

# City of Sutherlin, Oregon

- Home
- City Government
- Community Events
- Community Resources
- Departments
- Development Code
- Documents & Forms
- Employment Opportunities
- FAQ's
- Municipal Code
- Newsletters
- Press Releases
- Public Hearing Notices
- About Us

## Development Code

### Development Codes July 2007

[Chapter 1 - Introduction](#)

[Chapter 2 - Zoning Districts](#)

[Chapter 3 - Design Standards](#)

[Chapter 4 - Application Review Procedures](#)

[Chapter 5 - Exceptions to Code Standards](#)

[Table of Contents](#)

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## TABLE OF CONTENTS

<b>Section</b>	<b>Page</b>
<b>1.1 Sutherlin Development Code</b>	<b>1-2</b>
<b>1.2 General Administration</b>	<b>1-2</b>
1.2.100 Interpretation of Purpose Sections	
1.2.110 Most Restrictive Regulations Apply	
1.2.120 Pre-Existing Approvals	
1.2.130 Building Permit and Certificate of Occupancy	
<b>1.3 Definitions</b>	<b>1-2</b>
<b>1.4 Enforcement</b>	<b>1-19</b>
1.4.100 Minimum Requirements.	
1.4.110 Violations	
1.4.120 Penalty.	
1.4.130 Complaints Regarding Violations.	
1.4.140 Abatement of Violations.	
1.4.150 Stop-Order Hearing.	
<b>2.1 Zoning District Administration</b>	<b>2-2</b>
2.1.100 Classification of Zoning Districts.	
2.1.110 Zoning District Map.	
2.1.120 Determination of Zoning District Boundaries.	
2.1.130 Accessory Uses and Structures	
<b>2.2 Residential Districts</b>	<b>2-3</b>
2.2.100 Purpose and Applicability.	
2.2.110 Permitted Uses, Conditional Uses, and Structures.	
2.2.120 Development Standards.	
<b>2.3 Commercial Districts</b>	<b>2-6</b>
2.3.100 Purpose and Applicability.	
2.3.110 Permitted Uses, Conditional Uses, and Structures.	
2.3.130 Development Standards.	
2.3.135 Special Use Status for Single Family Residences.	
2.3.100 Purpose and Applicability.	
<b>2.4 Public / Semi- Public District</b>	<b>2-10</b>
2.4.100 Purpose and Applicability.	
2.4.110 Permitted Uses.	
2.4.120 Accessory Uses and Structures.	
2.4.130 Development Standards.	
2.4.100 Purpose and Applicability.	

<b>2.5</b>	<b>Industrial Districts</b>	<b>2-11</b>
2.5.100	Purpose and Applicability.	
2.5.110	Permitted Uses.	
2.5.120	Development Standards	
2.5.125	Special Status for Single Family Residences	
<b>2.6</b>	<b>Special Use Standards</b>	<b>2-14</b>
2.6.100	Accessory Dwellings.	
2.6.110	Accessory Uses and Structures.	
2.6.120	Bed and Breakfast.	
2.6.130	Drive-Through Facilities.	
2.6.140	Group Care Homes and Facilities.	
2.6.150	Home Occupation.	
2.6.160	Manufactured Homes on Lots.	
2.6.170	Manufactured Home Parks.	
2.6.180	Residential Sales Office, Temporary.	
2.6.190	Wireless Telecommunication Facilities.	
2.6.210	RH Zone – Hillside Development Standards and Slopes over 12%	
<b>3.1</b>	<b>Design Standards Administration</b>	<b>3-2</b>
3.1.100	Applicability.	
3.1.110	Types of Design Standards.	
<b>3.2</b>	<b>Access and Circulation</b>	<b>3-2</b>
3.2.100	Purpose.	
3.2.110	Vehicular Access and Circulation.	
3.2.120	Pedestrian Access and Circulation.	
<b>3.3</b>	<b>Landscaping, Street Trees, Fences and Walls</b>	<b>3-15</b>
3.3.100	Purpose.	
3.3.110	Parking Area Landscaping.	
3.3.120	Landscape Credit/Preservation.	
3.3.130	Street Trees.	
3.3.140	Fences and Walls.	
<b>3.4</b>	<b>Vehicle and Bicycle Parking</b>	<b>3-22</b>
3.4.100	Purpose.	
3.4.110	Applicability.	
3.4.120	Automobile Parking Standards.	
3.4.130	Bicycle Parking Standards.	
<b>3.5</b>	<b>Infrastructure Standards</b>	<b>3-29</b>
3.5.100	Purpose and Applicability.	
3.5.110	Transportation Standards.	
3.5.120	Public Use Areas.	
3.5.130	Sanitary Sewer and Water Service Improvements.	

