Level(MSL):** Means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

X. **Mobile Home:** A vehicle or structure, transportable in one or more sections, which is eight feet or more in width, is 32 feet or more in length, is built on a permanent chassis to which running gear is or has been attached, and is designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. Such definition does not include any recreational vehicle as defined by sub T., of this Section.

Y. **New Construction:** Any structure(s) for which the start of construction commenced on or after the original effective date of the Flood plain Overlay Zone.

Z. **Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by

catching or collecting debris carried by such water, or that it is placed where the flow of water might carry the same downstream to the damage of life or property.

AA. **Recreational Vehicle:** Means a "camper," "motor home," "travel trailer," as defined in ORS 801.180, 801-350, and 801-565 that is intended for human occupancy and is equipped with plumbing, sinks, or toilet, and does not meet the definition of a mobile home in sub V., of this Section.

BB. **Start of Construction:** The first placement or permanent construction of a structure (other than a mobile/manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. 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 sheds not occupied as dwelling units or not used as part of the main structure.

For a structure (other than a mobile/manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

For mobile/manufactured homes not within a mobile/manufactured home park or manufactured home subdivision, "start of construction" means affixing of the mobile/manufactured home to its permanent site. For mobile/manufactured homes within mobile/manufactured home parks or manufactured home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile/manufactured home is to be affixed (including at a minimum, the construction of streets with final site grading or the pouring of concrete pads, and installation of utilities) is completed.

CC. **Structure:** Roofed buildings that have two or more walls, and gas or liquid storage tanks that are principally above ground.

DD. **Substantial Improvement:** Any repair, reconstruction, addition, rehabilitation or other improvements of a structure, the cost of which exceeds 50% of the market or assessed value of the structure before the start of construction of the improvement:

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 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 structures. The term does not include:
 - a. Any project to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local building code enforcement official and which are the minimum necessary to assure safe living conditions.
 - b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places, provided, the alteration will not preclude the structure's continued designation as an historic structure.

EE. **Watercourse:** A natural or artificial channel in which a flow of water occurs

either continually or intermittently in identified flood plain.

7.2.113.03 General Provisions

The following regulations apply to all lands in identified flood plains as shown graphically on the zoning maps. The flood plain is those 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 Dayton, Oregon," with accompanying Flood Insurance Rate Maps. The report and maps are incorporated in the overlay zone by this reference and are on file at the City of Dayton. When base flood elevation data has not been provided, the City Administrator, or designee, shall have the authority to determine the location of the boundaries of the flood plain where there appears to be a conflict between a mapped boundary and the actual field conditions, provided a record is maintained of any such determination.

A. Duties of the City Administrator, or designee, shall include, but not be limited to:

1. Review all development permits to determine that the permit requirements of this Code 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.
3. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 7.2.113, are met.

B. Use of Other Base Flood Data: When base flood elevation data has not been provided on the FIRM, or when more detailed data is available, the City Administrator, or designee, shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of this Section.

C. Information to be Obtained and Maintained

1. From the developer of the property, obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.
2. For all new or substantially improved flood-proofed structures:
 - a. Verify and record the actual elevation as furnished by the developer (in relation to mean sea level), and,
 - b. Maintain any flood-proofing certifications required by this Section.
3. Maintain for public inspection all records pertaining to the provisions of this Code.

D. Permitted, but not exempt, activities in the flood area shall be reviewed as a Type I-A action. Activities requiring conditional use approval shall be reviewed as a Type II action.

Within a Flood Plain Overlay zone no uses, structures, vehicles, and premises shall be used or established except as provided in the applicable underlying zone

and the provisions of this overlay zone. Except as provided herein all uses and flood plain development shall be subject to issuance of a determination or a conditional use permit as provided in Sections 7.2.113.06, and 7.2.113.07. The following uses are exempt from the regulations of this overlay zone:

- A. Signs, markers, aids, etc., placed by a public agency to serve the public.
- B. Driveways, parking lots and other open space use areas where no alteration of topography will occur.
- C. Minor repairs or alterations to existing structures provided the alterations do not increase the size or intensify the use of the structure, and do not constitute "substantial improvement" as defined in Section 2.110.
- D. Customary dredging associated with channel maintenance consistent with applicable State or Federal law.
- E. Placement of utility facilities necessary to serve established and permitted uses within flood plain areas, such as telephone poles. This exemption does not apply to buildings, substations, or other types of flood plain development.

7.2.113.05 Uses - Permitted

If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit such as commercial and industrial uses, including the placement of fill to elevate a structure or site grading to prepare a site for development, may be allowed subject to a written determination (flood plain development permit) that the following requirements are met:

- A. The structure is not located within a floodway.
- B. The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.
- C. The structures will be located on natural grade or compacted fill.
- D. The lowest floor will be elevated to one (1) foot above the level of the base flood elevation and the anchoring requirements in Section 2.108.07 D.
- E. The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of Sections 2.110.07.
- F. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section 2.110.07 D., (3), prior to occupancy.
- G. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor including basement, is at or above the specific minimum is submitted to the Zoning Administrator prior to use of the structure.
- H. No alteration of topography beyond the perimeter of the structure is proposed.
- I. A recreational vehicle may be located in a flood plain only during the non-flood season (June 1 through September 30), provided, it is fully licensed and ready for highway use, or meet the requirements for manufactured homes. A recreation vehicle is ready for highway use if it is on its wheels or jacking

system, is attached to the site only by quick disconnect type utilities and security devices, and, has no permanently attached additions.

7.2.113.06 Conditional Use Procedures and Requirements

A. Except as provided in Section 7.2.113.04 and 7.2.113.05, a conditional use permit shall be obtained before construction or development begins within the Flood Plain Overlay Zone. The conditional use permit shall include conditions ensuring that the Flood Protection standards in Section 7.2.113.07 are met.

B. When base flood elevation data and floodway data have not been provided in accordance with Section 7.2.113.03, the applicant, with the assistance of the City Administrator, or designee, shall obtain any base flood elevation data or evidence available from a Federal, State or other source in order to determine compliance with the flood protection standards. If data is insufficient, the City Administrator, or designee, may require that the applicant provide data derived by standard engineering methods.

C. Prior to occupancy the applicant shall provide a certificate signed by a licensed surveyor or civil engineer certifying that the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved manufactured homes and structures meets the requirements of Sections 7.2.110.07 A., B., and, C.

D. In addition to other information required in a conditional use application, the application shall include:

1. Land elevation in mean sea level data at development site and topographic characteristics of the site.
2. Base flood level expressed in mean sea level data on the site.
3. Plot plan showing property location, flood plain, and floodway boundaries where applicable, boundaries and the location and floor elevations of existing and proposed development, or the location of grading or filling where ground surface modifications are to be undertaken.
4. Any additional statements and maps providing information demonstrating existing or historical flooding conditions or characteristics which may aid in determining compliance with the flood protection standards of this overlay zone.

E. Factors of Consideration - In reviewing a conditional use application for a development permit, the following factors shall be considered in making a decision on approval or denial of the permit:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept on to other lands or downstream to the injury of others.
3. The proposed water supply and sanitation systems and the ability of those systems to prevent disease, contamination and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance to the community of the service provided by the proposed

facility.

6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
12. Such other factors which are relevant to the purpose of this Section.

F. Imposition of Conditions: The City may attach such conditions deemed necessary to further the purpose of this Section. Such conditions may include, but are not limited to:

1. Limitations on periods of use and operation.
2. Imposition of operation controls, sureties, and deed restrictions.
3. Flood-proofing measures.

7.2.113.07 Flood Protection Standards

In all areas of identified flood plain, the following requirements apply:

A. Dwellings and Manufactured Homes

New residential construction, substantial improvement of any residential structures, location of a manufactured home on a lot or in a manufactured home park or park expansion approved after adoption of this Code shall:

1. Have the lowest floor, including basement, elevated on a permanent foundation to one (1) foot above base flood elevation; and
2. Manufactured homes shall be anchored in accordance with subsection F.; and
3. No manufactured home shall be placed in a floodway, except in an existing manufactured home park.
4. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be 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:
 - a. A minimum of 2 openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be

provided.

- b. The bottom of all openings shall be no higher than one foot above grade.
- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

B. Manufactured Homes in Existing Manufactured Home Parks - Manufactured homes placed on sites within existing manufactured home parks must be anchored to a permanent foundation and either:

1. Have the lowest floor at, or above, the base flood elevation; or,
2. Have the chassis supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Manufactured homes outside existing manufactured home parks must meet the requirements for residential structures.

C. Non-residential Development - New construction and substantial improvement of any commercial, industrial or other non-residential structures shall either have the lowest floor, including basement, elevated to one (1) foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

1. Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
3. Be certified by a registered professional engineer or architect that the standards in this subsection and subsection E., are satisfied. This certificate shall include the specific elevation (in relation to mean sea level) to which such structures are flood-proofed.
4. Non-residential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 7.2.110.07 A., (4).

5. Applicants flood-proofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the flood-proofed level (e.g. a building constructed to the base flood level will be rated as one (1) foot below that level).

D. Accessory Structures - Sheds or detached garages may be exempt from elevation and flood-proofing standards providing the following development standards are met:

1. The structure cannot be more than 480 square feet in area and shall not be used for human habitation;
2. Shall be designed to have low potential for flood damage;
3. Shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwater; and,

4. Shall be firmly anchored to prevent flotation which may result in damage to other structures.

E. Fill

1. Any fill or materials proposed must be shown to have a beneficial purpose and the amount thereof not greater than is necessary to achieve that purpose as demonstrated by a plan submitted by the owner showing the uses to which the filled land will be put and the final dimensions for the proposed fill or other materials.

2. Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover, or bulk heading.

F. Anchoring

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

2. All manufactured homes shall be anchored to resist floatation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:

a. Over-the-top ties be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations with manufactured homes more than 50 feet long requiring only one additional tie per side.

b. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points with manufactured homes less than 50 feet long requiring only four ties per side.

c. All components of the anchoring system be capable of carrying a force of 4,800 pounds.

d. Any additions or expansions to the manufactured home be similarly anchored.

3. An alternative method of anchoring may involve a system designed to withstand a wind force of 90 miles per hour or greater (must be certified).

G. Construction Materials and Methods

1. All new construction and substantial improvements below base flood level shall be constructed with materials and utility equipment resistant to flood damage, and the design and methods of construction are in accord with accepted standards of practice based on an engineer's or architect's review of the plans and specifications.

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

H. Utilities

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system as approved by the State Health Division.

2. New and replacement sanitary sewage systems shall be designed and located to minimize flood water contamination consistent with the requirements of the Oregon State Department of Environmental Quality.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment shall be designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

I. Developments, Generally - Residential developments involving more than one single-family dwelling, including subdivisions, manufactured home parks, multiple-family dwellings and planned developments including development regulated under A., and C., shall meet the following requirements:

1. Be designed to minimize flood damage.

2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

3. Have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided by the developer. In cases where no base flood elevation is available, analysis by standard engineering methods will be required.

J. Storage of Materials and Equipment - Materials that are buoyant, flammable, obnoxious, toxic or otherwise injurious to persons or property, if transported by floodwaters, are prohibited. Storage of materials and equipment not having these characteristics is permissible only if the materials and equipment have low-damage potential and are anchored or are readily removable from the area within the time available after forecasting and warning.

K. Alteration of Watercourses (Floodways) - When considering a conditional use permit to allow alteration or modification of a watercourse (floodway) the following shall apply:

1. Adjacent communities, (and) the Oregon Division of State Lands and the Department of Land Conservation and Development shall be notified prior to any alteration or relocation of a watercourse and evidence of such notification shall be submitted to the Federal Insurance Administration.

2. Maintenance shall be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

L. Floodways - Located within areas of flood plain established in Section 7.2.110.03 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential the following provisions shall apply in addition to the requirement in I.: (These provisions shall also apply to areas within a flood plain where a floodway has not been technically determined and the base flood level is three (3) or more feet above the land surface:)

1. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation is provided by a registered professional engineer or architect demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This evaluation may be submitted to the Federal Emergency Management Agency for technical review.

2. If Section 1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 7.2.110.07.
3. Prohibit the placement of any manufactured homes except in an existing manufactured home park.
4. The area below the lowest floor shall remain open and unenclosed to allow the unrestricted flow of flood waters beneath the structure.

7.2.113.08 Generalized Flood Plain Areas

Where elevation data is generalized, such as the unnumbered A zones on the FIRM, conditional use permits shall include a review and determination that proposed construction will be reasonably safe from flooding and meet the flood protection standards. In determining whether the proposed flood plain development is reasonably safe, applicable criteria shall include, among other things, the use of historical data, high water marks, photographs of past flooding, or data (e.g. an engineering study or soil and landscape analysis) may be submitted by qualified professionals that demonstrate the site is not in a flood plain. In such cases, a letter of map amendment may be required by the City Administrator.

7.2.113.09 Variances

A. A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the criteria in Section 7.2.114.10.

B. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and, (2) such construction below the base flood level increases risk to life and property. Such notification shall be maintained with a record of all variance actions as required in subsection C.

C. A community shall: (1) maintain a record of all variance actions, including justification for their issuance; and, (2) report such variances issued in its annual report submitted to the Administrator.

7.2.113.10 Variance Criteria

The following criteria shall be used to review variance applications.

A. Variances shall only be issued upon a showing that:

1. There is a good and sufficient cause;
2. That failure to grant the variance would result in exceptional hardship to the applicant;
3. That the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws;
4. The variance is the minimum necessary, considering the flood hazard, to afford relief;

5. The variance will be consistent with the intent and purpose of the provision being varied;

6. There has not been a previous land use action approved on the basis that variances would not be allowed; and

7. The new construction or substantial improvement is not within any designated regulatory floodway, or if located in a floodway, no increase in base flood discharge will result.

7.2.113.11 Warning and Disclaimer of Liability

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

7.2.114 RESTRICTED DEVELOPMENT OVERLAY DISTRICT (RD)

7.2.114.01 Purpose

There are environmentally sensitive areas within the City of Dayton which include unique natural habitat areas, lands valued for their aesthetic qualities and lands which cannot be developed under ordinary standards due to physical limitations. It is the intent and purpose of this zone boundary to maintain and protect the integrity of the natural resources of the City by implementing the goals and policies of the Comprehensive Plan.

7.2.114.02 Application

The provisions of this overlay district shall apply to all lands designated as "Open Space Overlay" on the City of Dayton Comprehensive Plan Map and identified within the Restricted Development Boundary (RD).

7.2.114.03 Review of Uses

Within the RD Overlay a conditional use permit shall be required for all new uses, use changes, intensification of uses or site alteration for uses otherwise permitted in the underlying zone except for the following activities which are not subject to review:

- A. Reasonable emergency procedures necessary for the safety or protection of property.
- B. Maintenance and repair necessary, and usual, for the continuance of an existing use.
- C. The placing by a public agency of signs, markers, aids, etc. to serve the public.
- D. Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical and natural uses of public lands, identified in a public park master plan approved by the City Council.
- E. Public utilities and facilities in conjunction with an approved development or identified as part of a master utility plan approved by the City Council.

7.2.114.04 Review Process

A. Unless otherwise permitted in Section 2.111.03, all development within the RD Overlay District, shall be require approval of a Conditional Use, pursuant to Section 7.3.107. The application may be processed separately or in conjunction with other required land use actions.

B. In addition to the submittal requirements for a Conditional Use application, the applicant shall supply the following:

1. Plot plan showing the following:

a. Location of the Overlay District Boundary.

b. The proximity of the activity to any adjacent streams or drainage corridors.

c. The location of any existing vegetative fringe along the stream or drainage and other significant vegetation.

2. Statements addressing the additional review standards and criteria in Section 7.2.114.05.

3. Any additional information determined by the City Administrator to be necessary to demonstrate compliance with this zone.

C. With the exception of partitionings, subdivisions and planned unit developments, a parcel located within the RD Overlay District is not subject to a conditional use review if the proposed development will be located entirely outside the boundary of the Overlay District.

7.2.114.05 Review Standards and Criteria

In addition to the Conditional Use criteria in Section 7.3.107, a conditional use permit within the RD Overlay District shall indicate how: (a) the proposal will not affect the following factors; (b) the proposal can be mitigated in some manner to minimize or eliminate potential harmful impacts regarding the following factors; or, (3) the factors do not apply to the request. The factors include:

A. Development shall be directed away from adjacent streams and drainage corridors to the greatest possible extent.

B. The development, change, or intensification of use shall provide the maximum possible landscaped area, open space, or vegetation between the activity and adjacent streams or drainage corridors.

C. The fringe along streams and drainage corridors shall be maintained to the maximum extent practical in order to assure scenic quality, protection of wildlife habitat, and protection from erosion. Management of the natural vegetative, including trees or forest cover, shall be subject to the requirements of Section 7.2.114.06.

D. Areas of annual flooding, flood plains, and wetlands shall be preserved in their natural state to the maximum possible extent to protect water retention, overflow and other natural functions. The development shall comply with the flood plain or floodway development requirements of the Dayton Land Use and Development Code.

7.2.114.06 Riparian Vegetation

For both permitted uses and conditionally permitted uses, vegetative removal

and within the RD Overlay District shall be subject to the following guidelines:

A. Where a stream or river is identified, the vegetation shall be preserved by maintaining an area 50 feet adjacent, and parallel to, the high water line. No trees over 6 inches in caliper, as measured 4 feet above the ground, shall be removed from this RD Overlay area.

B. Where there is no natural stream flow or identified high water mark (e.g. drainage ditch), vegetation shall be preserved by maintaining an area 50 feet parallel to the centerline of the corridor. No trees over 6 inches in caliper, as measured 4 feet above the ground, shall be removed from this RD Overlay area.

C. Any commercial forestry operations shall be conducted in a manner consistent with the requirements under the Forest Practices Act.

7.2.114.07 Residential Density

RD Overlay areas may be included in the calculation of permitted residential density within a planned unit development when the applicable density is proposed to be transferred to areas outside the Overlay District boundary.

7.2.114.08 Preservation Methods

Where preservation is required as a condition of approval or proposed by the applicant to mitigate development impacts, any one of the following methods shall be employed to guarantee the preservation of the resource:

A. Dedication to the City for public park or open space if recommended by the planning Commission and accepted by the City Council.

B. Platting of the affected area within a subdivision or Planned Unit Development as an open space tract to be commonly owned and maintained by a home owners association. Such association shall show evidence of liability insurance, provide public safety coverage for the area and maintain the physical condition of the area as required by this Section.

C. Creation of conservation easements, or other similar deed restrictions recommended by the Planning Commission, and adopted by the City Council which effectively prohibits construction of structures and other unauthorized uses and activities within the RD Overlay District.

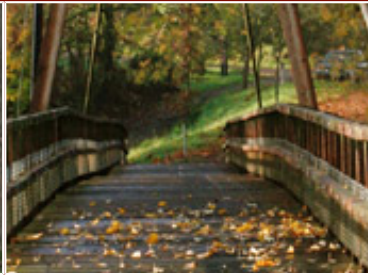
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In Municipal Code:

Section 7.2.2 General Development Provisions

[Printer-friendly Version](#)

- [7.2.201 GENERAL STANDARDS](#)
- [7.2.202 GENERAL EXCEPTIONS](#)
- [7.2.203 PERMITTED USES GENERALLY](#)
- [7.2.204 NONCONFORMING USES](#)

7.2.201 GENERAL STANDARDS

7.2.201.01 Minimum Requirements

In interpreting and applying this Code, these provisions shall be considered the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

7.2.201.02 Building Permits

A. Building Permits Required. No building shall be constructed or structure erected without receiving the appropriate building permit. Building permit shall include electrical, mechanical, structural, foundation and similar types of permits issued by the appropriate building codes agency.

B. Completion of a Structure. Residential structures shall be completed within one year of beginning construction. Public, commercial or industrial structures shall receive a certificate of occupancy within two years of beginning construction. A structure not completed within the required time period of beginning construction shall constitute a violation of this Code and is subject to the violation provisions in Section 7.1.102.05.

7.2.201.03 Lots of Record

A. Legal Lot. A parcel is a legal lot of record for purposes of this Code when the lot conforms to all zoning requirements, subdivision requirements, and Comprehensive Plan provisions in effect on the date when a recorded deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract.

B. Separate Legal Lot. A lot or parcel which is a separate legal lot or parcel prior to the adoption of this Code shall remain a separate legal lot regardless of ownership.

7.2.2 General Development Provisions

C. Development of a Lot of Record. The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use begins, irrespective of the lot width, street frontage, depth or area, but subject to all other regulations.

7.2.201.04 Access to a Public Street

Access Required. All uses shall be located on property having access to a public street. Access to a public street is defined as a minimum of 20 feet of frontage on one of the following:

A. Public Street. A public street with a right-of-way not less than 20 feet wide that has been graveled or paved and is open for public use to the property.

B. Private Street. A private street not less than 20 feet wide graveled or paved and open for use to the property prior to the date this Code is adopted and connecting with a public street qualifying under item 1., above.

C. Private Access Easement. A private access easement of not less than 20 feet in width where the access easement connects the property to a public street and the easement is improved to the minimum standards of this Code.

7.2.201.05 Unsafe Building

Nothing in this Code shall prevent the strengthening or restoring to a safe condition any building or structure declared unsafe by a proper authority.

7.2.201.06 Structures to be on a Lot

All structures and uses shall be entirely situated on a single lot with the following provisions and exceptions:

A. Condominiums. Structures allowed under the Unit Ownership law (ORS 91.400 et seq.) shall be exempt from this requirement.

B. Zero Lot Line. Buildings which are attached at a common property line, but which meet all requirements of the Building Code as separate buildings, shall be considered separate.

C. Placement on Two or More Lots or Parcels. Where a structure is placed on two or more separate lots or parcels under single ownership so that the structure overlaps a common boundary or encroaches on required yards along the common boundary, the separate lots shall be considered a single lot for the purpose of this Code. Nothing in this provision permits the placement of buildings on a easement.

7.2.201.07 Division or Alteration of Lots

In addition to any partitioning or subdivision requirements in the Code, no lot held under separate ownership shall be divided or altered so that it does not meet the requirements in this Code. If a lot does not meet requirements at the time this Code is adopted, it shall not be divided or altered in such a manner that the lot is less in conformity with these regulations in any respect.

7.2.202 GENERAL EXCEPTIONS

7.2.202.01 Building Height Limitations

Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar features not used for human occupancy are not subject to the building height limitations of the underlying zone.

7.2.202.02 Additions to Existing Structures

Additions to the primary structure which do not comply with yard setback requirements of the underlying zone shall be allowed, provided the setback distance will not be decreased by the addition, and, the addition conforms to all other provisions of the zoning district.

7.2.202.03 Public Dedications

Setback restrictions of this Code shall not apply to existing structures whose setback is reduced by a public dedication. Additions to such structures shall be allowed subject to Subsection 7.2.202.02.

7.2.203 PERMITTED USES GENERALLY

7.2.203.01 Permitted Uses

The following uses and activities are permitted in all zones:

A. Utility Facilities. Placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains, and detention basins within rights-of-ways by public agencies and utility companies for telephone, TV cable, or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, wastewater, sewage and rainwater.

B. Railroad Tracks. Railroad tracks and related structures and facilities located within rights-of-ways controlled by railroad companies.

C. Street Improvements. Surfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, transit stops, landscaping and related structures and facilities located within rights-of-ways controlled by a public agency.

D. Public Right-of-Way Expansion. Expansion of public right-of-way and widening or adding improvements within the right-of-way, provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan.

7.2.203.02 Permitted Residential Accessory Structures and Uses

The following accessory uses shall be permitted in all residential zones subject to the following limitations and requirements:

A. Accessory Structures and Uses. The following accessory structures and uses are permitted on a lot in any zone in conjunction with a permitted dwelling:

1. Decks and patios, open, covered or enclosed (see setback provisions in Section 7.2.3).
2. Storage building for fire wood, yard maintenance equipment or tools; , or, personal property not used in conjunction with any commercial or industrial business other than a home occupation.
3. Green house or hobby shop.
4. Swimming pools, hot tubs, and saunas.
5. Pets, including and outdoor shelters or runs.
6. Fall-out shelters.

7. Garages and carports.

B. Fences. Fences are a permitted accessory or secondary use in all zones subject to the requirements in Section 7.2.308.

C. Residential Office. One manager's office of 500 square feet or less for rental of dwellings is a permitted accessory use in the R-2 and R-3 zones, provided the office is located in the building containing dwelling units.

D. Agricultural Uses. Agricultural uses, consistent with ORS 215 and including the keeping of livestock, shall be permitted.

7.2.203.03 Permitted Non-Residential Accessory Structures and Uses

A. Accessory buildings in conjunction with any commercial or industrial business.

B. Fences. Fences are a permitted accessory or secondary use in all zones subject to the requirements in Section 2.308.

C. Retail Space. Retail sales or offices in a building in conjunction with a use in an industrial zone provided:

1. The sales or office area shall not occupy more than 40 percent of the area of the industrial use.

2. The accessory use shall be located on the same lot as the primary use.

D. Mobile Classrooms. Mobile classrooms are a permitted accessory use in conjunction with established elementary or secondary schools.

7.2.203.04 Permitted Temporary Uses

A. Temporary Construction Facilities. Mobile offices, temporary power equipment and temporary structures to house personnel and store equipment during construction, provided the structures are not used as dwellings.

B. Yard Sales and Auctions. Yard sales in any residential zone, and auctions in Commercial and Industrial zones, provided there are not more than 3 sales in a calendar year with each sale not to exceed three consecutive days. Merchandise and signs shall remain on private property.

7.2.204 NONCONFORMING USES

7.2.204.01 Continuation

A nonconforming use may be continued although not in conformity with the regulations for the zone in which the use is located.

7.2.204.02 Discontinuation

If a nonconforming use is discontinued for a period of more than 180 consecutive days, the use shall not be resumed unless the resumed use conforms with the requirements of the Code. This provisions does not apply to temporary seasonal uses as allowed under Section 7.2.412.

7.2.204.03 Restoration

If a nonconforming use is damaged or destroyed by fire, other casualty or natural disaster, such use may be restored or replaced provided physical restoration or replacement is lawfully commenced within one year of the damage or destruction. The City may administratively grant a one time, one year extension to this requirement.

7.2.204.04 Alteration and Change of Use

A. The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure shall be permitted, subject to all other laws, codes and regulations.

B. Alterations or changes of a nonconforming use or structure may be permitted to reasonably continue the use. Such alterations or changes are subject to a Type I Minor Variance procedure. In addition to the requirements for a Minor Variance, the proposal shall comply with the following criteria:

1. The change in the use, structure or physical improvements will have no greater adverse impact to the neighborhood than the existing use, structure or physical improvements.
2. Any alteration or change shall not substantially increase the nonconformance of the subject use or structure.

7.2.204.05 Exemptions

A. Residences. Non-conforming single family homes may be replaced within one year of the date of destruction without the need to comply with the requirements and procedures in Section 7.2.204.04.

B. Historical Structures. Identified historical structures or sites shall be exempt from all non-conforming provisions in this Section.

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Section 7.2.3 General Development Standards

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- [7.2.301 GENERAL PROVISIONS](#)
- [7.2.302 STREET STANDARDS](#)
- [7.2.303 OFF-STREET PARKING AND LOADING](#)
- [7.2.304 STORM DRAINAGE](#)
- [7.2.305 UTILITY LINES AND FACILITIES](#)
- [7.2.306 SITE AND LANDSCAPING DESIGN](#)
- [7.2.307 DEVELOPMENT STANDARDS FOR LAND DIVISIONS](#)
- [7.2.308 YARD AND LOT STANDARDS](#)
- [7.2.309 ACCESSORY STRUCTURES](#)
- [7.2.310 SINGLE FAMILY DWELLING DESIGN STANDARDS](#)
- [7.2.311 PLANNED UNIT DEVELOPMENT \(PUD\)](#)

In Municipal Code:

7.2.301 GENERAL PROVISIONS

7.2.301.01 Purpose

The purpose of this Section is to carry out the Comprehensive Plan with respect to development standards and policies and promote and maintain healthy environments and minimize development impacts upon surrounding properties and neighborhoods.

7.2.301.02 Application of Standards

A. Application. The standards set forth in Section 7.2.3 shall apply to partitions; subdivisions; commercial and industrial development; public and non-commercial development; single family dwellings, duplexes and multi-family structures. These regulations shall apply in all zones.

B. Modification to Standards. The application of these standards to a particular development shall only be modified as follows:

1. Development standards which are unique to a particular use as set forth within the zone, or standards which are unique to a special use as set forth in Section 7.2.4.
2. Those development standards which are unique to a particular district shall be set forth in the Section governing that district.

7.2.301.03 Application of Public Facility Standards

Standards for the provision and utilization of public facilities or services available within the City of Dayton shall apply to all land developments in accordance with the following table of reference. No development permit, including building permit, shall be approved or issued unless:

1. The following improvements are provided prior to occupancy or operation; or,
2. The improvement is specifically waived by the Department of Public Works due to existing improvements or circumstances within the area; or,
3. Future provision for the necessary improvements is assured in accordance with Subsection 7.3.202.01.

7.2.3 General Development Standards

PUBLIC FACILITIES IMPROVEMENT REQUIREMENTS TABLE*

LAND USE	FIRE HYDRANT	STREET IMPROVEMENT	WATER HOOKUP	SEWER HOOKUP	STORM DRAIN
SFD/Duplex	No	C-2	Yes	Yes	Yes
MFD	Yes	Yes	Yes	Yes	Yes
New Public, Commercial or Industrial	Yes	Yes	Yes	Yes	Yes
Public, Commercial or Industrial Expansion	C-1	Yes	Yes	Yes	Yes
Partition, Subdivision, MHP	Yes	Yes	Yes	Yes	Yes

Legend: No = Not required Yes = Required C = Conditional, as noted:

C-1: Fire Hydrants for Commercial or Industrial Expansions: One or more fire hydrants are required when the total floor area of a new or expanded building exceeds 2,500 square feet, or the proposed use is classified as Hazardous (H) in the Uniform Building Code or Uniform Fire Code.

C-2: Street Improvements for Single Family Dwellings: New single family dwellings which require a street extension must provide street improvements to City street standards; otherwise, street improvements are not required. Street

extensions are required for (1) the extension of an unimproved street; or, (2) the extension of a partially or fully improved street.

MFD = Multi-family dwelling (3 or more units); MHP = Manufactured home park; SFD = Single family dwelling

* Specific improvements for streets, water, sewer, drainage shall be found in this Section.

7.2.302 STREET STANDARDS

7.2.302.01 Purpose

The purpose of the street standards area to provide for safe, efficient, and convenient vehicular movement in the City; to provide adequate access to all proposed developments; to provide adequate area in all public rights-of-way for sidewalks, sanitary sewers, storm sewers, water lines, power lines and other utilities commonly and appropriately placed in such rights-of-way; and, to provide improvement standards for dedicated but unimproved or partially improved right-of-ways.

7.2.302.02 Scope

The provisions of this Section shall be applicable for the following:

A. Land Divisions. The creation, dedication or construction of all new public or private streets in all subdivisions, partitions or other developments in the City.

B. Street Expansion. The extension or widening of existing public or private street rights-of-way, easements, or street improvements including those which may be proposed by an individual or the City, or which may be required by the City in association with other development approvals.

C. Utility Improvements. The construction or modification of any utilities or sidewalks in public rights-of-way or private street easements.

D. Exceptions. Provisions of this Section do not apply in existing developed areas of the City. Improvements in these areas shall be based on standards adopted by the Department of Public Works.

7.2.302.03 General Provisions

The following provisions shall apply to the dedication, construction, improvement or other development of all public streets in the City of Dayton:

A. General Requirement. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.

B. Continuation of Street. Development proposals shall provide for the continuation of, and connection to, existing principal streets where necessary to promote appropriate traffic circulation in the vicinity of the development.

C. Alignment. All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. Staggering of street alignments resulting in "T" intersections shall meet with the approval of the City Engineer and minimally acceptable traffic safety standards.

D. Future extension of streets. When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, said facilities shall be platted to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department or local Fire District finds a turnaround is necessary for reasons of traffic safety.

E. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs and approval of Public Works Department.

F. Existing Streets. Whenever existing public streets adjacent to or within a tract are of a width less than the street design standard, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.

G. Cul-de-sacs. The City discourages the use of cul-de-sacs. When cul-de-sacs are necessary, the maximum length shall be 800 feet. Cul-de-sacs over 400 feet in length shall provide accessways to provide connectivity to adjacent streets and uses, unless physical constraints preclude a pedestrian/bicycle accessway.

H. Street Names. Street names and numbers shall conform to the established standards and procedures in the City.

I. Alleys. Alleys are encouraged in residential zones to preserve the integrity and safety of the local street. Alleys shall be provided in commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided.

J. Clear Vision Areas. Clear vision areas shall be maintained on corner lots at the intersection of public streets and at the intersections of a public street with a private street, alley or private access driveway.

K. Lots Abutting a Partial Street. Development of property abutting an existing public street which does not meet the minimum right-of-way standards in Section 7.2.3 shall provide sufficient yard setback equal to the minimum yard requirements of the zoning district, plus, the additional land required to meet the minimum right-of-way width.

7.2.302.04 General Right-of-Way and Improvement Widths

The following standards are general criteria for public streets in the City of Dayton. These standards shall be the minimum requirements for all streets, except where modifications are permitted under Subsection 2.202.05.

STREET STANDARDS

SERVICE AREA (a),(b),(c),(d)	WIDTH CURB/CURB	CURB (f),(g)	SIDEWALK (e)	TOTAL R-O-W WIDTH
LOCAL STREET I Up to 19 d/u or serving 190 ADT or 79,999 sf.	Parking 2 sides 30 feet	6"/side (1 ft. total)	5 ft. curblines Two sides	46 feet

<p>LOCAL STREET II 20-79 d/u or 200-790 ADT or 79,999-319,999 sf</p>	<p>Parking 2 sides 32 feet</p>	<p>6"/side (1 ft. total)</p>	<p>5 ft. curbline Two sides</p>	<p>48 feet</p>
<p>LOCAL STREET III 80 or more d/u or 800 or more ADT or more than 320,000 sf</p>	<p>Parking 2 sides 34 feet</p>	<p>6"/side (1 ft. total)</p>	<p>5 ft. curbline Two sides</p>	<p>50 feet</p>
<p>CUL-DE-SAC or less than 450 ADT or less than 183,999 sf</p>	<p>As above; Min. Curb Radius 38 feet</p>	<p>6"/side (1 ft. total)</p>	<p>5 ft. curbline entire cul-de-sac</p>	<p>As above; Radius: 47 feet</p>
<p>COLLECTOR</p>	<p>(i)</p>	<p>(i)</p>	<p>(i)</p>	<p>(i)</p>
<p>ARTERIAL</p>	<p>(i)</p>	<p>(i)</p>	<p>(i)</p>	<p>(i)</p>
<p>(a) ADT = Average Daily Trips (ITE, Trip Generation Manual) (b) Trip Generation Rater for SFD = 10 ADT (c) Minimum Lot Size = 5,000 sq. ft.; Duplex = 7,000 sq. ft. (d) Calculated per street entrance; use largest number. (e) Required width around signs, mailboxes, utility poles, etc.</p>		<p>(f) Full curb height between driveways. (g) Max. 2 weep holes through curb face per lot. (h) Additional easements may be necessary. (i) Collector and arterial streets will be evaluated on an individual basis.</p>		

7.2.302.05 Modification of Right-of-Way and Improvement Width

The City may allow modification to the public street standards of Subsection 2.302.04, when the following criteria are satisfied:

A. Modification Permitted. The modification is necessary to provide design flexibility where:

1. Unusual topographic conditions require a reduced width or grade separation of improved surfaces; or
2. Parcel shape or configuration precludes accessing a proposed development with a street which meets the full standards of Section 2.302.04; or
3. A modification is necessary to preserve trees or other natural features determined by the City to be significant to the

aesthetic character of the area.

4. The modification of street standards is necessary to provide greater privacy or aesthetic quality to the development.

B. Vehicular Access Maintained. Modification of the standards shall only be approved if the City finds that the specific design proposed provides adequate vehicular access based on anticipated traffic volumes.

7.2.302.06 Construction Specifications

Construction specifications for all public streets shall comply with the standards of the most recently adopted public works/ street standards of the City of Dayton.

7.2.302.07 Private Streets *(Revised by Ordinance*

#541, 6/03/02 - Effective

07/03/02)

Streets and other right-of-ways that are not dedicated for public use shall comply with the following:

A. Application. At least three (3), and no more than six (6), lots or parcels may be served by a private street. Private street standards shall also apply if at least three (3), and no more than six (6), parcels may be created through a series of separate partitions. This limit shall not apply to planned unit developments.

B. Construction Standards. Private streets shall be subject to the following construction standards:

1. Width. Private streets shall have a minimum easement width of 25 feet and a minimum paved width of 20 feet. Paving shall be either asphalt or concrete.

2. Construction Standards. All private streets shall be constructed to the same cross-sectional specifications required for public streets and shall include provisions for adequate drainage in conformance with Public Works Standards.

3. On-Street Parking. Private streets shall provide one (1) on-street parking space per lot or parcel. The parking spaces may be designed as a "parking pocket" or located along the private street. The parking space dimensions shall comply with the provisions in Section 7.2.303. The provision for on-street parking may require a wide private street easement.

4. Sidewalk Requirements. A sidewalk/pathway, constructed to City standards, shall be located along one side of the private street. The sidewalk/pathway shall be placed within the easement and shall run the entire length of the private street.

5. Public and Private Utilities. Unless otherwise required by the City Engineer, the private street shall include easements for public and private utilities.

6. Turn-around. Private streets serving more than one ownership shall provide a turn-around if in excess of 250 feet and having only one outlet. Turn-arounds shall be either a circular turn-around with a minimum paved radius of 35 feet, or a "tee" or "hammerhead" turn-around with a minimum paved dimension across the "tee" of 70 feet.

7. Maintenance. Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, home owners association, or other instrument acceptable to the City. The applicable document shall be recorded against

the deed record of each parcel, and if appropriate, placed on the final partitioning plat.

C. Public Dedication. Any private street that is designed, or has the potential capacity, as a collector or an arterial street shall be dedicated as a public right-of-way.

7.2.302.08 Private Access Driveway *(Revised by Ordinance #541, 6/03/02 - Effective 07/03/02)*

A private access driveway created as the result of an approved partitioning shall conform to the following.

A. Width. Private access driveways shall only be allowed where the applicable criteria of Section 7.2.307.03, are satisfied. The driveway shall comply with the following standards:

1. Minimum easement width: 20 feet
2. Minimum paved width: Serving one dwelling - 12 feet; serving two or more dwellings - 16 feet
3. Maximum length: 300 feet
4. No more than two (2) dwelling units shall have their sole access to the easement

B. Maintenance. Provision for the maintenance of a private access driveway shall be provided in the form of a maintenance agreement, home owners association, or other instrument acceptable to the City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.

C. Turn-around. A turn-around shall be required for any access driveway which is the sole access and which is either in excess of 150 feet or which serves more than two dwellings. Turn-arounds shall be either a circular turn-around with a minimum paved radius of 35 feet, or a "tee" or "hammerhead" turn-around with a minimum paved dimension across the "tee" of 70 feet.