3.5.140	Storm Drainage Improvements.	
3.5.150	Utilities.	
3.5.160	Easements.	
3.5.170	Construction Plan Approval and Assurances.	
3.5.180	Installation.	
<b>3.6</b>	<b>Reserved</b>	
<b>3.7</b>	<b>Signs</b>	<b>3-49</b>
<b>3.8</b>	<b>Wetlands and Floodplains [reserved]</b>	
<b>4.1</b>	<b>Administration of Land Use and Development Permits</b>	<b>4-3</b>
4.1.100	Introduction	
<b>4.2</b>	<b>Types of Applications and Review Procedures</b>	<b>4-3</b>
4.2.100	Purpose.	
4.2.110	Description of Permit Procedures.	
4.2.115	Exceptions to Tables 4.2.110.	
4.2.120	Type I Procedure.	
4.2.130	Type II Procedure.	
4.2.140	Type III Procedure.	
4.2.150	Type IV Procedure.	
4.2.160	General Provisions.	
4.2.170	Special Procedures.	
<b>4.3</b>	<b>Development Review and Site Plan Review</b>	<b>4-17</b>
4.3.100	Purpose.	
4.3.110	Applicability.	
4.3.120	Development Review Approval Criteria.	
4.3.130	Site Plan Review – General Requirements.	
4.3.140	Site Plan Review – Application Submission Requirement.	
4.3.150	Site Plan Review Approval Criteria.	
4.3.160	Bonding and Assurances.	
4.3.170	Development in Accordance With Permit Approval.	
<b>4.4</b>	<b>Land Divisions and Property Line Adjustments</b>	<b>4-23</b>
4.4.100	Purpose.	
4.4.110	General Provisions.	
4.4.120	Approval Procedures.	
4.4.130	Tentative Plan Application Requirements.	
4.4.140	Approval Criteria – Tentative Plan.	
4.4.150	Variances Authorized.	
4.4.160	Final Plat Submission Requirements and Approval Criteria.	
4.4.170	Public Improvements Approval.	
4.4.180	Performance Guarantee.	
4.4.190	Filing and Recording.	

4.4.200	Replatting and Vacation of Plats.	
4.4.210	Property Line Adjustments.	
<b>4.5</b>	<b>Conditional Use Permits</b>	<b>4-33</b>
4.5.100	Purpose.	
4.5.110	Approval Procedure.	
4.5.120	Application Requirements.	
4.5.130	Criteria, Standards and Conditions of Approval.	
4.5.140	Additional Development Standards for Conditional Uses.	
<b>4.6</b>	<b>Planned Unit Developments</b>	<b>4-35</b>
4.6.100	Purpose.	
4.6.110	Applicability.	
4.6.120	Review and Approvals Process.	
4.6.130	Allowed Uses.	
4.6.140	Applicability of Zoning District Standards (Chapter 2).	
4.6.150	Applicability of Design Standards (Chapter 3).	
4.6.160	Concept Plan Application.	
4.6.170	Concept Plan Approval Criteria.	
4.6.180	Administrative Procedures.	
4.6.190	Detailed Development Plan Application Requirements.	
4.6.200	Detailed Development Plan Approval Criteria.	
4.6.210	Land Division, Development Review, Site Plan Review and Building Permit Approvals.	
<b>4.7</b>	<b>Modifications to Approved Plans and Conditions of Approval</b>	<b>4-40</b>
4.7.100	Purpose.	
4.7.110	Applicability.	
4.7.120	Major Modifications.	
4.7.130	Minor Modifications.	
<b>4.8</b>	<b>Zoning District Map Amendments</b>	<b>4-42</b>
4.8.100	Purpose.	
4.8.110	Appeal Procedures.	
4.8.120	Quasi-Judicial Amendments.	
4.8.130	Conditions of Approval.	
4.8.140	Record of Amendments.	
4.8.150	Transportation Planning Rule Compliance.	
<b>4.9</b>	<b>Code Interpretations</b>	<b>4-43</b>
4.9.100	Purpose.	
4.9.110	Code Interpretation Procedure.	
<b>4.10</b>	<b>Miscellaneous Permits</b>	<b>4-43</b>
4.10.100	Temporary Use Permits.	
4.10.110	Temporary Manufactured Dwelling Medical Hardship Permits.	

4.10.120	Home Occupations.	
<b>4.11</b>	<b>Plan Amendments</b>	<b>4-46</b>
4.11.100	Purpose and Applicability	
4.11.110	Approval procedures	
<b>5.1</b>	<b>Introduction</b>	<b>5-2</b>
<b>5.2</b>	<b>Variances</b>	<b>5-2</b>
5.2.100	Purpose.	
5.2.110	Class A Variance.	
5.2.120	Class B Variance.	
5.2.130	Class C Variance.	
5.2.140	Variance Application and Appeals.	
<b>5.3</b>	<b>Non-Conforming Uses and Development</b>	<b>5-6</b>
5.3.100	Non-conforming Uses.	
5.3.110	Non-conforming Development.	
5.3.100	Non-conforming Uses.	