D. Fire Lanes. All private access driveways shall be designated as fire lanes and signed for "no parking."

In addition, the term "private access easement" contained elsewhere in the Development Code shall be replaced with private access driveway.

7.2.302.09 Lots and Parcels Served by Private Streets and Access Easements *(Added by Ordinance #541, 6/03/02 - Effective 07/03/02)*

The following shall apply to all lots and parcels that are accessed by either a private street or private access driveway:

A. Lot and Parcel Size. The easement containing the private street or private access driveway shall be excluded from the lot or parcel size calculation.

B. Setbacks. The lot line fronting along a private street or private access driveway shall be considered the front property

line. Setbacks to the garage and home shall be measured from the easement line.

C. Lot Depth and Width. Where required by the underlying zone, the lot width shall be measured along the easement boundary and the lot depth shall be measured from the easement boundary to the rear lot line.

7.2.303 OFF-STREET PARKING AND LOADING

7.2.303.01 Purpose

The purpose of this Section is to provide adequate areas for the parking, maneuvering, loading and unloading of vehicles for all land uses in the City.

7.2.303.02 Scope

The provisions of this Section shall apply to the following types of development:

A. New Building. Any new building or structure erected after the effective date of this Code.

B. Expansion. The construction or provision of additional floor area, seating capacity, or other similar expansion of an existing building or structure.

C. Change in Use. A change in the use of a building or structure which requires a building permit and/or the change in use is not otherwise permitted outright within the zone.

7.2.303.03 General Provisions Off-Street Parking and Loading

A. Owner Responsibility. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building 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 Code.

B. Interpretation. Requirements for types of buildings and uses not specifically listed herein shall be determined by the City Administrator based upon the requirements of comparable listed uses.

C. Combined Uses. 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, unless a reduction is approved for shared parking.

D. Use of Parking Spaces. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons or employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the use.

7.2.303.04 Location and Use Provisions

Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use except that:

A. Non-residential Zone. In any non-residential zone, the parking area may be located off the site of the main building, structure or use if it is within 500 feet of such site. Evidence must be submitted to the City indicating a permanent

recorded easement for the off-site parking.

B. Accessory Parking Use, Non-residential. Parking of vehicles in a structure, or outdoors, is a permitted accessory or secondary use in non-residential zones provided all of the vehicles are owned by the owner or lessee of the lot.

C. Accessory Parking Use, Residential. Parking of vehicles in a structure or outdoors is a permitted accessory use in conjunction with a dwelling in any zone provided:

1. All of the vehicles are owned by the owner or lessee of the lot.
2. Vehicles parked on a lot in a residential zone shall be for the personal use of the occupants of the dwelling.
3. One vehicle used in conjunction with a home occupation or other employment may be parked on the lot.

7.2.303.05 Shared Use

Parking area may be used for a loading area during those times when the parking area is not needed or used. Parking areas may be shared subject to City Administrator approval for public, commercial and industrial uses where hours of operation or use are staggered such that peak demand periods do not occur simultaneously. Such joint use shall not be approved unless satisfactory legal evidence is presented which demonstrates the access and parking rights of parties.

7.2.303.06 Off-Street Vehicle Parking Requirements

A. Number of Spaces. Off-street parking shall be provided in the amount not less than listed on the following chart.

PARKING REQUIREMENTS

#	LAND USE ACTIVITY	SPACES	HOW MEASURED*
1	All dwelling types	2	Per dwelling
2	Senior Apartments	1	Per dwelling
3	Hotel, Motel, Bed & Breakfast	1	Per guest room
4	Club, Lodge		
5	Hospital, Nursing home, Convalescent home	1	Per 2 beds
6	Churches, Auditorium, Stadium, Theater	1	Per 4 seats or every 8 feet of bench length
7	Elementary/Jr High School	2	Per classroom
8	High School	1 + 1	per classroom + per 10 students
9	Bowling Alley, Skating Rink, Community Center	1	Per 200 square feet
10	Retail Store	1	Per 300 square feet

11	Service Repair Center, Retail Store handling bulky merchandise (e.g. furniture)	1	Per 900 square feet
12	Bank, Office, Medical Clinic	1	Per 300 square feet
13	Eating & Drinking Establishment	1	Per 250 square feet
14	Wholesale Establishment	1 + 1	Per 1,000 square feet + Per 700 square feet of retail
15	Government Offices	1	Per 600 square feet
16	Industrial, Manufacturing, Processing (0-24,999 sf)	1	Per 700 square feet
17	Industrial, Manufacturing, Processing (25,000-49,999 sf)	1	Per 800 square feet
18	Industrial, Manufacturing, Processing (50,000-79,999 sf)	1	Per 1,000 square feet
19	Industrial, Manufacturing, Processing (80,000-199,999 sf)	1	Per 2,000 square feet
20	Industrial, Manufacturing, Processing (200,000 sf and over)	1	Per 3,000 square feet
21	Warehousing & Storage Terminals (0-49,999 sf)	1	Per 2,000 square feet
22	Warehousing & Storage (50,000 sf and over)	1	Per 5,000 square feet

* Square footage = Gross floor area.

B. Maximum Number of Spaces. With the exception of single family homes and duplexes, the number of minimum required parking spaces shall not be increased by more than 50%.

7.2.303.07 Standards for Disabled Person Parking Spaces

The number of spaces shall comply with the provisions of the Uniform Building Code. Striping and signing of the handicap space(s) shall conform with the Oregon Transportation Commission's standards.

7.2.303.08 Commercial and Industrial Off-Street Loading Requirements

All commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 30 feet long, and 14 feet high in the following amount: for buildings containing over 5,000 square feet of gross floor area, 1 space; for each additional 40,000 square feet of gross floor area, or any portion thereof, 1 space.

7.2.303.09 Parking and Loading Area Development Requirements

All Parking and loading areas shall be developed and maintained as follows:

A. Surfacing. All driveways, parking and loading areas shall be paved with asphalt or concrete. These areas shall be improved prior to occupancy of the primary building.

B. Parking Spaces. Parking spaces shall be a minimum 9 feet wide and 18 feet in length.

C. Driveways. The following driveway width (or aisle) dimensions shall apply:

1. Without adjacent parking:

a. Single family residence - No driveway width shall be less than 12 feet nor exceed 24 feet as measured at the property line. *(As amended by Ordinance #534, 11/05/01 12/5/01)* – Effective

b. One-way: 12 feet

c. Two-way: 22 feet

2. With adjacent parking:

Parking Angle	Driveway Width
0 to 40	12 feet
41 to 45	13 feet
46 to 55	15 feet
56 to 70	18 feet
71 to 90	24 feet

D. Screening. Parking or loading area within or abutting a residential zone shall be screened from all residential properties with a fence or wall from 4 feet to 7 feet in height.

E. Lighting. All lighting shall be directed entirely onto the loading or parking area and away from any residential use. The lighting shall not cast a glare or reflection onto the public rights-of-way.

F. Traffic Flow. Off-street parking access shall be designed to allow flow of traffic, provide maximum safety of traffic access and egress, and the maximum safety of pedestrians and vehicular traffic.

G. Entrance/Exits. Service drive entrances/exits shall have a minimum vision clearance area of 15 feet from the intersection of the street and driveway.

H. Landscaping. For parcels containing more than 50 parking spaces the following provisions shall apply:

1. A minimum of 5% of the parking area shall be landscaped. This requirement is exclusive of landscaping necessary to

comply with the provisions within the underlying zone.

2. Parking lot landscaping shall be located within the perimeter of the parking area, bordered by curbing and sidewalks. Landscaping located adjacent to the paved parking surface shall not count toward this requirement.

3. Landscaping improvements shall comply with provisions in Section 7.2.306.

1. *(Added by Ordinance #534,
11/05/01
12/05/01)*

– *Effective*
Parking Spaces Adjacent to a Street.

1. General - Parking facilities containing more than four spaces shall be accessed by a driveway and prohibited from backing movements or other maneuvering within a street right-of-way, other than an alley.

2. Single Family Residences - No more than two parking spaces that back onto a public street, other than an alley.

7.2.303.10 Residential Parking Provisions *(Added by
Ordinance #534, 11/05/01
Effective 12/05/01)*

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In addition to the parking requirements in Section 7.2.303, vehicle parking and storage within the R-1, R-2, R-3 and CR zones shall be subject to the following provisions:

A. For the purpose of this Section, the following terms shall apply:

1. Parking - "Parking" shall refer to the temporary storage of registered vehicles that are used on a daily or weekly basis. "Registration" shall mean a currently licensed and insured vehicle that may operate on the public roads and streets of the State.

2. Storage - "Storage" shall refer to the long-range parking of vehicles, and may include but is not limited to automobiles, trucks, motorcycles, boats, trailers, recreational vehicles and similar equipment. Storage is distinguished from "parking" in that the vehicle is used occasionally or seasonally and often for recreational purposes. The term "storage" shall apply to all non-registered vehicles and those registered vehicles that are not self-propelled.

B. Yard Parking Restrictions. Exclusive of driveways, it shall be prohibited for any automobile, truck, motorcycle, boat, trailer, recreational vehicle or similar vehicle to be parked or stored in a front yard or yard adjacent to the street, for a period in excess of 24 hours within any 7-day period.

C. Storage. The storage of vehicles, trucks, motorcycles, utility trailers, house or vacation trailers, boats, or other similar vehicles not located within a garage shall be subject to the following:

1. A property owner shall be permitted to locate one vehicle storage space adjacent to a driveway. This storage space shall be paved with concrete, asphalt, or surfaced with similar improvements such as brick or concrete paving stones. Dirt, bark dust, gravel or similar material shall not be used as a surfacing material. This additional space shall be limited solely to registered, self-propelled vehicles.

2. All remaining vehicle storage space(s) shall be located in the rear or side yards and screened by a six-foot, sight-obscuring fence, wall or hedge. The enclosure shall comply with the provisions regarding the location for fences and maintaining a clear vision area. These space(s) shall be paved with concrete, asphalt or surfaced with similar improvements such as brick or concrete paving stones. Dirt, bark, dust, gravel or similar material shall not be used as a surfacing material. The number of vehicles stored in this manner shall be consistent with provisions in the Dayton Municipal Code.

7.2.304 STORM DRAINAGE

7.2.304.01 Purpose

To provide for the drainage of surface water from all residential, commercial and industrial development; to minimize erosion; to reduce degradation of water quality due to sediments and pollutants in storm water runoff.

7.2.304.02 Scope

The provisions of this Section shall apply to all new residential land partitions and subdivisions, multi-family developments (3 or more units), commercial developments, and industrial development; and to the reconstruction or expansion of such developments.

7.2.304.03 Plan for Storm Drainage and Erosion Control

No construction of any facilities in a development included in Subsection 2.301.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by a professional engineer, and, approved by the City. This plan shall contain at a minimum:

- A. Run-off. Minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
- B. Facilities. Plans for the construction of storm sewers, open drainage channels and other facilities which depict line sizes, profiles, construction specifications and other such information as is necessary for the City to review the adequacy of the storm drainage plans.
- C. Engineering Calculations. Calculations used by the engineer in sizing storm drainage facilities.

7.2.304.04 General Standards

A. Requirements. All development shall be planned, designed, constructed and maintained to:

- 1. Protect and preserve existing natural drainage channels to the maximum practicable extent;
- 2. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;
- 3. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeding, phasing of grading;
- 4. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;

5. Provide dry wells, bio-swales, or similar methods, as necessary to supplement storm drainage systems;

6. Avoid placement of surface detention or retention facilities in road rights-of-way.

B. Easements. Adequate easements for storm drainage purposes shall be provided to the City. This shall not imply maintenance by the City.

C. Channel Obstructions. Channel obstructions are not allowed except as approved for the creation of detention or retention facilities approved under the provisions of this Code.

D. Inspection Required. Prior to acceptance of a storm sewer system by the City, the storm sewers shall be inspected by the City. All costs shall be borne by the developer.

7.2.305 UTILITY LINES AND FACILITIES

7.2.305.01 Purpose

To provide adequate services and facilities appropriate to the scale and type of development.

7.2.305.02 Standards

A. Impact. The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.

B. Water. Development requiring water service shall install water facilities and grant necessary easements pursuant to the requirements of the City.

C. Private Utilities. All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.

D. Sanitary Sewers. All development which has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the city. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.

E. Street Lights. When required, installation of street lights shall be pursuant to the requirements of the city and the company serving the development.

F. Easements. Easements shall be provided along property lines as deemed necessary by the City, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions and partitions.

7.2.306 SITE AND LANDSCAPING DESIGN

7.2.306.01 Purpose

A. Landscaping Guidelines. To guide the planting and maintenance of landscaping materials.

B. Appearance. To enhance the appearance of the City, provide areas for outdoor recreation and to:

1. Provide shade and windbreaks where appropriate to conserve energy in building and site design;
 2. Buffer and screen conflicting land uses;
 3. Provide for the landscaping of parking areas to facilitate vehicular movement and break up large areas of impervious surface.
 4. Promote public safety through appropriate design principles.
- C. Erosion control. To prevent or reduce erosion potential on steep terrain by providing appropriate landscape materials.

7.2.306.02 Scope

All construction, expansion, or redevelopment of structures or parking lots for commercial, multi-family, or industrial uses shall be subject to the landscaping requirements of this Section. The provisions of this Section shall apply to the following types of development:

- A. New Building. Any new building or structure erected after the effective date of this Code.
- B. Expansion. The construction or provision of additional floor area, seating capacity, or other similar expansion of an existing building or structure.
- C. Change in Use. A change in the use of a building or structure which requires a building permit and/or the change in use is not otherwise permitted outright within the zone.

7.2.306.03 General Provisions

- A. Landscaped Area. A "landscaped area" must be planted in lawn, ground cover plants, shrubs, annuals, perennials or trees, or desirable native vegetation, or be used for other landscape elements, provided a minimum of 50% of the landscaped area is in living vegetative cover.
- B. Location. Landscaped areas may include landscaping around buildings; in open spaces and outdoor recreation areas; in islands and perimeter planting areas in parking and loading areas; and in areas devoted to buffering and screening as required in this Section and elsewhere in this Code.
- C. Setback Areas. All required yards adjacent to a street shall be landscaped, save that portion used for access and off-street parking.
- D. Planting Height. No sight-obscuring plantings exceeding thirty (30) inches in height shall be located within any required clear-vision area as defined in Section 1.2 of this Code.
- E. Plant Materials. Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned to avoid interference with traffic and pedestrians or traffic safety devices.
- F. Utility Interference. Landscape plant materials shall be selected which do not generally interfere with utilities above or below ground.

G. Re-planting. Trees or shrubbery which die-off within one year of planting shall be replaced with a new plant.

H. Maintenance. Landscaping shall be continually maintained. Appropriate methods of care and maintenance of landscaped plant material shall be provided by the owner of the property.

I. Irrigation Methods. With the exception of single family homes and duplexes, underground irrigation shall be required.

J. Installation. All required or approved landscaping shall be installed within one year of occupancy of a new building or structure, the occupancy of an addition to an existing structure or occupation resulting from a change in use.

7.2.306.04 Screening and Buffering

A. Screening. Screening shall be used to eliminate or reduce the visual impacts of the following uses:

1. Commercial and industrial uses when abutting residential uses.
2. Industrial uses when abutting commercial uses.
3. Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas.
4. Outdoor storage areas.
5. Parking areas for 20 or more vehicles for multi- family developments, or 30 or more vehicles for commercial or industrial uses.
6. At and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners.

B. Screening Methods. Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement or other design techniques. Where vegetative methods are used, the screening shall reach a minimum of six feet in height upon maturity.

C. Buffering. Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:

1. Planting Area: Width not less than 15 feet, planted with either one row of trees staggered and spaced not more than fifteen 15 feet apart; or, at least one row of shrubs forming a continuous hedge at least 5 feet in height within one year of planting.
2. Berm Plus Planting Area. Width not less than 10 feet, with the combined total height of the berm and hedge not less than 5 feet.
3. Wall Plus Planting Area. Width must not be less than 5 feet with a masonry wall or fence not less than 5 feet in height and lawn, shrubs or ground cover covering the remaining area.
4. Other approved methods which produce an adequate buffer considering the nature of the impacts to be mitigated.

7.2.306.05 Site Plan Requirements

Where required as part of a land use action, the submitted landscaping plan shall include the following:

- A. Existing natural and vegetative features of the property.
- B. The location of existing and proposed structures.
- C. The extent and location of all major landscaping features including, but not limited to, planters, planting strips, vegetative barriers, yard areas, pathways, benches, irrigation methods, and similar items.

7.2.306.06 Contiguous Open Space Provisions for Multifamily Residential Developments

*(Added by Ordinance #530,
6/4/01*

– Effective 7/04/01)

Where a multi-family residential development is proposed, sufficient contiguous area shall be provided for open space and recreational purposes. The open space areas shall be subject to the following requirements:

- A. A minimum of 2,000 square feet of contiguous area shall be required for the first 4 to 16 dwelling units, and 100 square feet of area for each additional unit thereafter.
- B. Where the contiguous open space area requirement exceeds 2,000 square feet, the developer shall have the option of creating a number of smaller areas. Each smaller open space area shall contain, at a minimum, the greater of 2,000 square feet or 25% of the required total contiguous open space requirement.
- C. The contiguous open space area required by this section shall be free and clear of obstructions to maximize the potential use. Exceptions shall be allowed for outdoor recreational facilities, such as playground equipment or basketball courts, and for buildings providing recreational, educational or meeting space specifically for residents of the proposed development. Other improvements may be considered as part of a site development review process.
- D. The contiguous open space area(s) shall be credited toward the total landscaped area required by the underlying zone. However, landscaping within required setback areas shall not be credited toward the contiguous open space requirement of this Section.

7.2.307 DEVELOPMENT STANDARDS FOR LAND DIVISIONS

7.2.307.01 Purpose

To provide for the orderly, safe, efficient and livable development of land within the City of Dayton.

7.2.307.02 Scope

Application. The provisions of this Section shall apply to all subdivisions and partitions within the City of Dayton.

7.2.307.03 Standards for Lots or Parcels

A. Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.

B. Access. All lots and parcels created after the effective date of this Code shall provide a minimum frontage, on an

existing or proposed public street, equal to the minimum lot width required by the underlying zone. The following exceptions shall apply:

1. Residential lots or parcels may be accessed via a private street or partition access easement developed in accordance with the provisions of Section 7.2.302 when the City finds that public street is not necessary to provide for the future development of adjoining property.
2. Commercial or Industrial uses located in a campus or park-like development may be accessed via private streets when developed in accordance with Subsection 2.302.08.
3. Cul-de-sac lots shall have a minimum frontage of 25 feet.
4. Flag lots, as permitted in Subsection 2.307.03.C.

C. Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed. If a flag-lot is permitted, the following standards shall be met:

1. The access strip shall not be less than 20 feet wide. The access strip shall be improved with a minimum 12 foot wide paved driveway.
2. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Code.
3. Flag lots located side-by-side shall share a common driveway. This requirement shall be placed in the deed record of each parcel and noted on the final plat.

D. Through Lots. Through lots are discouraged unless essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific site disadvantages. If approved, access may be limited to one street.

E. Lot Lines. The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than ½ the dimension of the front lot line.

F. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities.

7.2.307.04 Additional Design Standards for Subdivisions

A. Standards for Blocks. Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.

B. Traffic Circulation. The proposed subdivision shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide safe convenient and direct traffic circulation. At a minimum, "nearby" is interpreted to mean uses within 1/4 mile which can be reasonably expected to be used by pedestrians, and uses within 1 mile of the subdivision boundary which can reasonably expected to be used by bicyclist.

C. Connectivity. To achieve the objective in B., above, the City may require the following:

1. Stub Streets: Where the potential exists for additional residential development on adjacent property.
2. Pedestrian/Bicycle Accessways: Public accessways to provide a direct connection to cul-de-sac streets and to pass through oddly shaped or unusually long blocks.

D. Design Standards for Pedestrian/Bicycle Accessways. Such accessways shall meet the following design standards:

1. Minimum dedicated width: 15 feet
2. Minimum improved width: 10 feet
3. The accessway shall be designed to prohibit motor vehicle traffic.
4. The accessway shall be maintained by a homeowners association or other mechanism acceptable to the City.

E. Park Requirements for Residential Subdivisions. Subdivisions shall provide for public parks by one of the following methods:

1. Dedication - The dedication of park land shall be subject to the following:

a. Area: Land shall be dedicated at an area equal to one acre per 100 potential residents. For the purposes of this section, the potential residential population shall be computed at the rate of 3.25 persons for each potential unit for single family homes and duplexes; and, 2.75 persons for each potential unit for multiple family homes.

b. Location: The location of any dedicated park land shall be determined by the Planning Commission, consistent with the guidelines in the Comprehensive Plan or in a Master Parks Plan adopted by the City Council.

2. Financial Contribution - If the Planning Commission determines there is no need for park land in this location, or, there is no suitable location on the subject property for a public park, the developer shall contribute toward a City park fund an amount equivalent to the amount of land that would have been required in item 1., above. The financial contribution shall be subject to the following:

a. Appraisal Requirements: Market value shall be established by a professional land appraiser who is a member of the American Institute of Real Estate Appraisers or is certified by the State of Oregon as a certified appraiser. A date which is within 60 days of the final approval of the tentative plan shall be used for the purpose of fixing value.

b. Responsibility: The City shall be responsible for securing the services of a professional appraiser. The selected individual shall be acceptable to both the City and the developer.

c. Annexation: If the property is subject to an annexation, the appraisal shall always be determined on a date subsequent to the parcel's annexation to the City.

d. Payment Schedule: The sum of money established by this procedure shall be paid to the City prior to the approval and recording of the final plat.

F. Small-Scale Subdivisions (*Added by Ordinance #541, 6/03/02 - Effective 07/03/02*)

In addition to the standards contained in Section 3.2.207.04.A to E, the following standard shall apply to those subdivisions containing no more than ten (10) lots and that do not exceed 2 acres in size.

1. Lots. Lots shall comply with the dimension requirements of the underlying zone and the design provisions contained elsewhere in Section 7.2.307.
2. Facilities. All sewer, water and storm water facilities shall be designed and constructed to comply with adopted Public Works Standards.
3. Streets. All streets shall be dedicated to the public and constructed to adopted Public Works Standards. Streets shall contain the following minimum improvements:
 - a. Right-of-Way: 35 feet.
 - b. Surfacing Width: 27-feet, curb-to-curb. This width shall provide for two travel lanes at 10-feet each and a 7-foot parking lane on one side.
 - c. Curbs/Sidewalks. Curbs shall be located on both sides of the surfaced width and a sidewalk shall be required on at least one side of the street.
 - d. Cul-de-sacs. Streets designed as cul-de-sacs shall comply with standards contained in Section 7.2.302.04.
4. Design Limitations. Provisions in this section shall not apply if the proposed development has the potential to exceed ten lots or contain more than two acres.

7.2.307.05 Improvement Requirements - Partitions (*Revised by Ordinance #541, 6/03/02 - Effective 07/03/02*)

During the review of partition proposals, the City shall require, as a condition of approval, the following improvements:

A. Private Access. Where included, private driveways serving flag lots, or private streets, shall be surfaced per the requirements of this Code.

B. Street Frontage Improvements. The following improvements shall be required:

1. If the street frontage of the subject property is less than or equal to 250 feet, the applicant shall sign a non-remonstrance agreement with the City of Dayton. This agreement shall stipulate that the applicant or future property owner will agree to participate in right-of-way improvements. The agreement may include provisions for the following: street paving, curbing, sidewalks, water lines, storm sewer facilities and sanitary sewer facilities. The agreement shall be recorded at the County Clerk's Office at the time of the recording of the final plat.

2. If the street frontage of the subject property exceeds 250 feet, or extends and existing dedicated right-of-way, the applicant shall improve the following:

a. Public streets upon which the property fronts to public standards, including: surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines and other necessary public utilities per approved master plans. Where a master plan has not been adopted, the developer shall enter into a non-remonstrance agreement consistent with item B.1., above.

b. Sidewalks, meeting City standards, along public street frontage.

c. The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve lots accessing off of the new street.

C. Public Facilities. Prior to recording the final partition plat, the developer shall submit engineering plans to the City for review. The plans shall address the required improvements contained in Section 7.2.301, and any conditions of approval, and shall conform with City Public Works Design Standards. The plans shall be approved prior to the recording of the final partition plat.

D. Completion Requirements. All required improvements shall be completed prior to the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to the City prior to the approval of the final plat of the partition.

7.2.307.06 Improvement Requirements - Subdivisions

The following improvements shall be required for all subdivisions:

A. Frontage Improvements. Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.302 of this Code. Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.

B. Project Streets. All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302.

C. Monuments. Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes pursuant to ORS Chapter 92.

D. Bench Marks. Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a cap set in a curb or other immovable structure.

E. Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.

F. Sanitary Sewers. Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.

If the required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is equitable to assure financing the subdivider's share of the construction.

The City may require that the subdivider construct sewage lines of a size in excess of that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is ultimately developed. The City may also require that the construction take place as an assessment project with such arrangement with the subdivider as is desirable to assure his share of the construction.

G. Water System. Water lines with valves and fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is ultimately developed. However, the City will not expect the developer to pay for the extra pipe material cost of mains exceeding ten inches in size.

H. Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. The City may defer sidewalk construction until the dwellings or structures fronting the sidewalk are constructed. Any required off-site sidewalks (e.g. pedestrian walkways) or sidewalks fronting public property shall not be deferred.

I. Street Lights. The installation of street lights is required at locations and of a type required by City standards.

J. Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall be of a type required by City standards. Street signs shall be installed prior to obtaining building permits.

K. Public Works Requirements. Facility improvements shall conform to the requirements and specifications of the Dayton Public Works Department.

L. Curb Cuts. Curb cuts and driveway installations, excluding common drives, are not required of the subdivider, but if installed, shall be according to the City standards.

M. Financial Requirements. All improvements required under this Section shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.

7.2.307.07 Improvement Procedures

In addition to other requirements, improvements installed by a developer for any land division, either as a requirement of these regulations or at his own option, shall conform to the requirements of this Code and improvement standards and specifications adopted by the City, and shall be installed in accordance with the following procedure:

A. Plan Review. Improvement work shall not commence until plans have been checked for adequacy and approved by the City. Plans shall be prepared in accordance with requirements of the City.

B. Notification. Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.

C. Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and the Director of Public Works. The City may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.

D. Underground Facilities. All underground utilities, sanitary sewers, and storm drains installed in streets by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.

E. Final Engineering Plans. Upon completion of the public improvements and prior to final acceptance of the improvements by the City, the developer shall provide certified as-built drawings of all public utility improvements to the City. As-built conditions and information shall be reflected on one set of mylar based as-built drawings. The as-built drawings shall be submitted to the City Engineer by the Developer's engineer.

7.2.307.08 Land Division Design Requirements *(Added by Ordinance #541, 06/03/02 Effective 07/03/02)*

Development and improvements associated with land divisions shall comply with the applicable provisions of this Code. The following includes referenced items and applicable requirements:

A. Street Improvements. Streets, including public streets, private streets, and private access driveways shall be improved per requirements contained in Section 7.2.302. Requirements in Section 7.2.307.04.F., shall apply to small-scale subdivisions.

B. Street Frontage Improvements. Frontage improvements for partitions shall be subject to provisions in Section 7.2.307.05; for subdivisions, applicable street improvement provisions in Section 7.2.302 shall apply.

C. Storm Drainage. Storm drainage improvements shall be subject to provisions in Section 7.2.304.

D. Sanitary Sewer Facilities. Sanitary sewer facilities shall be subject to provisions in Section 7.2.305.

E. Water Facilities. Water facility improvements shall be subject to provisions in Section 7.2.305.

F. Utilities General. All utility improvements shall comply with adopted Department of Public Works Standards of the City of Dayton. In addition to the street, storm water, sanitary sewer and water facility provisions noted above, partitions are required to comply with the remaining improvement provisions in Section 7.2.307.05 and subdivisions with Section 7.2.307.06.

G. Parking. The following parking provisions apply:

1. Public Streets - On-street parking on public streets shall conform to applicable right-of-way improvements contained in Section 7.2.302.

2. Private Streets - Land divisions involving private streets shall comply with the on-street parking provisions in Section 7.2.307.07.

3. Lots or Parcels - Off-street parking requirements for individual lots shall comply with provisions in Section 7.2.303.

7.2.308 YARD AND LOT STANDARDS

7.2.308.01 Lot Coverage, Generally

Specific standards for lot size or area, for lot dimensions, and for lot coverage are set forth in the applicable zone. Where a standard for lot coverage is expressed as a percentage, such standard means the percentage of total lot area covered by buildings and by roofed but unenclosed structures, whether or not attached to buildings. Covered structures less than five feet in height and having less than 20 square feet of gross floor area shall not be included in calculating lot coverage.

7.2.308.02 Yards and Yard Area, Generally

A. Yards Apply Only to One Building. No required yard or other open space for any building or structure shall be considered as providing a yard or open space for any other building, nor shall any yard or other required space on an adjoining lot be considered as providing a yard or open space on the lot whereon the building is to be erected.

B. Yards to be Unobstructed. A "required yard" is the minimum required setback area between a structure and a lot line, whether or not additional open space is actually provided between the structure and the lot line. Every required yard or setback area shall be open and unobstructed by buildings, or structures from the ground to the sky except for those exceptions permitted in this Section.

C. Yard Areas not to be Reduced. No lot shall be so reduced or diminished that the required yards or other open space shall be smaller than prescribed by this zoning Code.

D. Multiple family developments shall comply with provisions in Section 7.2.306.06. *(Added by Ordinance #530, 6/4/01 Effective 7/04/01)* —

7.2.308.03 Separation of Lot or Yard Areas

A. Reduction in Lot Area. No portion of a lot necessary to provide the required area per dwelling unit shall be separated in ownership.

B. Separation of Required Yards. No required yard or other open space around an existing building shall be separated in ownership from the lot upon which the building is located.

7.2.308.04 *(Revised by Ordinance #534, 11/05/01 Effective 12/05/01)*

RESERVED.

— Effective

7.2.308.05 Front Yard Projections

Planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features of not more than two feet, from main buildings, uncovered porches and covered but unenclosed porches when not more than one story high and which do not extend more than ten feet beyond the front walls of the building are exempt from the front yard setback provisions.

7.2.308.06 Side Yard Projections

- A. Building Features. Cornices, eaves, gutters and fire escapes when not prohibitive by any other code, may project into a required side yard not more than one-third of the width of the side yard, nor more than four feet in any case.
- B. Architectural Features. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels and ornamental features may project up to 1 ½ feet into a required side yard, provided, however, chimneys and flues shall not exceed six feet in width.
- C. Decks and Patios. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the side yard property line when they are three feet or less in height from ground level.

7.2.308.07 Rear Yard Projections

- A. Architectural Features. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters and other ornamental features, may project up to 1 ½ feet into a required rear yard, provided, however, chimneys and flues shall not exceed six feet in width.
- B. Building Features. A fire escape, balcony, outside stairway, cornice or other unenclosed, unroofed projections may project not more than 5 feet into a required rear yard and set back at least 6 feet from any property line.
- C. Steps and Porches. Planter boxes, steps, uncovered porches, covered but unenclosed porches, including covered patios when not more than one story high, which are not more than four feet above grade, are exempt from the minimum rear yard depth requirements.
- D. Setbacks. No permitted projection into a required rear yard shall extend within ten feet of the center line of an alley or of a rear lot line if no alley exists.
- E. Decks and Patios. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the rear yard property line when they are three feet or less in height from ground level.

7.2.308.08 Clear Vision Area

A clear vision area shall be maintained where streets and private points of access intersect. The clear vision area shall conform with the following:

- A. Measurement. A clear vision area at an intersection shall be the triangular area established according to the following procedure:
1. A line extending a certain number of feet from the intersection along a public street right-of-way;
 2. A line extending a certain number of feet from the intersection along the intersecting access;
 3. A third line that creates the triangular clear vision area by connecting the ends of the lines described in 1., and 2., above.
- B. Street-Driveway. The clear vision area for a street-driveway intersection shall be 10 feet along the driveway from its intersection with the street right-of-way and 30 feet along the street right-of-way at the point of intersection with the driveway.

C. Street-Alley. The clear vision area for street-alley intersections shall be 10 feet along the alley from its intersection with the street right-of-way and 30 feet along the street right-of-way at the point of intersection with the alley.

D. Street-Private Access Driveway. The clear vision area for street-access easement intersections shall be 10 feet along the access easement from its intersection with the street right-of-way and 30 feet along the street right-of-way at the point of intersection with the access easement.

E. Corner Lots. The clear vision area for corner lots shall be 20 feet along the right-of-way of each intersecting street.

F. Prohibited Development. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 36 inches in height, measured from the top of the curb or, where no curb exist, from the established street centerline grade, except that the following may be allowed in the clear vision area:

1. Trees, provided all branches and foliage are removed to a height of eight feet above grade;
2. Telephone, power, and cable television poles; and
3. Telephone switch boxes provided they are less than ten inches wide at the widest dimension.

G. Exemption. Clear vision areas shall not be required at intersections containing traffic control devices.

7.2.308.09 Fences and Walls

A. Residential, Public and Semi-Public Uses

1. Height, location: Fences and walls may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision area. A fence or wall may not exceed 6 feet, 6 inches in height without approval of a variance. Fences and walls shall not exceed a height of four feet along, and within, ten feet of any property line adjacent to the street and containing a street access.

2. Clear Vision Area. The placement and location of a fence shall not violate the clear vision requirements in Section 7.2.307.

3. Construction material: Fences or walls constructed of unsafe materials, including, but not limited to barbed wire, electric fencing, broken glass, and spikes shall be prohibited.

4. Swimming pool requirements: Swimming pools shall be enclosed by a locking fence of six feet in height. The dwelling may be used to meet part of the enclosure requirement.

5. An entrance wall to a subdivision or other residential development shall be permitted provided the wall or gate does not exceed six feet in height nor violate provisions of the clear vision area.

B. Commercial and Industrial Uses

1. Height, location: Fences and walls may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision area. A fence or wall may not exceed 12 feet in height without approval of a variance.

2. Construction material: Electric and barbed wire fencing shall be permitted in the C, I and P zones. Angled fencing shall

not extend beyond the property line.

7.2.309 ACCESSORY STRUCTURES

7.2.309.01 Single Family and Duplex

For single family residential and duplex uses on an individual lot:

A. Height. The maximum height shall be 25 feet, provided, the structure shall not exceed the height of the primary building.

B. Property Setbacks. When a wall adjacent to a property line or alley is nine feet or less in height, the minimum setback shall be two feet. For each one foot increase in the wall height above nine feet, the setback shall increase one additional foot.

C. Building Separation. Accessory structure shall be separated from the primary buildings by a minimum of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the separation requirement. Accessory structures less than 6 feet from the primary structure or connected by a fully enclosed walkway will be considered as part of the primary structure and subject to the setback requirements of the primary structure.

D. Building Size and Lot Coverage. Accessory structure, in combination with the primary structure, shall not exceed the maximum lot coverage limitation of the underlying zone.

E. *(Added by Ordinance #510,
12/7/98* — *Effective 12/7/98)*

Historic Structures - Accessory structures located on an individual lot or parcel adjacent to a significant historic resource identified in the Dayton Comprehensive Plan shall comply with the following:

1. The exterior of the accessory structure shall be residential in appearance. No specific siding material is required, except that use of vertical metal siding shall be prohibited.

2. The height of the accessory structure shall not exceed the height of the adjacent historical building. If the site of the historical resource does not contain a building, the accessory structure shall not exceed the height of the residence which the structure will be located.

3. These provisions shall apply to all accessory structures regardless of whether a building permit is required.

7.2.309.02 Multi-Family, Commercial, Industrial Structures

For multi-family, public, semi-public, commercial and industrial uses:

A. Location and Number. Accessory structures may be located within any yard area. There is no limit to the number of permitted structures.

B. Height. The accessory structure shall comply with the height limitations of the underlying zone.

C. Property Setbacks. Accessory structures shall comply with the setbacks for the primary building in the underlying zone.

D. Building Size and Lot Coverage. There is no limit to the size of the accessory structure provided the structure and all

buildings on the property comply with the applicable lot coverage limitations.

7.2.310 SINGLE FAMILY DWELLING DESIGN STANDARDS

All new single family dwellings, including manufactured homes located on individual lots, shall contain at least three (3) of the following design elements on the side of the house which fronts the street, to provide architectural relief:

- A. Dormer(s) or gable(s).
- B. Cupola(s).
- C. Bay or bow window(s).
- D. Exterior shutters.
- E. Recessed entry or entries.
- F. Front porch at least 100 square feet in area.
- G. Covered porch entry or entries.
- H. Pillars or posts in the front entry or entries.
- I. Eave(s) (minimum 6").
- J. Off-set(s) on building face or roof (minimum 16")

7.2.311 PLANNED UNIT DEVELOPMENT (PUD)

7.2.311.01 Purpose

- A. To produce a residential development equal to or better than one resulting from traditional lot-by-lot development.
- B. To allow flexibility which will encourage a more creative approach in the development of land, and will result in a more efficient, aesthetic and desirable use of open area, while substantially maintaining the same population density and area coverage permitted in the district in which the project is located.
- C. To allow flexibility in design, placement of buildings, use of open spaces, circulation facilities, off-street parking areas, and to best utilize the site potential characterized by special features of geography, topography, size and shape.

7.2.311.02 Applicant for Planned Unit Development Projects

Planned Unit Development projects may be applied for by the owner of all the property involved, if under one ownership, or jointly by all owners of the property in the area proposed for the Planned Unit Development project, if there is more than one owner.

7.2.3011.03 Uses Permitted

In a Planned Unit Development only the following uses are permitted:

A. Residential Uses.

B. Recreational facilities including, but not limited to, tennis courts, swimming pools and playgrounds.

C. Open space uses.

D. Schools, libraries, community halls, and churches.

E. Offices, buildings and facilities required for the operation, administration and maintenance of any Planned Unit Development and for recreation purposes such as: golf courses, recreation rooms, and vehicle storage areas.

F. Convenience establishments of a commercial and service nature, including stores, laundry, and dry-cleaning establishments, beauty shops and barber shops, (but specifically excluding gas stations, and repair garage) provided:

1. Such convenience establishments are an integral part of the general plan of development for the Planned Unit Development and provide facilities related to the needs of the prospective residents.

2. Such convenience establishments and their parking areas will not collectively occupy more than one 2% of the gross land area.

3. Such convenience establishments will be located, designed and operated to efficiently serve frequent trade and to serve the needs of persons residing in the Planned Unit Developments.

4. Such convenience establishments will not, by reason of their location, construction or operation, have adverse effects on residential uses within or adjoining the district, or create traffic congestion or hazards to vehicular or pedestrian traffic.

7.2.311.04 Development Requirements

Planned Unit Developments shall comply with the following development standards:

A. Minimum Parcel Size: The minimum parcel size for a PUD is one acre.

B. Site Adaptation: To the maximum extent possible, the plan and design of the development shall assure that natural or unique features of the land and environment are preserved.

C. Lot Arrangement: All lots or dwelling spaces within the development shall be designed and arranged to have access to, or frontage on, open space or recreation areas.