**Chapter 1**

**INTRODUCTION**

**Sections:**

**1.1 Sutherlin Development Code**

**1.2 General Administration**

- 1.2.100 Interpretation of Purpose Sections
- 1.2.110 Most Restrictive Regulations Apply
- 1.2.120 Pre-Existing Approvals
- 1.2.130 Building Permit and Certificate of Occupancy

**1.3 Definitions**

**1.4 Enforcement**

- 1.4.100 Minimum Requirements.
- 1.4.110 Violations
- 1.4.120 Penalty.
- 1.4.130 Complaints Regarding Violations.
- 1.4.140 Abatement of Violations.
- 1.4.150 Stop-Order Hearing.

Section 1.1

SUTHERLIN DEVELOPMENT CODE

This Sutherlin Development Code shall govern development within the corporate city limits of the city of Sutherlin.

SECTION 1.2

GENERAL ADMINISTRATION

**1.2.100 Interpretation of Purpose Sections.** Many of the divisions of this land use code contain “introduction” and “purpose” sections which are intended to provide general explanatory information concerning subsequent code sections. The content of these sections shall not constitute approval criteria or be used to interpret such criteria unless the sections are specifically referenced for that purpose in another section of this land use code.

**1.2.110 Most Restrictive Regulations Apply.** Where this code imposes greater restrictions than those imposed or required by other rules or regulations, the most restrictive, or that imposing the higher standard, shall govern.

**1.2.120 Pre-Existing Approvals.** Development for which approvals were granted prior to *[insert the effective date of this code]* may occur pursuant to such approvals; except that modifications to development approvals shall comply with section 4.7, Modifications to Approved Plans and Conditions of Approval.

**1.2.130 Building Permit and Certificate of Occupancy.**

- A. **Building permit.** A building permit shall not be issued for a project or use until the proposal has been approved in accordance with applicable provisions of chapter 4, Applications and Review Procedures, if any.
- B. **Certificate of occupancy required.** To ensure completion of a development or use in the manner approved, a development shall not be occupied and a use shall not begin until the city has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable land use and building codes. A certificate of occupancy may be granted for a portion of a structure.

Section 1.3

DEFINITIONS

**Abutting** - Contiguous or adjoining. It shall include the terms adjacent, adjoining and contiguous.

**Access easement** - An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access.



**Access management** - The control of street (or highway) access for the purpose of improving the efficiency, safety and/or operation of the roadway for vehicles; may include prohibiting, closing, or limiting direct vehicle access to a roadway from abutting properties, either with physical barriers (curbs, medians, etc.) or by land dedication or easement. (See also, section 3.2.110.)

**Accessible** - Approachable and useable by people with disabilities. Complies with the Americans with Disabilities Act.

**Accessory building or use** - The use of land or a subordinate building or a portion of a principal building, such use or building being secondary to or incidental to the principal use or structure, except for accessory dwellings as defined by this code.

**Accessory dwelling** - A small, secondary housing unit on a lot with a single family dwelling. Accessory dwellings are limited in size and restricted to certain zoning districts. They can be attached to the primary dwelling or not attached. An accessory dwelling may also be located above a garage that is either attached to the primary dwelling or free-standing. (See section 2.6.100.)

**Affordable** - Means housing affordable to a certain percentage of the population earning a specified level of income and spending no more than thirty (30) percent of their income on housing expenses. For more information, refer to the Federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.

**Agriculture** - As used in this code, “agriculture” is the same as “farm use”. (See also, Oregon Revised Statutes (ORS) 215.203(2)(a).)

**Alley** - A public or private right-of-way which provides a secondary means of access to a property.

**Approving Authority** – The person or body identified in section 4.2 as the decision-maker under a Type I, II, III, or IV process.

**Arcade** - An arched or covered passageway; often along building fronts or between streets.

**Arterial** - An arterial street. (See section 3.5.110(F))

**Articulate/articulation** - The jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

**Basement** - The lowest floor of any building when the main entrance to the building is on the floor above. When a building has its main entrance on the third actual story, it may be said to have a basement and a subbasement.

**Bed and breakfast inn** - Provides accommodations (two (2) or more rooms) plus breakfast on a daily or weekly basis in an operator- or owner-occupied home that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors. This level includes inns that operate restaurants offering meals to the general public as well as to overnight guests.

**Berm** - A small rise or hill in a landscape, which is intended to buffer or visually screen certain developments, such as parking areas.

**Beveled building corner** - A rounded or flat edge on a building, usually at a street corner; may include an entrance, windows, pillars, or other architectural details and ornamentation.