D. Amount of Open Space: The required amount of open space or outdoor recreational area shall be at least twenty (20) percent of the gross area. Such open space may include school access routes, bicycle trails, natural or landscaped buffer areas, community buildings and facilities and similar shared facilities whenever practical or appropriate. At least 50% of the open space area shall be open and unenclosed. Land unusable for any public purpose, such as steep slope areas, shall not be included in the open space calculation.

E. Density of Development: The density shall not exceed the maximum allowable density within the underlying zone,

provided a 1% increase in density is allowed for each percentage increase in open space.

F. Community Option: The Planning Commission may request the dedication of land or granting an easement to the City for the proposed open space land which is reasonably suited for use as a City park or for recreation purposes and when such dedication is consistent with the ability of the City to maintain such parks. This request shall take into consideration such factors as size, shape, topography, geology, access, location, and adopted Master Park Plan.

G. Lot Size and Setback Provisions:

1. Lot Size: The PUD development may be organized as a condominium with common ownership of the land (consistent with state law), establish individual lots similar to a conventional subdivision, or a combination of both. The minimum lot size requirements in the underlying zone shall be waived.

2. Setbacks: Yard setbacks along the perimeter of the project shall be the same as that required for the subject zoning district. A minimum front yard setback of twenty (20) feet shall be required for any garage structure whose opening faces onto a public street. Otherwise, the minimum setback requirements of the underlying zone shall be waived.

H. Circulation:

1. Streets within a PUD shall comply with the applicable standards of Section 7.2.302.

2. Roads, pedestrian and bikeway paths shall be an integrated system designed to provide efficient and safe circulation to all users. Developments should be designed to minimize the length of roadway.

3. Pedestrian/bikeways shall be clearly signed and have adequate crossing facilities where warranted.

4. Internal PUD access shall access a public street.

I. Off-Street Parking

Off-street parking requirements shall be as specified in Section 7.2.303. Parking may be provided on each lot or in clustered parking areas. Additional off-street parking for guests and recreational vehicles may be required by the Planning Commission if warranted by reduced lot sizes, type of street and/or traffic volumes.

J. Utilities

In addition to other requirements set forth herein, the following shall apply:

1. All sewer and water provisions shall be approved by the City before construction of such improvements.

2. All utility services shall be placed underground.

3. Provisions shall be made for fire prevention, including service water lines, non-freeze hydrants, and adequate emergency access for fire fighting equipment around buildings.

4. Provision shall be made for control of site storm water drainage, as required by Section 7.2.304.

K. Home Owners Association

A non-profit incorporated homes owners association, or an alternative acceptable to the City Attorney, shall be required for improving, operating and maintaining common facilities, including open space, streets, drives, service and parking areas and recreation areas. The following principles shall be observed in the formation of any home owners association and shall be reviewed by the City Attorney.

1. A homes owners association shall be formed and in place at the time of the recording of the final plat, or any portion thereof.
2. Membership shall be mandatory for each home buyer and any successive buyer.
3. The open space restrictions shall be in perpetuity.
4. The home owners association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities.
5. Home owners shall pay their pro rate share of the cost or the assessment levied by the association shall become a lien on the property.
6. The association shall be able to adjust the assessment to meet changes needed.
7. No change in open space use or dissolution of home owners association shall occur without a public hearing before the Planning Commission and approval by the City Council.

7.2.311.05 Process

Planned Unit Developments shall be processed in accordance with the submittal requirements and procedures established for a subdivision. Approval shall only be granted if the requirements of this Section and all other applicable requirements of this Code are met.

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In Municipal Code:

Section 7.2.4 Supplemental Standards for Special Uses

[Printer-friendly Version](#)

- [7.2.401 GENERAL PROVISIONS](#)
- [7.2.402 ACCESSORY RESIDENTIAL HOUSING](#)
- [7.2.403 ATTACHED DWELLING UNITS](#)
- [7.2.404 MANUFACTURED HOMES ON INDIVIDUAL LOTS](#)
- [7.2.405 MANUFACTURED HOME PARKS](#)
- [7.2.406 HOME OCCUPATIONS](#)
- [7.2.407 BED AND BREAKFAST ESTABLISHMENT](#)
- [7.2.408 RECREATIONAL VEHICLE PARKS](#)
- [7.2.409 SERVICE STATIONS](#)
- [7.2.410 AUTOMOTIVE SERVICES](#)
- [7.2.411 SMALL-SCALE MANUFACTURING](#)

7.2.401 GENERAL PROVISIONS

A. Application. Special uses are subject to specific development standards. These standards are non-discretionary so that special review of a proposed development is not required. The standards contained in this Section apply where a special use is identified as a permitted use. If the special use is listed as a conditional use, the standards contained in this Section shall be considered guidelines and may be modified or eliminated. The special use standards do not automatically apply unless the subsection number is referenced following the use title (eg. Manufactured Home Park, Section 7.2.405).

B. Development Requirements. Unless specifically modified by the provisions of this Section, special uses are still subject to the development requirements of the underlying zone. Where the special use standard imposes a standard higher, the special use standard shall apply.

7.2.402 ACCESSORY RESIDENTIAL HOUSING

Where permitted as a special use, accessory residential housing shall meet the following use and development standards:

A. Location. The accessory residence shall be located within the side or rear yard

and physically separated from the primary residence by a minimum distance of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the setback requirements.

B. Design. The accessory residence must be residential in character with an exterior finish similar to the primary residence. A separate address shall be required for each residence.

7.2.4 Supplemental Standards for Special Uses

C. Area. The accessory residence shall contain the lesser of 25% of the floor area of the primary residence or 750 square feet.

D. Setbacks. The minimum rear yard setback shall be 10 feet; the minimum side yard setback shall 5 feet.

E. Height. The maximum height shall be 25 feet but in no case shall the height exceed the height of the primary residence.

7.2.403 ATTACHED DWELLING UNITS

Attached dwelling units are single family homes on individual platted lots that are attached to a similar unit on one or two sides. Where permitted as a special use, attached dwelling units shall meet the following use and development standards.

A. Permitted development. Any number of attached dwellings may be built contiguous with one or both sides of a separate platted lot with one dwelling per lot.

B. Setbacks

1. Zero side yard units shall comply with the setback requirements for the front yard, rear yard and yard adjacent to a street in the applicable zone.

2. Interior side yard requirements of the applicable zone shall be met when any part of an exterior wall faces, but is not contiguous to, a side lot line. Otherwise, the interior side yard requirements shall not apply.

C. Building separation. Buildings on adjacent properties, but not attached to each other, shall be separated by a distance of at least ten feet.

D. Accessory buildings. The provisions of this section apply to accessory as well as main buildings.

7.2.404 MANUFACTURED HOMES ON INDIVIDUAL LOTS

Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:

A. Construction Date. The manufactured home shall have been manufactured after June 15, 1976, and exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards.

B. Minimum Area. The manufactured home shall be multi-sectional with a minimum area of 1,000 square feet.

C. Foundation. The manufactured home shall be placed on an excavated and

back-filled foundation, enclosed at the perimeter with either concrete, concrete block, brick, stone, pressure treated wood, or combination thereof. No more than 24 inches of the enclosing material may be exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured home is placed on a basement, or within an identified flood hazard zone, the 24-inch limitation shall not apply.

D. Roof. The manufactured home roof shall have a nominal pitch of 3 feet for each 12 feet in width.

E. Exterior Material. The manufactured home shall have an exterior that is residential in appearance.

F. Garage. The manufactured home shall have a garage with exterior material that is residential in appearance, or, a carport with a concrete parking surface. The garage or carport shall be placed on the property prior to occupancy of the manufactured home.

G. Energy Efficiency. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the state building code.

H. Lot Development Standards. The manufactured home shall meet all applicable development standards, such as setbacks and height limitations, in the Development Code.

I. Transportation Equipment. The tongue, axles, wheels and traveling lights shall be removed from the manufactured home.

J. *(As Revised by Ordinance #510, 12/07/98 Effective 12/07/98).*

–
A Conditional Use permit shall be required to place a manufactured home on an individual lot or parcel adjacent to a significant historical resource as identified in the Dayton Comprehensive Plan. The application shall be subject to the decision criteria contained in Section 7.3.107 as well as the following factors:

1. Location - The dwelling shall be situated to maintain the greatest possible distance from the adjacent historical site or structure while maintaining compliance with the setback requirements.

2. Orientation - If the primary entrance of the adjacent historical building faces a public street, the primary entrance to the manufactured home shall also face the same public street. This provision does not apply if either lot or parcel is a "corner lot" as defined by this Code.

3. Screening - Screening and buffering shall be required. Screening may include fencing, berms, vegetation or any combination thereof. The screening shall be designed to maintain the visual integrity of the adjacent historic site or building. For example, a wooden fence may be required instead of a chain-link fence.

4. Intent - It is not the intent of this section to grant a conditional use permit in all circumstances, even if factors 1 to 3 above are successfully met. The

Conditional Use shall be granted only under those circumstances which are unique to the subject property and will not impair or adversely impact the integrity of the adjacent historical site. The burden of proof shall be placed by the applicant to ensure these concerns are adequately addressed.

7.2.405 MANUFACTURED HOME PARKS

7.2.405.01 General Requirements

A. Minimum Area. The minimum area for a manufactured home park shall be one acre.

B. Density. The number of manufactured home spaces shall comply with the density regulations of the underlying zone.

7.2.405.02 Design Standards

Manufactured home parks are subject to the minimum standards and conditions set forth in this section.

A. Type of Manufactured Home Permitted. Only those manufactured homes used as permanent residences, manufactured after June 15, 1976, which exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards shall be permitted.

B. Garage, Carport, Storage. Each manufactured home shall have a garage or carport with an enclosed storage area. The garage or carport may either be located on the manufactured home space or in an area within the park specifically designed for such use.

C. Additions to Manufactured Homes. Carports, cabanas, ramadas, and other structures which are attached to a manufactured home shall conform to building code requirements. These additions and structures shall be considered as a part of the manufactured home for determining the lot coverage, setbacks and other requirements.

D. Manufactured Home Space. The minimum area shall be 3,000 square feet with a minimum space width of 40 feet. Spaces within 15 feet of the boundary of a manufactured home park shall contain a minimum of 4,000 square feet. The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping or similar markers.

E. Manufactured Home Space Coverage. No more than 50% of a space shall be occupied by the manufactured home and any accessory structures.

F. Separations and Setbacks. Building separations and setbacks from the park boundary for mobile homes, accessory structures, and buildings shall be as follows:

1. General park development. Setbacks for structures other than a manufactured homes, carports and related accessory buildings shall comply with the minimum residential setbacks in the underlying zone.

2. Manufactured homes:

a. Front: 5 feet minimum to the sidewalk; 8 feet minimum to the curb

b. Side and rear: 10 feet minimum to any adjacent manufactured home; 6 feet

minimum to any adjacent non-residential structure

c. Park Boundary. Manufactured homes on the periphery of a manufactured home park shall maintain the same setbacks as required for the rear yard in the underlying zone.

3. Accessory structures:

a. Front: 5 feet minimum to the sidewalk; 8 feet minimum to the curb.

b. Side and rear: 6 feet minimum to any adjacent manufactured home, or, adjacent non-residential structure.

c. Park Boundary. Accessory structures on the periphery of a manufactured home park shall maintain the same rear yard setbacks for accessory structures in the underlying zone.

4. Carports:

a. Front: 20 feet minimum to the sidewalk.

b. Side and rear: Carports attached to, or within 3 feet of, the manufactured home shall comply with the setbacks for the manufactured home. Otherwise, the setback provisions for accessory structures shall apply.

c. Connecting Garages. When a double carport or garage is built to serve two adjacent manufactured homes, a minimum 6 foot separation shall be required between the double carport and any adjacent structure, manufactured home, or accessory structure. Alternatively, a 1-hour fire separation may be provided through the center of the double carport.

G. Parking. Two automobile parking spaces shall be required for each manufactured home space. Parking spaces may be designed end-to-end, side-to-side, or provided in off-street parking areas.

H. On-site Storage. Outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the park management shall be screened with a 6 foot sight-obscuring fence, wall or hedge.

7.2.405.03 Park Development Requirements

A. Park Street Standards. Park streets shall be located on park property and shall be maintained by the park owner. The streets shall conform to the following:

1. Width. The park street shall be a minimum of 20 feet in width. If parking is allowed on either side of the street, the minimum width shall be increased by 7 feet for each side of the street on which parking is allowed.

2. Paving. Park streets shall be paved with Portland cement, concrete, or asphalt concrete and designed and constructed to adequately support traffic loads and provide adequate drainage.

3. Dead-end Streets. Dead-end park streets over 150 feet in length shall have a cul-de-sac bulb with 35-foot curb radius. No dead-end street shall exceed 500 feet in length.

4. Curbs. Concrete curbs shall be required. Rolled curbs which comply with ADA requirement shall be acceptable.

5. Connection to Public Street. The interior street system of the park shall have a direct connection to a public street.

B. Street Names and Addresses. Each park street shall be named and each manufactured home space shall be numbered off the park street.

C. Driveways. Each manufactured home space shall have direct access to a park street or a public street. The driveway shall be an unobstructed area, not less than 10 feet in width and shall be constructed of concrete and well drained.

D. Sidewalks and Walkways. Sidewalks and walkways shall connect each manufactured home space to the park buildings, a public street or park street. The sidewalks and walkways shall be concrete, well-drained and not less than 5 feet in width.

E. Buffering. The perimeter of the park shall be screened. At a minimum, the screening and buffering design shall comply with the standards in Section 7.2.306 and shall be installed prior to completion of the park.

F. Fire Hydrants. Fire hydrants shall be required within the park on park streets or on a public street in conformance with the design and capacity requirements of the fire district.

G. Lighting. Park streets and walkways designed for the general use of the park residents shall be lighted during the hours of darkness. Such lighting shall be under control of the park management.

H. Water and Sewer. All spaces shall be served by a public water and sewer system and comply with City standards.

I. Storm Drainage. All spaces shall be provided with adequate storm drainage and connected to the public storm drainage system if available. All connections to the public storm drainage system shall be approved by the City. Where a connection is not possible, an on-site storm water detention system may be required.

J. Garbage Service. Garbage service shall be provided to all residents of the park either in the form of individual curb-side service or the use of waste disposal containers. Where used, waste containers sized and located to accommodate the expected service requirements and screened with sight obscuring fencing on at least three sides.

K. Recreational Vehicles. Only manufactured homes may be placed upon manufactured home park spaces. The use of a recreational vehicle for permanent or temporary residential use is prohibited.

L. Building Height, Location, and Lot Coverage. Except as modified by this section, all structures within a manufactured home park shall comply with all provisions of the zone in which the park is located.

7.2.406 HOME OCCUPATIONS

Where permitted as a special use, a home occupation shall meet the following use and development standards:

A. Operations. The owner/operator of the home occupation shall reside in the

home in which the home occupation is conducted. No more than one outside employee shall be permitted per residence.

B. Compatibility. The home occupation shall be continuously conducted in such a manner as not to create any off premise nuisance, including but not limited to traffic, noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.

C. Signs. Signs shall be limited to those placed within a window. Window displays and outdoor signage shall be prohibited.

D. Location. The home occupation shall be conducted entirely within the dwelling, any attached garage, or in an unattached accessory building.

E. Area. The total floor area devoted to the home occupation, shall not exceed 500 square feet.

F. Alterations. Structural alterations are permitted provided the residential character of the building is not altered.

G. Parking. The number of required on-site parking spaces shall not be reduced; however, no additional parking is required.

H. Hours of Operation. Visits by suppliers or customers are limited to the hours of 8:00 a.m. and 8:00 p.m.

I. Outdoor Storage. Outdoor storage or display of materials, equipment, or merchandise shall be prohibited.

J. Vehicle Repair. The repair, alteration, painting (including body work), cleaning, detailing or rebuilding of vehicles, including automobiles, motorcycles, tractors and similar mechanized equipment, shall be prohibited.

K. Day Care Provisions. The provisions in this section do not apply to day care or family day care providers

7.2.407 BED AND BREAKFAST ESTABLISHMENT

Where permitted as a special use, Bed and Breakfast establishments shall meet the following use and development standards:

A. Rooms. The maximum number of guest rooms shall be 4 for homes within the R-1 zone and 6 for homes in other zones.

B. Owner Occupancy. The property owner or manager shall reside on the property.

C. Signage. The maximum total sign area permitted shall be 32 square feet and limited to exterior lighting. Interior illumination, rotating, flashing or intermittent signs shall be prohibited.

D. Parking. Off-street parking for the guest rooms shall be screened from adjacent property by a 6 foot high sight-obscuring fence or hedge.

7.2.408 RECREATIONAL VEHICLE PARKS

7.2.408.01 Scope

Where permitted, recreational vehicle (RV) parks shall meet the use and development standards contained within this Section.

7.2.408.02 Definitions

The following definitions shall apply:

A. Recreational Vehicle: A unit, with or without motive power, which is designed for human occupancy and intended to be used for recreational or temporary living purposes. Recreational vehicle includes:

1. Camping Trailer: A non-motorized vehicle unit mounted on wheels and constructed with sides that can be collapsed when the unit is towed by another vehicle.
2. Motor Home: A vehicular unit built on or permanently attached to a motorized vehicle chassis cab or van which is an integral part of the complete vehicle.
3. Travel Trailer: A vehicular unit without motive power which has a roof, floor, and sides and is mounted on wheels and designed to be towed by a motorized vehicle, but which is not of such size or weight as to require special highway movement permits.
4. Truck Camper: A portable unit which has a roof, floor, and sides and is designed to be loaded onto and unloaded out of the bed of a truck or pick-up truck.

5. Boat, licensed or un-licensed, jet boat, ski-boat, including trailer.

6. All-terrain vehicle (ATV) including snowmobiles.

B. Recreational Vehicle Park: Any area operated and maintained for the purposes of providing space for overnight use by recreational vehicles.

C. Recreational Vehicle Space: The area under a parked and occupied recreational vehicle.

D. Roadway: Interior streets which provide access to the individual RV spaces.

7.2.408.03 Development Requirements

A. Minimum Size. The minimum size for an RV park shall be one acre.

B. Permitted uses. RV parks shall be limited to the following:

1. Recreational vehicles, tents and other temporary shelter structures excluding manufactured homes and mobile homes.
2. A single family home for a caretaker/operator.
3. A store for camping supplies and convenience foods designed exclusively for the occupants of the RV park.
4. Facilities accessory to the RV park such as swimming pools, laundries, recreation buildings and similar uses.

C. RV Spaces. Each space shall be subject to the following requirements:

1. Boundaries - The boundaries of each space shall be clearly delineated by a fence, hedge, or other similar marker.

2. Parking - Each space shall include sufficient paved surface to provide two parking spaces. Each space shall be a minimum of 8 feet by 20 feet.

3. Landscaping - At least 50% of each space shall be landscaped.

4. Separation. A minimum of 10 feet shall separate the paved portions of each space.

D. Density. No more than 12 RV spaces per acre shall be permitted.

E. Setbacks. The following setbacks shall be maintained between the designated RV spaces and the adjacent property boundary. Park roadways may be placed within the required setback area.

1. Adjacent to a public street - 20 feet

2. Adjacent to a residential zone - 20 feet

3. Adjacent to a commercial or industrial zone - 10 feet

F. Access. All parks shall provide access to a public street.

G. Roadways. Roadways within the park shall be subject to the following:

1. Minimum width (one-way) - 12 feet.

2. Minimum width (two-way) - 22 feet.

3. Parking. No parking shall be permitted within the roadway. Parking adjacent to a roadway shall require an additional 7 feet of width for each lane of parallel parking.

H. Parking. In addition to the parking requirements for each RV space, the following parking requirements shall apply:

1. Two parking spaces shall be located adjacent to the office or building where guests check-in. In addition to these spaces, there shall be sufficient area to park an RV without hindering the traffic movements.

2. One additional space shall be required for every 10 RV spaces or a portion thereof. The spaces may be located adjacent to facilities, clustered through-out the park or parallel to the roadway.

3. All spaces shall be clearly marked and stripped consistent with the requirements in Section 2.205.

I. Surfacing. All RV spaces, roadways and parking areas shall be paved according to the requirements in Section 2.205.

J. Common Use Recreation Area. At least 10% of the site shall be devoted to common use facilities. These may include, but are not limited to, open space, recreational halls, laundry facilities and swimming pools.

K. Required Facilities. The park shall provide permanent toilets, lavatories and showers for each gender at a ratio of one toilet, lavatory and shower per 15 spaces. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms.

L. Perimeter Improvements. The perimeter of the recreational vehicle park shall be surrounded by a 6 foot sight-obscuring fence or hedge. The required screening shall not violate clear vision requirements.

M. Water, Sewer and Surface Drainage. The RV park shall connect to City water and sanitary and comply with Public Works provisions regarding storm drainage. All water, sewer and storm sewer improvements shall comply with City Public Works Standards and plans shall be reviewed and approved by the City Engineer prior to construction. Temporary or portable toilet, shower and lavatory facilities shall be prohibited.

N. Dump Station. A dump station for discharging wastewater holding tanks shall be provided unless each space is equipped with a sewer connection.

O. Utilities. All utility services shall be underground. The applicant shall furnish the city with proper easements for reading the meters and for inspecting water and sewer lines.

P. Lighting. Common driveways and walkways must be adequately lighted. All outdoor lighting shall be directed away from adjacent residential properties and public streets.

Q. Phasing. Construction of the RV park may be phased. Phasing may be subject to time limits and the number of spaces required for each phase.

7.2.408.04 Operational Requirements

A. Occupation of RV Spaces. The RV spaces may be occupied by recreational vehicles and tents.

B. Duration. The maximum duration for occupying an RV space shall be 30 days.

C. RV storage. Recreational vehicles may be stored within the park. The storage area shall occupy no more than 5% of the total area and shall not be used for the parking or storage of any heavy equipment or trucks.

D. Use of Facilities. Outdoor recreational facilities shall not be used between 10 p. m. and 8 a.m.

7.2.409 SERVICE STATIONS

Where permitted as a special use, gasoline service stations shall meet the following use and development standards:

A. Lot area and dimensions. Minimum lot size 10,000 square feet, minimum of 100 feet of street frontage for an interior lot and minimum of 120 feet of frontage on each street abutting a corner lot.

B. Yard Exceptions for Service Stations. Free standing gasoline pumps and pump islands, identification signs and lighting standards may occupy a required front or street side yard exclusive of a clear vision zone unless otherwise prohibited by this Code.

C. Gasoline Pumps. Gasoline pumps and pump islands shall not be located so that any part of a vehicle being served will extend into any public right-of-way, alley or private drive used for access or egress. Further, gasoline pumps or pump islands shall not be built within 10 feet of a property line.

D. Screening. The property shall be screened from every abutting residential zone or use by a sight-obscuring fence, wall, or hedge.

E. Lighting. Outdoor lighting shall be directed away from residential property.

F. Use and operation restrictions:

1. No vehicle repairs or disassembling of vehicles other than routine maintenance, replacement of small parts, or changing tires shall be conducted outside a building.

2. No merchandise shall be stored or displayed outside a building except for lubricants, tires and small accessories in retail packaging or display racks.

3. No inoperative vehicles or used vehicle parts shall be stored outside a building for any period longer than 72 hours.

4. No rental recreational vehicles or moving trucks shall be parked or stored except in side or rear yards, and then no closer than 20 feet to any right-of-way.

7.2.410 AUTOMOTIVE SERVICES

Where permitted as a special use, automotive services are subject to the following development requirements:

A. Outdoor Storage. Outdoor storage of material, parts and equipment shall be prohibited.

B. Screening. The property shall be screened from every abutting residential zone or use by a 6 foot sight-obscuring fence or wall.

C. Use and operation restrictions:

1. No vehicle repairs or disassembling of vehicles other than routine maintenance, replacement of small parts, or changing tires shall be conducted outside a building.

2. No merchandise shall be stored or displayed outside a building except for lubricants, tires and small accessories in retail packaging or display racks.

3. No inoperative vehicles shall be stored outside a building for any period longer than 72 hours.

7.2.411 SMALL-SCALE MANUFACTURING

*(section added
effective 9/6/07,
Ordinance #583)*

7.2.411.01 Standards

A small-scale manufacturing operation may be permitted in the Commercial (C)

Zone as a conditional use provided that:

- A. The area involved in the manufacturing of the product does not involve more than 4,000 square feet of floor area, and all storage of materials is enclosed.
- B. The building and site plan are not incompatible with the character of the commercial area nor will seriously interfere with adjacent land uses.
- C. The use shall not be objectionable in relationship to surrounding residential or commercial uses because of odor, dust, smoke, cinders, fumes, noise, glare, heat or vibration.

7.2.411.02 Process

In addition to the limitations in Section 7.2.411.02 and other applicable provisions of the Development Code, the establishment of a small-scale manufacturing business shall be subject to the following procedures:

- A. Small-scale manufacturing uses shall be reviewed in accordance with the Conditional Use Permit criteria and procedures as specified in Section 7.3.107; and
- B. Small-scale manufacturing uses shall be subject to the criteria and procedures of Site Development Review process as set forth in Section 7.3.106.

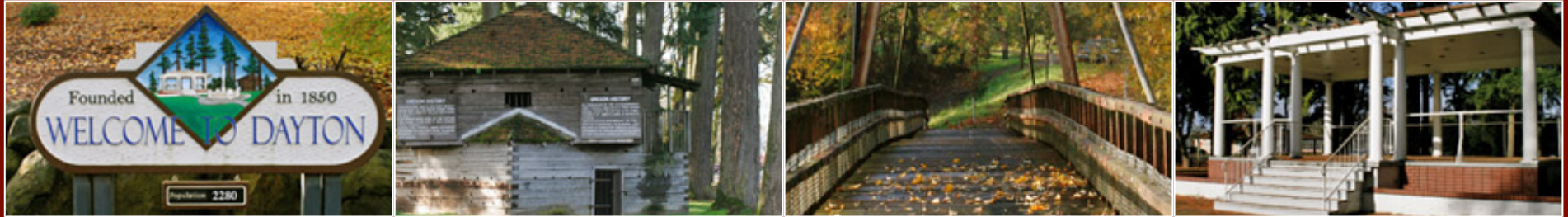
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Section 7.3.1 Application Requirements and Review Procedures

[Printer-friendly Version](#)

- [7.3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES](#)
- [7.3.102 GENERAL PROVISIONS](#)
- [7.3.103 MINOR VARIANCES](#)
- [7.3.104 PROPERTY LINE ADJUSTMENTS](#)
- [7.3.105 PARTITIONS](#)
- [7.3.106 SITE DEVELOPMENT REVIEW](#)
- [7.3.107 CONDITIONAL USE PERMITS](#)
- [7.3.108 MAJOR VARIANCES](#)
- [7.3.109 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS](#)
- [7.3.110 COMPREHENSIVE PLAN AMENDMENTS](#)
- [7.3.111 ZONE CHANGE](#)
- [7.3.112 TEXT AMENDMENTS](#)
- [7.3.113 ANNEXATION](#)
- [7.3.114 SIMILAR USES](#)

7.3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

In Municipal Code:

7.3.101.01 Type I Action

Type I actions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Planning Commission. The following actions are

processed under the Type I procedure:

- A. Minor Variance
- B. Property Line Adjustment
- C. Partitions

7.3.101.02 Type II Actions

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Staff has an advisory role. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Site Plan Review
- B. Conditional Use, including Flood Plain
- C. Major Variance, including Flood Plain
- D. Subdivision, Planned Unit Development and a Partition including a Private Street (*Revised by Ordinance #541, 06/03/02 - Effective 07/03/02*)

7.3.1 Application Requirements and Review Procedures

7.3.101.03 Type III Actions

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. Staff and the Planning Commission have advisory roles. Public notice is provided and public hearings are held before the Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Comprehensive Plan Map Amendments (involving 5 or fewer adjacent land ownerships or less than 10 acres)
- B. Zone Changes (involving 5 or fewer adjacent land ownerships or less than 10 acres)
- C. Annexation

7.3.101.04 Type IV Actions

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot apply for a Type IV action; it must be initiated by City staff, Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure:

- A. Text Amendments to the Comprehensive Plan and Development Code
- B. Enactment of new Comprehensive Plan or Development Code text

C. Comprehensive Plan Map Amendments (involving more than 5 separate land ownerships or more than 10 acres)

D. Zone Changes (involving more than 5 separate land ownerships or more than 10 acres)

LAND USE APPLICATION PROCESS

LAND USE ACTION	TYPE	STAFF	PLANNING COMMISSION	CITY COUNCIL
Minor Variance	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Lot Line Adjustment	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Partition (inc. Expedited Review)	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Site Plan Review	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Conditional Use (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Major Variance (inc. Flood Plain)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Subdivision (inc. Expedited Review)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Comprehensive Plan Map Amendment	III	Recommendation to Commission	Recommendation to Council	Final Decision

Zone Change	III	Recommendation to Commission	Recommendation to Council	Final Decision
Annexation	III	Recommendation to Commission	Recommendation to Council	Final Decision
Text Amendments Legislative Zone and Plan Map Changes	IV	Recommendation to Commission	Recommendation to Council	Final Decision

7.3.102 GENERAL PROVISIONS

7.3.102.01 Scope

These general provisions apply to all land use actions subject to requirements contained in Section 7.3.1.

7.3.102.02 Approval of a Land Use Application

Approval of a land use application shall only be granted if the application complies, or can comply with conditions, to all relevant decision criteria.

7.3.102.03 Approval and Conditions of Approval

Conditions of approval may be imposed to ensure compliance with the decision criteria. These conditions may include, but are not limited to, building location, buffering, setbacks, and, review and acceptance of development plans by the City Engineer without the need for further review by the decision authority.

7.3.102.04 Financial Assurances

The City may require performance bond or other guarantee acceptable to the City Attorney, to ensure compliance with the conditions of approval, public facility improvements or other requirements.

7.3.102.05 Time Limit

Approvals shall be effective for a period of one year from the date of final approval.

7.3.102.06 Time Extension

Prior to the expiration of the one year time limit, an applicant may request a time extension for a period not to exceed one year, subject to the following:

- A. No changes are made to the approved land use application.
- B. The applicant can show intent to initiate construction on the site or begin the approved activity within the one year extension period.
- C. There have been no changes in the facts or applicable policies or Code provisions on which the original approval was based.

D. Only one time extension may be granted.

7.3.103 MINOR VARIANCES

7.3.103.01 Purpose

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. A minor variance may be approved for those requests resulting in no more than a 10% change in a quantifiable standard.

7.3.103.02 Review and Approval Process

Minor Variance applications shall be reviewed in accordance with the Type I review procedures specified in Section 7.3.201.

7.3.103.03 Application and Fee

An application for a variance shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.103.04 Applicability

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following apply:

- A. The proposed variance would allow a use which is not permitted in the district;
- B. Another procedure and/or criteria is specified in the Code for modifying or waiving the particular requirement or standard;
- C. Modification of the requirement or standard is prohibited within the district; or,
- D. An exception from the requirement or standard is not allowed in the district.

7.3.103.05 Criteria and Procedure

Staff may grant a minor variance in accordance with the Type I review procedures. Approval of a minor variance shall require compliance with the following:

- A. The intent and purpose behind the specific provision being varied is either clearly inapplicable under the circumstances; OR, the particular proposed development otherwise clearly satisfies the intent and purpose of the provision being varied.
- B. The proposed development will not unreasonably impact adjacent existing or planned uses and development.
- C. The minor variance does not expand or reduce a quantifiable standard by more than 10 percent and is the minimum necessary to achieve the purpose of the minor variance.

D. There has not been a previous land use action prohibiting an application for a minor variance.

7.3.104 PROPERTY LINE ADJUSTMENTS

7.3.104.01 Area of Application

A property line adjustment application is required whenever a property boundary separating two lots or parcels is reconfigured. Property line adjustments do not create new parcels.

7.3.104.02 Validity

Property line adjustment approval is valid in perpetuity, upon recording of the new deeds.

7.3.104.03 Submittal Requirements for Preliminary Review

A. Application Process. Applications for partitions shall be submitted on forms provided by the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

B. Submittal Requirements. Each application shall be accompanied by a preliminary adjustment plan drawn to scale and containing at a minimum, the following:

1. Map number and tax lot or tax account number of subject properties.
2. The boundary lines and approximate area of the subject properties in square feet and location of structures on property.
3. The approximate location of existing streets, easements or right-of-ways adjacent to, or within, the subject properties, and, existing improvements on the property.
4. The location of the property boundary after the proposed adjustment is completed.

7.3.104.04 Process for Preliminary Review

Property line adjustments shall be reviewed in accordance with the Type I review procedures specified in Section 7.3.201.

7.3.104.05 Review Criteria

Approval of a property line adjustment shall require compliance with the following:

- A. After the adjustment, each parcel shall satisfy the dimensional standards of applicable zoning district, unless a variance from these standards is approved.
- B. Each parcel shall meet the land division standards in Section 7.2.307.

7.3.104.06 Completion of a Property Line Adjustment

Within one year of the final decision approving the property line adjustment, the applicant shall record modified deeds. A survey record may be required pursuant to ORS Chapter 92.

7.3.105 PARTITIONS

7.3.105.01 Area of Application

A partition is required for any land division which creates two or three parcels in a calendar year.

7.3.105.02 General Provisions

A. Validity. Partition approval is valid in perpetuity, upon recording of the final surveyed plat. Parcels shall be created only upon recording of the final plat.

B. Master Plan. A master plan for development is required for any application which leaves a portion of the subject property capable of further land divisions.

7.3.105.03 Submittal Requirements for Preliminary Review

A. Application Process. Applications for partitions shall be submitted on forms provided by the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

B. Submittal Requirements. Each application shall be accompanied by a preliminary partition plat drawn to scale on a minimum 11" x 17" sheet and containing at a minimum, the following:

1. Appropriate identification stating the drawing is a preliminary plan.
2. North point, scale and date.
3. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan.
4. Map number and tax lot or tax account number of subject property.
5. The boundary lines and approximate area of the subject property.
6. Dimensions and size in square feet or acres of all proposed parcels.
7. The approximate location of existing streets, easements or right-of-ways adjacent to, or within, the subject property, and, existing improvements on the property.
8. The location of any flood boundary.

7.3.105.04 Process for Preliminary Review *(Revised by Ordinance #541, 06/03/02 - Effective 7/03/02)*

Preliminary plats for partitions shall be reviewed in accordance with the following procedures:

A. Partitions that do not involve the creation of a private street shall be reviewed as a Type I application consistent with provisions in Section 7.3.202.01.

B. Partitions that include a private street shall be reviewed as a Type II application consistent with provisions in Section 7.3.202.02.

7.3.105.05 Review Criteria

Approval of a partitioning shall require compliance with the following:

- A. Each parcel shall satisfy the dimensional standards of applicable zoning district, unless a variance from these standards is approved.
- B. Adequate public facilities shall be available to all parcels.
- C. Each parcel shall meet the land division standards in Section 7.2.307.

7.3.105.06 Process for Final Plat Approval

- A. Survey. Within one year of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded. Failure to record a plat within the required time period shall void the approval and require a new partitioning application.
- B. Final Approval. The City shall sign the final plat if the plat substantially conforms with the approved preliminary plat, and if the conditions of approval are satisfied.
- C. Final Plat. The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements.
- D. Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees.
- E. Improvements/Bonding. Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney.

7.3.105.07 Expedited Land Division

- A. Eligibility. Land designated for residential use, including recreational and open space uses accessory to residential use, is eligible to apply for an expedited land division process when creating two or three parcels. The expedited land division process may be used in lieu of a Type I process.
- B. Exclusion.
 - 1. Property and process exclusions include properties specifically mapped and designated in the Comprehensive Plan or Development Code for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features and not eligible for the construction of dwelling units or accessory buildings.
 - 2. The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of City enabling legislation. Decisions are not subject to the Comprehensive Plan and not eligible for appeal to the Land Use Board of Appeals (LUBA).

C. Complete Application. The City shall review an application and makes a decision on its completeness within 21 days of submittal. Upon determination of an incomplete application, the applicant has 180 days to submit the missing information.

D. Public Notice. Upon submittal of a complete application, the City shall send written notice to affected governmental agencies and property owners within 100 feet of the site proposed for the land division. The notice shall include the following:

1. The deadline for submission of written comments.
2. The time and place where all copies of evidence submitted by the applicant will be available for review.
3. The name, address, and telephone number of the City's staff person available to comment on the application.
4. Summary of the local decision making process for such a decision.
5. Applicable decision criteria.
6. Notification that participants must raise all issues during the written comment period.

E. Initial Decision. The local government must allow at least 14 days for written comments and shall render a decision within 63 days of a complete application. No public hearing may be held during the initial decision making phase.

F. Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.

G. Time Extension.

1. Applicant: If a decision is not made within 63 days, the applicant may seek review by writ of mandamus.
2. City: The City may extend the 63 day period up to 120 days based on the determination that an unexpected or extraordinary increase in applications makes the 63 day period impracticable. Following a 7 day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.

H. Decision Criteria. Criteria for approving the partition shall be as follows:

1. The criteria established in Section 3.105.05
2. Density. The application must be able to establish at least 80 percent of the allowable density of the applicable residential zone.
3. Street Standards. The application must comply with the most recent City of Dayton Transportation Plan or provide evidence of meeting the City's minimum street connectivity standards contained within this Code.

I. Appeal of Initial Decision. A decision may be appealed to a local hearings officer within 14 days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.

J. Appeal Fee. Filing an appeal requires a deposit of \$300.00 to cover costs. An appellant faces the possibility of an assessment of \$500.00 for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.

K. Basis of an Appeal of the Initial Decision. The local appeal is shall based on the following:

1. The failure to meet local substantive and procedural requirements,
2. Unconstitutionality,
3. The decision was not within the expedited land division category, or
4. A party's substantive rights have been substantially prejudiced by an error in procedure of the local government.

L. Hearings Officer. The appeal of the initial expedited land use decision shall be heard by a City designated hearings officer. The hearings officer may not be a City officer or City employee.

M. Hearings Officer Notification. Within 7 days of the hearings officer's appointment, the City shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments, of the hearing date before the hearings officer. If a person submitting comments did not appeal, the issues presented by that person are limited to those in their submitted comments.

N. Appeal Hearing. The hearings officer conducts a hearing that:

1. Follows the Commission proceeding requirements,
2. Allows the local government's explanation of its decision, and
3. May consider evidence not previously considered.

O. Hearings Officer Decision. In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the City, but shall make a written decision on the appeal within 42 days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the 42 day period shall receive no compensation for services as the hearings officer. If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.

P. Appeal of Hearings Officer Decision. Appeals of the Hearings Officer decision are to the Oregon Court of Appeals.

Q. Basis of an Appeal of the Hearings Officer Decision. The grounds for review of a hearings officer's decision are limited to:

1. Whether the decision followed the process for an expedited land division and the appellant raised that issue,
2. Unconstitutionality, and
3. Certain bias or interest on the part of the hearings officer or local government.

R. Process for Final Plat Approval. Final plats for expedited land divisions shall be reviewed consistent with the requirements in Section 3.105.06.