**Block** - A parcel of land or group of lots bounded by intersecting streets. (See also, section 3.2.110.L.)

**Boarding (lodging or rooming) houses** - A building or portion thereof, other than a hotel, where lodging and/or meals for five or more persons, but not more than twenty (20) persons, are provided for a compensation and without individual cooking facilities.

**Bollard** - A post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles). Bollards are usually decorative, and may contain sidewalk or pathway lighting.

**Boulevard** - A street with broad open space areas; typically with planted medians. (See section 3.5.110.F.)

**Boundary line adjustment** - The adjustment of a property line by the relocation of a common line where no additional lots are created. This development code also defines the consolidation of lots (i.e., resulting in fewer lots) as a lot line adjustment.

**Building** - A structure having a roof, but excluding all forms of vehicles even though immobilized, except a mobile home or similar vehicle may be considered a building if it has been certified as meeting the requirements of the building code as defined herein. Where this code requires or where special authority granted pursuant to this code requires that a use shall be entirely enclosed within buildings, this definition shall be qualified by adding 'and enclosed on all sides.

**Building Code** - The building code of the state of Oregon which consists of the structural specialty code and fire and life safety code, the plumbing specialty code as adopted and administered by the city of Sutherlin.

**Building footprint** - The outline of a building, as measured around its foundation.

**Building mass** - The aggregate size of a building, or the total height, width, and depth of all its parts.

**Building pad** - A vacant building site on a lot with other building sites.

**Building scale** - The dimensional relationship of a building and its component parts to other buildings.

**Bulkhead** - The wall below ground-floor windows on a building (i.e., may be differentiated from other walls by using different materials or detailing).

**Capacity** - Maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.

**Centerline radius** - The radius of a centerline of a street right-of-way.

**Child care center, family child care** - Facilities that provide care and supervision of minor children for periods of less than twenty-four (24) hours. “Family child care providers” provide care for not more than twelve (12) children in a home. (See also, ORS 657A for certification requirements.)

**Church** - A building designated or used for public worship by a religious body.

**Clinic** - A healthcare facility operated by a group of physicians, dentists, or other licensed medical practitioners for the treatment and examination of out-patients.

**Club** - Building and facilities, owned or operated for a social, educational or recreational purpose, to which membership is required for participation, and not operated primarily for profit nor to render a service which is customarily carried on as a business.

**Collector** - Type of street. (See section 3.5.110.F.)

**Commercial** - Land use involving buying/selling of goods or services as the primary activity.

**Commission** - The Planning Commission of the city of Sutherlin.

**Common area** - Land commonly owned to include open space, landscaping or recreation facilities (e.g., typically owned by homeowners associations).

**Community building** - A publicly owned and operated facility used for meetings, recreation, or education.

**Comprehensive Plan** - The generalized, coordinated land use map and policy statement of the city of Sutherlin or Douglas County, as applicable, that interrelates all functional and natural systems and activities in the use of lands, sewer and water systems, transportation systems, educational systems, recreational systems, and natural resources and air and water quality management programs.

**Comprehensive Plan support document** - Background information, facts and considerations that served as the basis for the conclusions in the Comprehensive Plan. Although not a part of the legally adopted plan document, the background material is essential to understand why and how the plan’s conclusions were reached.

**Conditional use** - The relaxation of strict terms of this code to permit similar uses in districts where such similar uses may require additional controls and safeguards not required of otherwise permitted uses. A use which requires a conditional use permit. (See section 4.5.)

**Condominium** - An arrangement by which property is jointly owned. It involves joint ownerships of multiple-occupant building with each occupant having title to a separate divided interest in the property.

**Consensus** - Agreement or consent among participants.

**Conservation easement** - An easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees, floodplains, wildlife habitat, and similar resources.

**Corner radius** - The radius of a street corner, as measured around the curb or edge of pavement.

**Cornice** - The projecting horizontal element that tops a wall or flat roof.

**Cottage** - A small house that may be used as an accessory dwelling, in conformance with section 2.6.100.

**County** - Douglas County.

**Courtyard** - A court or enclosure adjacent to a building, which usually provides amenities such as gardens, planters, seating, or art.

**Curb cut** - A driveway opening where a curb is provided along a street.

**Deciduous** - Tree or shrub that sheds its leaves seasonally.

**Dedication** - The designation of land by its owner for any public use as shown on a subdivision plat or deed. The term may also be used for dedications to a private homeowners association.

**Density(ies)** - A measurement of the number of dwelling units in relationship to a specified amount of land. As used in this code, density does not include land devoted to street right-of-way. Density is a measurement used generally for residential uses.

**Developable** - Buildable land, as identified by the city's Comprehensive Plan. Includes both vacant land and land likely to be redeveloped, per ORS 197.295(1).

**Development** - All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or landscapes.

**Development site** - A property consisting of a parcel or group of contiguous that is/are proposed for development, or under development, and subject to a permit approval under this code. (See also, "site.")

**Discontinued/abandoned use** - See chapter 5.3 - Non-Conforming Uses and Developments.

**Drip-line** - Imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

**Drive lane/travel lane** - An improved (e.g., paved) driving surface for one line vehicles.

**Drivethrough facilities** – (See section 2.6.130.)

**Driveway** - Areas that provide vehicular access to a site, except for public and private streets. A driveway begins at the property line and extends into the site. Driveways do not include parking, maneuvering, or circulation areas in parking lots.

**Driveway apron/approach** - The edge of a driveway where it abuts a public way; usually constructed of concrete. (See Figure 3.2.110M.)

**Drought-tolerant/drought-resistant plants** – As defined and/or listed by the Oregon State University extension service publication(s) for western Oregon.

**Duplex** - A building with two attached housing units on one lot or parcel.

**Dwelling unit** - A dwelling unit is a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the uniform building code, for not more than one family, or a congregate residence for ten (10) or less persons. (UBC 205)

**Easement** - A right of usage of real property granted by an owner to the public or to specific persons, firms, and corporations.

**Elevation** - Refers to a building face, or scaled drawing of the same, from grade to roof ridgeline.

**Electric powered personal vehicles** - Electric powered carts, scooters, and other personal vehicles, including but not limited to golf carts.

**Employee** - All persons (including proprietors, executives, professional staff, labor, administrative, production, sales and distribution employees) working on the premises during the largest shift.

**Evidence** - Application materials, plans, data, testimony and other factual information used to demonstrate compliance or non-compliance with a code standard or criterion.

**Family** - An individual, or two or more persons related by blood, marriage, adoption, legal guardianship, living together as one housekeeping unit using one kitchen, and providing meals or lodging to no more than two additional persons, excluding servants; or a group of more than five unrelated persons living together as one housekeeping unit using one kitchen; or a group of six or more persons living together as one housekeeping unit using one kitchen, if said persons are handicapped persons as defined in Title VII of the Civil Rights Act of 1968.

**Family day care** - See “child care facilities.”

**Farm** - A body of land devoted to agriculture, either raising crops or pasture for livestock.

**Farming** - The practice of agriculture, either raising crops or pasture for livestock.

**Fire apparatus lane** - As defined by the uniform fire code.

**Flag lot** - A lot or parcel which has access to a road, street or easement, by means of a narrow strip of the lot.

**Flashing sign** - A sign, part or all of whose lights go on and off, or appear to go on and off intermittently, whether computer controlled or not.

**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 (7) feet.
2. Basement, if the floor is less than six (6) feet above grade.
3. Uncovered steps or fire escapes.
4. Private garages, carports or porches.
5. Accessory water towers or cooling towers.
6. Accessory off-street parking or loading spaces.

**Floor area ratio (FAR)** – The amount of floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of two to one (2:1) means two (2) square feet of floor area for every one (1) square foot of site area.

**Frontage**- The dimension of a property line abutting a public or private street.

**Frontage street or road** - A minor street which parallels an arterial street in order to provide access to abutting properties and minimize direct access onto the arterial.

**Functional classification** - The classification given to streets (e.g., “local/collector/arterial”) by the Sutherlin’s comprehensive plan, transportation system plan, by adopted county plans, and Oregon department of transportation.

**Garage, automobile repair** - Any building or premises used for commercial repairs of motor vehicles but not including auto wrecking of storage or wrecked cars.

**Garage, private** - An accessory building or an accessory portion of the main building designed and/or used for shelter or storage of automobiles, boats, and/or any other vehicles owned or operated by the occupants of the main building, and in which no occupation for profit is carried on.

**Geotechnical Report** – A report prepared by an engineering geologist, geotechnical engineer, or civil engineer licensed to practice in the state of Oregon, in which the author describes the geologic characteristics of a proposed development site, including all testing procedures used, and assesses the suitability of the site for the proposed use, together with grading and drainage recommendations. (See *Guidelines for Preparing Engineering Geologic Reports in Oregon*, adopted by the Oregon State Board of Geologist Examiners on May 8, 1990.)

**Grade, (ground level)** - The average elevation of the finished ground elevation at the centers of all walls of a building, except that if a wall is parallel to and within five (5) feet of a sidewalk, the sidewalk elevation opposite the center of the wall shall constitute the ground elevation.

**Ground cover** - Living plants or other plant-derived landscaping material (e.g., mulch, bark chips) that is used to cover bare ground. (See also, section 3.3 - Landscaping.)

**Guest house** - An accessory building to a dwelling providing sleeping facilities but no cooking facilities and which building is not rented nor leased.