7.3.106 SITE DEVELOPMENT REVIEW

7.3.106.01 Purpose

The Site Development Review Process is intended to guide future growth and development in accordance with the Development Codes; provide an efficient process and framework to review development proposals; ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and resolve potential conflicts that may arise between proposed developments and adjacent uses.

The site development review provisions are not intended to preclude uses that are permitted in the underlying zones.

7.3.106.02 Applicability of Provisions

A. Applicability. Site Development Review shall be applicable to all new developments and major remodeling, except:

1. Single-family detached dwellings;
2. A duplex; or
3. Any commercial, industrial or public facility expansion or remodel that does not exceed 25% of the total square footage of the structure existing at the time of the adoption of this Code.

B. Underlying Zone. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

7.3.106.03 Review and Approval Process

Site Development Review applications shall be reviewed in accordance with the Type II review procedures specified in Section 7.3.201.

7.3.106.04 Application and Fee

An application for Site Development Review shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.106.05 Submittal Requirements

The following information shall be submitted as part of a complete application for Site Development Review:

- A. Proposed grading and topographical changes;

- B. All existing and proposed structures, roadway access and utilities including finished floor elevations and setbacks;
- C. Vehicular and pedestrian circulation patterns, parking, loading and service areas;
- D. Proposed access to public roads and highways, railroads or other transportation systems;
- E. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- F. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- G. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks; and,
- H. The expected development schedule.
- I. The location of any flood boundary.

7.3.106.06 Evaluation of Site Development Plan

The review of a Site Development Plan shall be based upon consideration of the following:

- A. Conformance with applicable General Development Standards in Section 7.2.3.
- B. Adequacy of public and private facilities.
- C. Traffic safety, internal circulation and parking;
- D. Provision for adequate noise and/or visual buffering from non-compatible uses.
- E. Conformance with development requirements of the underlying zone.

7.3.107 CONDITIONAL USE PERMITS

7.3.107.01 Purpose

A conditional use is a use which is generally acceptable as a land use activity in a particular zone, but due to certain aspects of the activity, buffering, screening, time limitations or other conditions are necessary to ensure compatibility with adjacent property. Conditional uses are assumed permitted uses unless conditions to ensure their compatibility cannot be established.

7.3.107.02 Review and Approval Process

Conditional Use applications shall be reviewed in accordance with the Type II review procedures specified in Section 7.3.201.

7.3.107.03 Application and Fee

An application for a Conditional Use Permit shall be filed with the City and accompanied by the appropriate fee. It shall be

the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.107.04 Criteria for Approval

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. The use is listed as a conditional use in the underlying district.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
- C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned development for the area affected by the use.
- D. 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.

7.3.108 MAJOR VARIANCES

7.3.108.01 Purpose

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. Those requests which result in a more than 10% change in a quantifiable standard require a major variance.

7.3.108.02 Review and Approval Process

Major Variance applications shall be reviewed in accordance with the Type II review procedures specified in Section 7.3.201.

7.3.108.03 Application and Fee

An application for a variance shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.108.04 Applicability

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Code, except when one or more of the following apply:

- A. The proposed variance would allow a use which is not permitted in the district.
- B. Another procedure and/or criteria is specified in the Code for modifying or waiving the particular requirement or standard.

C. Modification of the requirement or standard is prohibited within the district.

D. An exception from the requirement or standard is not allowed in the district.

7.3.108.05 Criteria and Procedure

The Planning Commission may grant a major variance from a requirement or standard of this Code after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that all the following circumstances substantially exist:

A. There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the requirements of the Code, and is the minimum relief to relieve the hardship. Adverse economic impact shall not be considered an unreasonable hardship or practical difficulty.

B. There are exceptional or extraordinary circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to the land, buildings, or uses in the same zone; however, non-conforming land, uses, or structures in the vicinity shall not in themselves constitute such circumstances or conditions.

C. That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises.

D. That such variance is necessary for the preservation and enjoyment of the substantial property rights of petitioner.

E. That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant.

F. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.

G. The variance request is not the result of a deliberate action or knowing violation on the part of the applicant.

7.3.109 SUBDIVISIONS AND PLANNED UNIT DEVELOPMENTS

7.3.109.01 Area of Application

A subdivision is required for any land division which creates more than three parcels in a calendar year.

7.3.109.02 Submittal Requirements

Submittal Material. The following submittal requirements shall apply to all Preliminary Plan applications for subdivisions and planned unit developments.

A. All applications shall be submitted on forms provided by the City to the City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

B. Applicants for subdivisions shall submit the following:

1. Appropriate identification stating the drawing is a preliminary plat.
 2. North point, scale and date.
 3. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan.
 4. Map number and tax lot or tax account number of subject property.
 5. The boundary lines and approximate area of the subject property.
 6. Dimensions and size in square feet or acres of all proposed parcels.
 7. The approximate location of existing streets, easements or right-of-ways adjacent to, or within, the subject property, and, existing improvements on the property.
 8. The location of any flood boundary.
 9. The name, address and phone number of the applicant engineer, land surveyor, or person preparing the application.
 10. Name of the subdivision.
 11. Date the drawing was made.
 12. Vicinity sketch showing location of the proposed land division.
 13. Identification of each lot by number.
 14. Gross acreage of property being subdivided or partitioned.
 15. Direction of drainage and approximate grade of abutting streets.
 16. Streets proposed and their names, approximate grade, and radius of curves.
 17. Any other legal access to the subdivision, partition other than a public street.
 18. Contour lines at two foot intervals if 10% slope or less, five foot intervals if exceeding 10% slope, and a statement of the source of contour information.
 19. All areas to be offered for public dedication.
- C. Applicants for a planned unit development shall submit the material required in item "B." above as well as the following additional material:

1. Proposed uses of the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.
2. The approximate location and dimensions of all commercial or multi-family structures proposed to be located on the site.
3. Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
4. Written statement outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities.

7.3.109.03 Review Procedures

A. Planning Commission. All Preliminary Plans for subdivisions and PUDs shall be heard by the Planning Commission pursuant to the requirements for a Type II procedure as set forth in Section 7.3.203.

B. Time Limit. Approvals of any preliminary plans for a subdivision PUD shall be valid for one year after the date of the written decision. A Final Plat for a Final Plan for a subdivision shall be recorded within this time period.

C. Re-application Required. Failure to record a plat within the required time period shall void the approval and require a new application before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

7.3.109.04 Review Criteria

Approval of a subdivision or PUD shall require compliance with the following:

- A. Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved or the development standards permit a modification of these requirements.
- B. Adequate public facilities shall be available to serve the existing and newly created parcels.
- C. The proposal shall comply with the applicable development standards in Section 7.2.307 (Land Divisions), or, Section 7.2.311 (Planned Unit Developments).

7.3.109.05 Form of Final Subdivision Plat

The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements

7.3.109.06 Final Plat Review of Subdivisions

A. Final Review. The final subdivision or PUD plat shall be submitted to the City staff for review. Staff shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. The City Administrator shall signify staff approval of the final plat by signing the document.

B. Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees.

C. Improvements/Bonding. Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney.

7.3.109.07 Expedited Land Division

A. Eligibility. Land designated for residential use, including recreational and open space uses accessory to residential use, is eligible to apply for an expedited land division process when creating more four or more lots. The expedited land division process may be used in lieu of a Type II process.

B. Exclusion.

1. Property and process exclusions include properties specifically mapped and designated in the Comprehensive Plan or Development Code for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features and not eligible for the construction of dwelling units or accessory buildings.

2. The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of City enabling legislation. Decisions are not subject to the Comprehensive Plan and not eligible for appeal to the Land Use Board of Appeals (LUBA).

C. Complete Application. The City shall review an application and makes a decision on its completeness within 21 days of submittal. Upon determination of an incomplete application, the applicant has 180 days to submit the missing information.

D. Public Notice. Upon submittal of a complete application, the City shall send written notice to affected governmental agencies and property owners within 100 feet of the site proposed for the land division. The notice shall include the following:

1. The deadline for submission of written comments.
2. The time and place where all copies of evidence submitted by the applicant will be available for review.
3. The name, address, and telephone number of the City's staff person available to comment on the application.
4. Summary of the local decision making process for such a decision.
5. Applicable decision criteria.
6. Notification that participants must raise all issues during the written comment period.

E. Initial Decision. The local government must allow at least 14 days for written comments and shall render a decision within 63 days of a complete application. No public hearing may be held during the initial decision making phase.

F. Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.

G. Time Extension.

1. Applicant: If a decision is not made within 63 days, the applicant may seek review by writ of mandamus.

2. City: The City may extend the 63 day period up to 120 days based on the determination that an unexpected or extraordinary increase in applications makes the 63 day period impracticable. Following a 7 day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.

H. Decision Criteria. Criteria for approving the subdivision shall be as follows:

1. The criteria established in Section 3.109.04.

2. Density. The application must be able to establish at least 80 percent of the allowable density of the applicable residential zone.

3. Street Standards. The application must comply with the most recent City of Dayton Transportation Plan or provide evidence of meeting the City's minimum street connectivity standards contained within this Code.

I. Appeal of Initial Decision. A decision may be appealed to a local hearings officer within 14 days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.

J. Appeal Fee. Filing an appeal requires a deposit of \$300.00 to cover costs. An appellant faces the possibility of an assessment of \$500.00 for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.

K. Basis of an Appeal of the Initial Decision. The local appeal is shall based on the following:

1. The failure to meet local substantive and procedural requirements,

2. Unconstitutionality,

3. The decision was not within the expedited land division category, or

4. A party's substantive rights have been substantially prejudiced by an error in procedure of the local government.

L. Hearings Officer. The appeal of the initial expedited land use decision shall be heard by a City designated hearings officer. The hearings officer may not be a City officer or City employee.

M. Hearings Officer Notification. Within 7 days of the hearings officer's appointment, the City shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments, of the hearing date before the hearings officer. If a person submitting comments did not appeal, the issues presented by that person are limited to those in their submitted comments.

N. Appeal Hearing. The hearings officer conducts a hearing that:

1. Follows the Commission proceeding requirements,

2. Allows the local government's explanation of its decision, and

3. May consider evidence not previously considered.

O. Hearings Officer Decision. In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the City, but shall make a written decision on the appeal within 42 days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the 42 day period shall receive no compensation for services as the hearings officer. If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.

P. Appeal of Hearings Officer Decision. Appeals of the Hearings Officer decision are to the Oregon Court of Appeals.

Q. Basis of an Appeal of the Hearings Officer Decision. The grounds for review of a hearings officer's decision are limited to:

1. Whether the decision followed the process for an expedited land division and the appellant raised that issue,

2. Unconstitutionality, and

3. Certain bias or interest on the part of the hearings officer or local government.

R. Process for Final Plat Approval. Final plats for expedited land divisions shall be reviewed consistent with the requirements in Section 3.109.06.

7.3.110 COMPREHENSIVE PLAN AMENDMENTS

7.3.110.01 Process

Amendments to the Comprehensive Plan map shall be reviewed in accordance with the Type III review procedures specified in Section 7.3.201. Type III reviews shall be limited to map amendments affecting 5 or fewer adjacent parcels ownerships, or less than 10 acres. Map amendments affecting more than 5 adjacent parcels ownerships or more than 10 acres shall be considered legislative actions and subject to a Type IV review process.

7.3.110.02 Application and Fee

An application for a map amendment shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.110.03 Criteria for Approval

Plan map amendment proposals shall be approved if the applicant provides evidence substantiating the following:

A. Compliance is demonstrated with the Statewide Land Use Goals that apply to the subject properties or to the proposed land use designation. If the proposed designation requires an exception to the Goals, the applicable criteria in the LCDC Administrative Rules for the type of exception needed shall also apply.

B. Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.

C. The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Comprehensive Plan.

D. The Plan provides more than the projected need for lands in the existing land use designation.

E. The proposed land use designation will not allow zones or uses that will destabilize the land use pattern in the vicinity or significantly adversely affect existing or planned uses on adjacent lands.

F. Public facilities and services necessary to support uses allowed in the proposed designation are available or will be available in the near future.

7.3.111 ZONE CHANGE

7.3.111.01 Process

Zone changes shall be reviewed in accordance with the Type III review procedures specified in Section 7.3.201. Type III reviews shall be limited to zone changes affecting 5 or fewer adjacent parcels ownerships or less than 10 acres of land. Zone changes affecting more than 5 adjacent parcels ownerships or more than 10 acres shall be considered legislative actions and subject to a Type IV review process.

7.3.111.02 Application and Fee

An application for a zone change shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.111.03 Criteria for Approval

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.

B. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

C. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Code.

D. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.

E. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.

7.3.111.04 Zone Change Conditions

A. Imposition of Conditions. Approval of a zone change application may be conditioned to require provisions for buffering

or provision of off-site public facilities. In order to impose conditions on a zone change, findings must be adopted showing that:

1. The zone change will allow uses more intensive than allowed in the current zone; and
2. The conditions are reasonably related to impacts caused by development allowed in the proposed zone or to impacts caused by the specific development proposed on the subject property; and
3. Conditions will serve a public purpose such as mitigating the negative impacts of allowed uses on adjacent properties; and

B. Conditions. Conditions that could meet the criteria in A., include, but are not limited to:

1. Dedication of right-of-way for public streets, utility easements, etc.; including additional right-of-way consistent with the requirements of an approved Transportation Plan..
2. Improvement of private roadways or public streets, including bike paths, curbs, and sidewalks.
3. Provision of storm drainage facilities.
4. Extension of public sewer, storm drain, and water service including over-sizing to permit development on other lands.
5. Provision of fire suppression facilities and equipment.
6. Provision of transit and traffic control facilities.
7. Special building setbacks, orientation, landscaping, fencing, berming, and retention of natural vegetation.
8. Special locations for truck loading, parking, access routes, or any outdoor activity that could impact adjacent property.
9. Financial contributions to public agencies to offset increased costs for providing services or facilities related to the intensification of the use of the property.

7.3.112 TEXT AMENDMENTS

7.3.112.01 Process

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Section 7.3.201.

7.3.112.02 Application and Fee

A Plan or Code text amendment can only be initiated by the Planning Commission or City Council. Upon direction of either the Commission or Council, City staff shall establish a file and set a schedule to review the proposed changes. No fee is required. Notice shall be subject to the provisions in Section 7.3.204.

7.3.112.03 Criteria for Approval

Amendments to the Comprehensive Plan or Development Code text shall be approved if the evidence can substantiate the following:

- A. Impact of the proposed amendment on land use and development patterns within the city, as measured by:
 - 1. Traffic generation and circulation patterns;
 - 2. Demand for public facilities and services;
 - 3. Level of park and recreation facilities;
 - 4. Economic activities;
 - 5. Protection and use of natural resources;
 - 6. Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.
- B. A demonstrated need exists for the product of the proposed amendment.
- C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.
- D. The amendment is appropriate as measured by at least one of the following criteria:
 - 1. It corrects identified error(s) in the provisions of the plan.
 - 2. It represents a logical implementation of the plan.
 - 3. It is mandated by changes in federal, state, or local law.
 - 4. It is otherwise deemed by the council to be desirable, appropriate, and proper.

7.3.113 ANNEXATION

7.3.113.01 Authority of City to Annex

The boundary of the City may be extended by the annexation of territory not then within the City and which territory is within the urban growth boundary and contiguous to the City or separated from it by a stream or right-of-way only.

7.3.113.02 General Annexation Procedure

A. Following submission of annexation proposal or initiation, the City Recorder shall set a date for hearing with the Planning Commission. Notice shall be pursuant to the proposed method of annexation.

B. The Planning Commission shall hear testimony and shall recommend approval or denial of the proposed annexation and submit such recommendation to the Council within 10 days for the hearing. The Planning Commission's decision shall, in a written form, state the rationale used in justifying the decision, and that the decision is in conformance with

the City's comprehensive plan. For all annexations the decision shall state how the proposal will:

1. Affect the community's air resources;
2. Promote an orderly, timely and economical transition of rural and agricultural lands into urbanized lands;
3. Relate to areas with natural hazards;
4. Affect the fish and wildlife in the proposed annexation;
5. Utilize energy resources and conserve energy use;
6. Protect open spaces and scenic views and areas;
7. Provide for transportation needs in a safe, orderly and economic manner;
8. Provide for an orderly and efficient arrangement of public services;
9. Provide for the recreation needs of the citizens;
10. Affect identified historical sites and structures and provide for the preservation of such sites and structures;
11. Improve and enhance the economy of the City; and
12. Provide quality, safe housing through a variety of housing types and price ranges.

C. The City Recorder shall set a date for a public hearing with the Council upon receipt of the Planning Commission's recommendation. Notice shall be pursuant to the proposed method of annexation. After considering all testimony the Council shall sustain or reverse the Planning Commission's recommendation. The Council shall, in a written form, state the rationale used in justifying the decision, and that the decision is in conformance with the City's comprehensive plan. The decision shall state how the proposed annexation will address the criteria stated in 3.111.02 (B).

7.3.113.03 Annexation by Election

A. The Council, upon approval of the annexation proposal, has the authority to submit, except when not required under ORS. 222.850 to 222.915, to dispense with submitting the proposal for annexation to the registered voters of the City.

B. The proposal for annexation may be voted upon at a general election or at a special election to be held for that purpose. The proposal for annexation may be voted upon by the voters of the City and of the territory simultaneously or at different times not more that twelve months apart.

C. Two or more proposals for annexation may be voted upon simultaneously; however in the City each proposal shall be stated separately on the ballot and voted on separately, and in the territory proposed for annexation no proposal for annexing other territory shall appear on the ballot.

D. The Council shall give notice of each annexation election by publication prior to such election one each week for four

successive weeks in a newspaper of general circulation in the City. Whenever simultaneous elections are held, the same notice and publication shall fulfill the requirements of publication for the City election and the election held in the territory. Notice shall also be given by posting notices of the election in four public places within the City if votes are to be cast therein and four public places in each territory proposed to be annexed for a like period as provided in this section for publication of notice. The notice shall distinctly state the proposition to be submitted, shall contain a legal description of, and a map indicating the boundaries of each territory proposed to be annexed, and the registered voters shall be invited thereby to vote upon such annexation. The Council shall also designate and the notice shall state the hours during which the polls will be open within the City and each territory proposed to be annexed. If the election is to be held at the usual precinct polling places designated for a general election held at that time, or if the election is not held at the same time as a general election, but is held at the same polling places used for the last preceding general election, the notice shall so state; if any polling place is to be different than the regular polling places, the notice shall describe the location of the polling places to be used in the area or precincts in which the polling places are different.

7.3.113.04 Annexation Procedure Without City Election

A. By ordinance, the Council may elect to dispense with submitting the annexation proposal to the registered voters of the City, set a date for public hearing, at which time the registered voters of the City can be heard on the annexation proposal.

B. Notice of the public hearing shall be published once a week for two successive weeks prior to the day of the hearing, in a newspaper of general circulation in the City, and posted in four public places in the City for a like period.

C. Written notice shall be given to all property owners within the boundaries of the proposed annexation and within 500 feet of the external boundaries of the proposed annexation.

D. After the public hearing the Council, by ordinance subject to referendum, and containing a legal description of the proposed annexation:

1. Declare that the territory is annexed to the City upon the condition that the majority of the votes cast in the territory is in favor of annexation;
2. Declare that the territory is annexed to the City where persons with land ownership in the proposed territory consent in writing to such annexation.

7.3.113.05 Annexation Procedure with Election in Proposed Territory

A. The Council need not call or hold an election in any contiguous territory proposed to be annexed, or post notice in the contiguous territory, if more than half the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file the annexation proposal on or before the day:

1. The public hearing procedure shall be pursuant to Subsections 7.3.113.02.A., and B.; and Subsections 7.3.113.04.B., and C. If the Council dispenses with submitting the question to the registered voters of the City; or
2. The Council takes the necessary action to call the annexation election in the City under Subsection 7.3.111.03.D., if the Council submits the question to the registered voters of the City.