**Hammerhead turnaround** - A “T” or “L” shaped dead-end street that allows for vehicles to turn around.

**Hardscape** - Non-plant landscape materials, including pathways, decorative pavers, benches, drinking fountains, arbors, pergolas, playgrounds, plazas, and similar amenities.

**Height of building** - The vertical distance from the grade to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

**Home occupation, home occupation site** - A home occupation is an occupation carried on within a dwelling by members of the family occupying the dwelling with no employee or other person being engaged, provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. Such occupation shall be a secondary use on the premises, shall not occupy more than twenty-five (25) percent of the floor area of one floor of the dwelling and there shall be no stock in trade stored or displayed, or goods sold upon the premises. (See section 2.6.150.)

**Hospital** - An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical or surgical care with nursing service on a continuous basis.

**Hotel** - A building containing six (6) or more rooms designed and rented out for sleeping purposes for visitors and other transient customers.

**Human-scale design/development** - Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of downtowns and main street developments); larger buildings which have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those which are primarily intended to accommodate automobile traffic.

**Impervious surface** - Development which does not allow for water infiltration (e.g., pavement, roofs, etc.).

**Incidental and subordinate to** - A use or portion of a development that is secondary to, and less apparent, than the primary use or other portion of the development.

**Infill** - The development of vacant, bypassed lands located in an area that is mainly developed.

**Internal access road** - A private road entirely within a manufactured home park or recreational vehicle park, providing vehicular access to manufactured homes or recreational vehicles and accessory uses.

**Kennel** - Any lot used for breeding or boarding four (4) or more dogs or cats which are six (6) months old or older.

**Kindergarten** - An activity or facility which provides preschool education and training for preschool children at which each class session per day shall be longer than three and one-half (3 ½) hours in duration.

**Land division** - The process of dividing land to create parcels or lots.

**Landing** - A level part of a staircase, as at the end of a flight of stairs.

**Landscaping** - Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, plazas, works of art, reflective pools, fountains or the like. Landscaping also includes irrigation systems, mulches, topsoil, and revegetation or the preservation, protection and replacement of existing trees.

**Lane, mid-block lane** - A narrow, limited use roadway facility usually used to access a limited number of dwelling units. Similar to an alley in design.

**Legislative** - A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation). (See section 4.2.150.)

**Level of service (LOS)** - For transportation, a standard of a street's carrying capacity, based upon prevailing roadway, traffic and traffic control conditions during a given time period. The level of service range, from LOS A (free flow) to LOS F (forced flow) describes operational conditions within a traffic stream and their perception by motorists/passengers. Level of service is normally measured for the peak traffic hour, at intersections (signalized or unsignalized) or street segments (between signalized intersections).

**Light manufacture** – (See section 2.5.)

**Livestock** - Domestic animal types customarily raised or kept on farms.

**Loading, off-street** - An off-street space or berth on the same lot with a principal building for the parking of a vehicle while loading or unloading merchandise and which has direct access from a public street or alley.

**Local Improvement District (LID)** - A small public district formed for the purpose of carrying out local improvements (paving of streets, construction of storm sewers, development of a park, etc.). Property owners within the LID are assessed for the cost of the improvements in accordance with ORS 223.387-223.485. (See also chapter 3.5.100.)

**Lot** - A lot is a unit of land that is created by a subdivision of land (ORS 92.010(3)). (See also, section 4.4.)

**Lot area** - The total surface area (measured horizontally) within the lot lines of a lot.

**Lot corner** - A lot situated at the intersection of streets or, if on a curved street, where the angle of intersection of curve tangents is less than one hundred thirty-five (135) degrees.



**Lot coverage** - The area of a lot covered by a building or buildings and impervious (paved) surfaces, including accessory structures, expressed as a percentage of the total lot area.

**Lot depth** - The perpendicular distance measured from the midpoint of the front lot line to the rear lot line. In the case of irregular or triangular lots, the lot depth will be established by a lot depth line which is parallel to the front lot line and located by the intersection of the perpendicular from the front lot line midpoint and the rear lot line (identified as the lot line intersected by the perpendicular from the front lot line midpoint).

**Lot frontage** - The front to a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street other than an alley shall be considered frontage, and yards shall be provided as indicated under “yards” in this section.

**Lot, interior** - A lot other than a corner lot with only one frontage on a street.

**Lot line** - The property line bounding a lot or parcel.

**Lot, through** - An interior lot having frontage on two (2) streets.

**Main/Primary entry/entrance** - A main entrance is the entrance, or entrances, to a building that most pedestrians are expected to use. Generally, smaller buildings have one main entrance. Main entrances may also be the widest entrance of those provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building's lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a main entrance. Buildings may also have main entrances opening directly into a reception or sales areas, a courtyard, or plaza.

**Mall** - An area of street-like proportions given over entirely to pedestrian traffic. Such an area usually forms a line in the regular street-plan of a city where the need for a vehicular right-of-way is not great and such traffic can be routed around the mall area.

**Maneuvering area/aisle** - Refers to the driving area in a parking lot where motor vehicles are able to turn around and access parking spaces.

**Manufactured home** - A transportable single-family dwelling conforming to the manufactured housing construction and safety standards code of the U. S. Department of Housing and Urban Development, but is not regulated by the Oregon state structural specialty code and fire life safety regulations, and is intended for permanent occupancy.

**Manufactured home lot line** - A boundary line of a lot or site designated or used for the occupancy of one manufactured home.

**Manufactured home park** - As defined by ORS 446.

**Marquee** - A permanent canopy projecting over an entrance.

**Ministerial** - A routine governmental action or decision that involves little or no discretion. The issuance of a building permit is such an action. (See also, section 4.2.130.)

**Mitigation** - To avoid, rectify, repair, or compensate for negative impacts which result from other actions (e.g., “Improvements to a street may be required to mitigate for transportation impacts resulting from development.”)

**Motel** - An individual building or group of attached or non-attached building containing guest rooms together with conveniently located parking spaces on the same lot, which are designated, used or intended to be used for the accommodation of automobile transients. The term includes auto courts, motor lodges, and tourist courts.

**Motor Vehicle Wrecking Yard** - An area used for the dismantling and/or wrecking of used motor vehicles, machinery, or trailers; or the storage or sale of dismantled, obsolete, or wrecked motor vehicles, machinery, or trailers or their parts; or the storage of vehicles unable to be moved under the power of the vehicle.

**Multi-family housing** - A building designed, built, rented, leased, let or hired out, to be occupied, or which is occupied as residences by three or more families living independently of each other. (See section 2.2.110.)

**Multi-use pathway** - A pathway for pedestrians, bicycles, and electric personal vehicles, and may include a soft path for equestrian use. (See section 3.2.120A4.)

**Natural resource areas/natural resources** – Natural areas that contain resources of value to the community, whether or not specifically identified in the comprehensive plan, such as woodlands, riparian zones, floodplains, and wetlands.

**Natural hazard** - Natural areas that can cause dangerous or difficult development situations. For example, natural hazard areas include steep slopes, unstable soils, faults, landslides, flood areas.

**Neighborhood** - A geographic area lived in by neighbors and usually having distinguishing character.

**Neighborhood-scale design** - Site and building design elements that are dimensionally related to housing and pedestrians, such as narrower streets with tree canopies, smaller parking areas, lower building heights (as compared to downtown areas) and similar neighborhood characteristics. These features are generally smaller in scale than those which are primarily intended to accommodate automobile traffic.

**Non-conforming use/non-conforming development** - A structure on or use of land established prior to enactment of and prohibited by this code or any amendment thereto. (See chapter 5.3.)

**Non-native invasive plants** - See Oregon State University extension service bulletin for your area.

**Nursery school** - A school, home, or institution designed or used to provide daytime care and instruction for four (4) or more preschool children not resident therein.

**Off-street parking** - All off-street areas designed, used, required or intended to be used for the parking of motor vehicles. Off-street parking areas shall conform to the requirements of section 3.4.

**On-street parking** - Parking in the street right-of-way, typically in parking lanes or bays. Parking may be “parallel” or “angled” in relation to the edge of the right-of-way or curb. (See also, section 3.4.)

**Open space (common/private/active/passive)** - Land within a development which has been dedicated in common to the ownership within the development or to the public specifically for the purpose of providing places for recreation, conservation or other open space uses.

**Orientation** - To cause to face toward a particular point of reference (e.g., “A building is oriented to the street when its front elevation and entrance face the street.”)

**Oriented to a street** - See “Orientation.”

**Outdoor commercial use** - A use supporting a commercial activity which provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials or display of merchandise exceeds the total floor area of all buildings on the site. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumber yards and equipment rental businesses.

**Overlay zone/district** - Overlay zones provide regulations that address specific subjects that may be applicable in more than one zoning district.

**Owner** – Property owner; may include an authorized agent of the owner for the purpose of filing applications under this code.

**Parcel** - A parcel is a unit of land that is created by a partitioning of land (ORS 92.010(6)). (See also, section 4.4.)

**Parking area, public** - A structure or open area, other than a public street or an alley, designed or used for the temporary parking of vehicles and available for public use, whether free, for compensation, or as an accommodation to customers or clients.

**Parking lot perimeter** - The boundary of a parking lot area, which usually contains a landscaped buffer area.

**Parking vs. storage** - Parking is the area used for leaving motor vehicles for a temporary time. Storage is to place or leave in a location for maintenance, repair, sale, rental, or future use.