7.3.113.06 Island Annexation

A. It is within the power and authority of the City by ordinance subject to referendum, to annex land, provided it is not an incorporated City, that is surrounded by the corporate limits or boundaries of the City, with or without consent of any property owner or resident in the territory.

B. Notice and procedure for public hearing shall be provided pursuant to the provisions of Section 7.3.113.02.

C. If the Council elects to submit the questions to the registered voters of the City, procedure shall be pursuant to Subsection 7.3.113.03.

7.3.113.07 Submission of Annexation Reports

A. The City shall report all changes in the boundaries or limits of the City to the County Clerk and County Assessor. The report shall contain a legal description of the new boundaries and shall be filed within 10 days from the effective date of the change of any boundary lines.

B. With the exception of "Island Annexation" the City Recorder shall submit to the Secretary of State:

1. A copy of the annexation ordinance;
2. An abstract of the vote within the City if votes were cast therein, which shall show the whole number of registered voters voting therein on the annexation, the number of votes cast against annexation;
3. A copy of the statement of consent of landowners in the territory annexed;
4. A copy of the ordinance of the City declaring that no election is required in the City; and
5. An abstract of the vote upon the referendum if a referendum petition was filed with respect to the deferred ordinance.

7.3.113.08 Effective Date of Annexation

The annexation shall be complete from the date of filing with the Secretary of State as provided in ORS 222.150, 222.160, 222.170, 111.900, and Subsection 7.3.113.07.B. Thereafter, the annexed territory shall be and remain part of the City. The date of such filing shall be the effective date of annexation, provided such filing is not made later than 90 days prior to any general or primary election; otherwise, the effective date of such annexation shall be the day after the primary or general election next following the date of filing.

7.3.113.09 Zone Designation of Annexed Property

The City Council shall establish the appropriate Comprehensive plan designation and Zoning district upon annexation of the property to the City.

7.3.114 SIMILAR USES

7.3.114.01 Purpose and Scope

The purpose of this Section is to provide for those uses not specifically listed in a particular zoning district but which are similar in character, scale and performance to the permitted uses specified therein. Zoning districts in which a similar use may be authorized are:

A. Limited Density Residential Zone (R-2)

B. Medium Density Residential Zone (R-3)

C. Commercial Residential Zone (CR)

D. Commercial Zone (C)

E. Industrial Zone (I)

7.3.114.02 Review and Approval Process

Similar Use applications shall be reviewed in accordance with the Type II review procedures specified in Section 7.3.201.

7.3.114.03 Application and Fee

An application for a Similar Use shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.

7.3.114.04 Review Criteria

A similar use may be authorized provided that the applicant demonstrates that the proposed use satisfies the following criteria:

A. The use is consistent with the purpose of the underlying zoning district and is similar in character, scale and performance to permitted uses specified in the underlying district.

B. The use is capable of conforming with the applicable standards and limitations of the underlying zoning district.

7.3.114.05 Conditions of Approval

In approving an application for a similar use, the Planning Commission may impose such conditions as it deems appropriate to ensure compliance with the standards of the development code.

7.3.114.06 Site Development

The development of an approved similar use in any zone shall be subject to a Site Development Review.

Official Website of the City of Dayton, Oregon

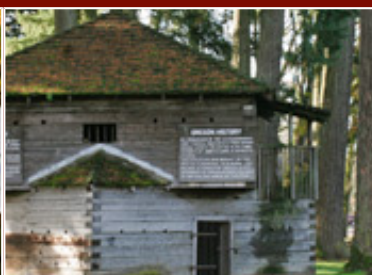
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Section 7.3.2 Administrative Procedures

[Printer-friendly Version](#)

- [7.3.201 GENERAL PROVISIONS](#)
- [7.3.202 PROCEDURES](#)
- [7.3.203 TYPE IV ACTIONS](#)
- [7.3.204 PUBLIC NOTICE REQUIREMENTS](#)
- [7.3.205 PUBLIC HEARING BEFORE THE PLANNING COMMISSION](#)
- [7.3.206 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL](#)
- [7.3.207 APPEAL PROVISIONS](#)
- [7.3.208 FEES](#)

7.3.201 GENERAL PROVISIONS

7.3.201.01 Multiple Applications

Applications for more than one land use action for the same property may, at the applicant's discretion, be heard or reviewed concurrently.

7.3.201.02 Multiple Processing Types

Multiple land use requests involving different processing Types shall be heard and decided at the higher processing Type. For example, an application involving a Subdivision (Type II) with a Minor Variance (Type I) shall be reviewed and decided as a Type II request.

7.3.210.03 Generalized Area

Applications involving a generalized area may be aggregated if in the opinion of the City Administrator a better understanding of the entire land use proposal is served by combining requests. A final decision shall be granted for each request and each request is appealable individually.

7.3.201.04 Time Limit

If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Code.

A. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120 day period.

In Municipal Code:

B. Public notice shall be mailed to affected parties as specified in Section 7.3.204.

C. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 7.3.206 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.

7.3.201.05 Performance Bonding

Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.

7.3.2 Administrative Procedures

A. Types of Guarantees - Performance guarantees may be in the form of performance bond payable to the City of Dayton, cash, certified check, time certificate of deposit, or other form acceptable to the City. The form must be approved by the City Attorney and appropriate documents filed with the City Recorder.

B. Amount of Guarantee - The amount of the guarantee must be equal to at least one-hundred-ten percent (110%) of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of all materials, labor, equipment and other costs of the required performance.

C. Completion of Performance - All improvements shall be completed within one year of filing the performance guarantee. This time limit may be extended for additional one year periods by the City Administrator.

7.3.202 PROCEDURES

7.3.202.01 Procedure for Type I Review

A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.

1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.

2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.

B. The application shall be deemed complete for the purposes of issuing a staff report and related timing provisions either:

1. Upon receipt of the additional information to complete the application; or,

2. If the applicant refuses to submit the information the application shall be deemed complete for review purposes on the 31st day after the original submittal.

C. Referrals may be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies at the Administrator's option.

D. Within thirty (30) days of receipt of a complete application, staff shall review

the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.

E. Approvals of a Type I action may be granted subject to conditions and performance agreement requirements.

F. Notice of the decision shall comply with the provisions in Section 7.3.204.

G. A Type I land use decision may be appealed to the Planning Commission, by either the applicant or persons receiving notice of the decision. The appeal shall be filed within 15 days from the date of the final decision, pursuant to the provisions of Section 7.3.207.

7.3.202.02 Procedures for Type II and Type III Actions

A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.

1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.

2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.

B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:

1. Upon receipt of the additional information to complete the application; or,

2. If the applicant refuses to submit the information, the application shall be deemed complete for scheduling purposes only on the 31st day after the original submittal .

C. Referrals will be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies.

D. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 7.3.204.

E. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties.

F. The public hearing before the Planning Commission shall comply with the provisions in Section 7.3.205.

G. Approvals of any Type II or Type III action may be granted subject to conditions and performance agreement requirements.

H. The applicant shall be notified, in writing, of the Planning Commission's decision or recommendation. In addition, notice of the Commission's decision or recommendation shall be mailed to individuals who request such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing.

I. A Type II land use decision may be appealed to the City Council by either the

applicant, persons receiving notice of the decision or the Administrator. The appeal shall be filed within 15 days from the date of the decision, pursuant to the provisions of Section 7.3.207. Type III land use applications are automatically reviewed by the City Council.

7.3.203 TYPE IV ACTIONS

7.3.203.01 Initiation

Type IV may be initiated by:

- A. Majority vote of the City Council.
- B. Majority vote of the Planning Commission.
- C. Recommendation by the City Administrator subject to majority approval by the City Council or Planning Commission.

7.3.203.02 Procedure for Type IV Actions

A. Public Hearings by Planning Commission:

- 1. A public hearing shall first be held by the Planning Commission on all Type IV requests.
- 2. The Planning Commission may continue any hearing in order to make a reasonable decision. Amendments to the original request may be considered and acted upon by the Planning Commission.
- 3. A Type IV Planning Commission action shall be in the form of a recommendation to the City Council.

B. Public Hearing by City Council:

- 1. Following the Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation.
- 2. The City Council may continue any hearing in order to make a reasonable decision. Amendments to the original request or the Planning Commission's recommendation may be considered and acted upon by the City Council.
- 3. An approved Type IV City Council action shall be in the form of an Code.

7.3.204 PUBLIC NOTICE REQUIREMENTS

7.3.204.01 Type I Action.

Consistent with State statutes, written notice of a Type I decision shall be mailed to the applicant and all property owners within 100 feet of the subject property. Written notice for a Type I shall include the following:

- 1. Summary of the request.
- 2. Relevant decision criteria.
- 3. Findings of fact indicating how the request does or does not comply with the decision criteria.
- 4. Conclusionary statement indicating approval or denial of the request including

(where appropriate) conditions of approval.

5. Information regarding the appeal process including who may appeal, where appeal must be submitted, fees and the appeal deadline.

7.3.204.02 Type II and Type III Actions

Written notice of any public hearing shall be mailed at least 20 days prior to the hearing date to the applicant and owners of property within 200 feet of the boundaries of the subject property.

7.3.204.03 Type IV Actions

Written notice of a hearing before the Planning Commission or City Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of the hearing before the Planning Commission and City Council.

7.3.204.04 Notice for Appeals

An appeal to either Planning Commission or City Council shall include written notice at least 10 days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.

7.3.204.05 Public Hearing Notice Requirements

Notice for any public hearing, including appeals, shall include the following:

- A. Explain the nature of the application and the proposed use or uses which could be authorized.
- B. Cite the applicable criteria from the Code and the plan which apply to the application at issue.
- C. Set forth the street address or other easily understood geographical reference to the subject property.
- D. State the date, time and location of the hearing.
- E. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Appeals Board of Appeals.
- F. Include the name and phone number of the City representative where additional information may be obtained.
- G. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost.
- H. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.
- I. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.

7.3.205 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

7.3.205.01 General Provisions

A. Land use actions which require a Public hearing by the Planning Commission under the provisions of this Code shall be initially heard within sixty (60) days of the receipt of an application or appeal.

B. The Planning Commission may continue a public hearing for additional, information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.

C. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.

D. Appeal of a Type I action shall be heard by the Planning Commission. The decision of the Commission on such appeal shall be final unless further appealed to the City Council.

E. The decision of the Planning Commission on applications for Type II actions shall be final unless appealed to the City Council pursuant to Section 7.3.207.

F. The recommendations of the Planning Commission on applications for Type III or Type IV actions shall be referred to the City Council for final determination.

G. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the decision authority, and affected parties, an adequate opportunity to respond to each issue.

7.3.205.02 Public Hearing Procedures

The public hearings before the Planning Commission shall be conducted according to hearings procedures adopted by City Council resolution.

7.3.205.03 Evidence

A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.

B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. Any part of the evidence may be received in written, recorded, video tape or other suitable form.

C. All evidence shall be offered and made part of the public record.

D. Every party is entitled to an opportunity to be heard and to present evidence.

E. All interested persons shall be allowed to testify.

7.3.205.04 Record of Hearing

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

7.3.205.05 Limits on Oral Testimony

The Planning Commission Chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

7.3.205.06 Exhibits

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

7.3.206 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL

7.3.206.01 General Provisions

A. Appeals. The City Council shall hear appeals of the Planning Commission actions. The appeal hearing shall be conducted in a manner consistent with Section 7.3.204.

B. Action on Type III Reviews. The City Council shall hear all Type III actions; the City Council action on such requests shall be the final action by the City.

C. All hearings or reviews required by the City Council shall be heard within sixty (60) days of the Planning Commission's written decision or appeal request.

D. The decision shall be made by the City Council and written findings prepared listing findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council.

7.3.206.02 Hearings by City Council

A. All public hearings shall be conducted pursuant to the City Council's adopted rules of procedure. The City Council shall allow the opportunity for all parties to be heard and may accept new evidence.

B. Decisions of the City Council may be appealed to the State Land Use Board of Appeals (LUBA), subject to the provisions in ORS 197.805-855.

7.3.206.03 Appeal Review by City Council

A. Review on Record: The City Council review of an appeal on an action by the Planning Commission shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the prior decision. The meeting shall be conducted as set forth in the City Council's adopted rules of procedures. The record of the initial proceeding shall include:

1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence.
2. All materials submitted by the City Staff with respect to the application.
3. The minutes of the hearing.
4. The findings and action of the Planning Commission and the notice of decision.

B. Submission of New Testimony and De Novo Hearings: The City Council may admit additional testimony and other evidence by holding a de novo hearing. Upon the decision to admit additional testimony or other evidence and to hear the entire matter de novo, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters at the initial hearing.

C. City Council Action. The City Council may affirm, rescind or amend the action of the Planning Commission. The Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120 day review period.

7.3.207 APPEAL PROVISIONS

7.3.207.01 Appeal Period

A. The decision of the City Administrator shall be final for a Type I land use decision unless a notice of appeal from an appropriate aggrieved party is received by the City within 15 days of the date the final written notice is mailed. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

B. The decision of the Planning Commission for a Type II land use decision, or the appeal of a Type I decision, shall be final unless a notice of appeal from an aggrieved party is received by the City within 15 days of the date the final written notice is mailed. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

7.3.207.02 Form of Appeal

Appeal requests shall be made on forms provided by the City. Appeals shall state the alleged errors in the original action.

7.3.207.03 Notice Requirements

Notice of public hearings by the Planning Commission or City Council on an appeal shall be as specified in Section 7.3.204.

7.3.208 FEES

7.3.208.01 Purpose

Fees are for the purpose of defraying administrative costs.

7.3.208.02 General Provisions

A. Fees shall be payable at the time of application and shall be as set forth by Ordinance or Resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.

B. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect resulting in the dismissal of the case.

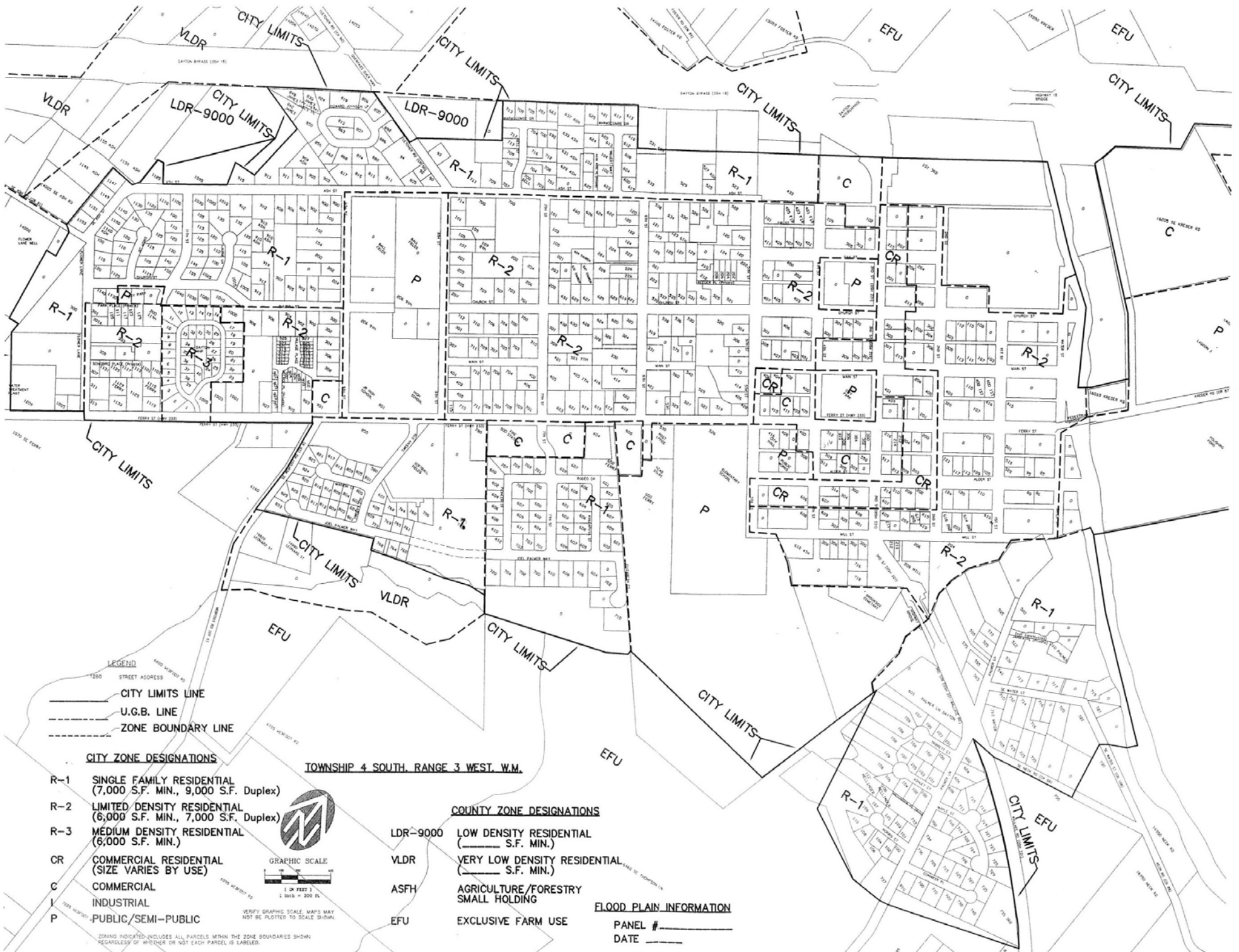
C. Fees are not refundable unless the application is withdrawn prior to the completion of a staff report for a Type I action or notification of the hearing for Type II and III actions.

D. The City Council may reduce or waive the fees upon showing of just cause to do so.

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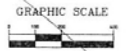
LEGEND

- 1250 STREET ADDRESS
- CITY LIMITS LINE
- U.G.B. LINE
- ZONE BOUNDARY LINE

CITY ZONE DESIGNATIONS

- R-1 SINGLE FAMILY RESIDENTIAL (7,000 S.F. MIN., 9,000 S.F. Duplex)
- R-2 LIMITED DENSITY RESIDENTIAL (6,000 S.F. MIN., 7,000 S.F. Duplex)
- R-3 MEDIUM DENSITY RESIDENTIAL (6,000 S.F. MIN.)
- CR COMMERCIAL RESIDENTIAL (SIZE VARIES BY USE)
- C COMMERCIAL
- I INDUSTRIAL
- P PUBLIC/SEMI-PUBLIC

TOWNSHIP 4 SOUTH, RANGE 3 WEST, W.M.



VERIFY GRAPHIC SCALE. MAPS MAY NOT BE PLOTTED TO SCALE SHOWN.

COUNTY ZONE DESIGNATIONS

- LDR-9000 LOW DENSITY RESIDENTIAL (____ S.F. MIN.)
- VLDR VERY LOW DENSITY RESIDENTIAL (____ S.F. MIN.)
- ASFH AGRICULTURE/FORESTRY SMALL HOLDING
- EFU EXCLUSIVE FARM USE

FLOOD PLAIN INFORMATION

PANEL # _____
DATE _____

ZONING INDICATED INCLUDES ALL PARCELS WITHIN THE ZONE BOUNDARIES SHOWN REGARDLESS OF WHETHER OR NOT EACH PARCEL IS LABELED.

SCALE: _____
 NORTH: _____
 MAP UPDATED: 4-20-07
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 CONSULTING ENGINEERS AND PLANNERS
 3801 E. Main Street, Suite 100, Salem, OR 97302
 Phone: (503) 585-1111 Fax: (503) 585-1988
 www.westvieweng.com

CITY OF DAYTON, OREGON
 ZONING & ADDRESS MAP
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 JOB NUMBER 2609.1006.C