**Partition** - To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See also, ORS 92.010(8).)

**Pathway/walkway/accessway** – (See section 3.2.120A.) As defined in this code, a pathway or multi-use pathway may be used to satisfy the requirements for “accessways” in the transportation planning rule. (Oregon Administrative Rules (OAR) 660-012-045.)

**Pedestrian amenity(ies)** - Pedestrian amenities (benches, drinking fountains, landscaping, etc.) serve as informal gathering places for socializing, resting, and enjoyment of the city's downtown, and contribute to a walkable district.

**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.

**Personal service** - A business which is neither the practice of a profession nor dealing primarily with the sale of products as stock in trade on the premise.

**Pier** - Exterior vertical building elements that frame each side of a building or its ground-floor windows (usually decorative).

**Planned unit development** - Is a development which stays within the density requirements of area in which it is located for the overall project while allowing a degree of latitude in describing individual lot sizes and also has a percentage of its gross area devoted to recreational development or open space uses.

**Planning Commission** - Shall mean the planning commission of the city of Sutherlin.

**Planter strip, tree cut-out** - A landscape area for street trees and other plantings within the public right-of-way, usually between the street and a sidewalk.

**Plat** - A map of a subdivision, prepared as specified in ORS 92.080, and recorded with the Douglas County assessor's office. All plats shall also conform to section 4.4 - Land Divisions.

**Plaza** - A public square or extra-wide sidewalk (e.g., as on a street corner) that allows for special events, outdoor seating, sidewalk sales, and similar pedestrian activity.

**Pocket park** - A small park, usually less than one-half acre.

**Primary** - The largest or most substantial element on the property, as in "primary" use, residence, entrance, etc. All other similar elements are secondary in size or importance.

**Professional office** - An office occupied by persons providing personal services such as an accountant, architect, artist, attorney-at-law, professional engineer, land surveyor, insurance agent, real estate broker, landscape architect, practitioner of the human healing arts or other similar services.

**Projection** - Eaves, cornices, platforms, porches, or any type of structure attached to the main building.

**Property line: front, rear, interior side, street side** - A lot boundary or parcel boundary as defined in ORS 92.

**Public facilities** - A public project or city facility. (See also section 3.5.)

**Public improvements** - Development of public facilities. (See also section 3.5.)

**Quasi-judicial** - Refers to an action or decision that requires substantial discretion or judgement in applying the standards or criteria of this code, and usually involves a public hearing. (See also section 4.8.120.)

**Recreational vehicle** - A vacation trailer or other unit with or without motive power, which is designed for human occupancy and to be used temporarily for recreational or emergency purposes, and has a gross floor space of less than four hundred (400) square feet. "Recreational vehicle" includes camping trailers, camping vehicles, motor homes, park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, and any vehicle converted for use or partial use as a recreational vehicle. The unit shall be identified as a recreational vehicle by the manufacturer or converter.

**Recreational vehicle park** - An area of ground upon which one (1) or more trailers or recreational vehicles may be temporarily placed for human occupancy, and with other facilities therein which are required by this code.

**Rehabilitation center** - A domiciliary structure housing or intended to house persons for care or treatment for and rehabilitation from alcohol, drug, criminal or comparable or allied social and personal problems.

**Residence** - See "dwelling."

**Residential caretaker unit** - A dwelling unit that is accessory and interior to a commercial, industrial, or public use.

**Residential care home/Residential care facility** - A dwelling for up to fifteen (15) elderly, physically, mentally, or emotionally handicapped persons, or children, plus staff which provides care and supportive services. Providers must be licensed, certified, or registered as required by state law.

**Ridge line (building)** - The top of a roof at its highest elevation.

**Right-of-way** - Land that is owned in fee simple by the public, usually for transportation facilities.

**Roof pitch** - The slope of a roof, usually described as ratio (e.g., one (1) foot of rise per two (2) feet of horizontal distance).

**Roof-top garden** - A garden on a building terrace, or at top of a building with a flat roof (usually on a portion of a roof).

**School** - Any public kindergarten, elementary, junior high, high school or college, or comparable private school.

**Screened** - Concealed or cut off from visual access.

**Senior housing** - Housing designated and/or managed for persons over the age of fifty-five (55). (Specific age restrictions vary.)

**Setback** - The distance between a building (or other feature of development) and a property line. Minimum and maximum setbacks may be required for front, side and rear yards.

**Shared driveway** - When land uses on two (2) or more lots or parcels share one (1) driveway. An easement or tract (owned in common) may be created for this purpose.

**Shared parking** – Shared parking is defined as the shared use of required parking spaces which serve a collection of land uses in a downtown or development without conflict or encroachment. The calculation of shared parking allows for a reduction of the total amount of parking which would be required if the individual uses were considered separately. (See section 3.4.120C4.)

**Sign** - Any face of any lettered or pictorial device or structure designed to inform or attract attention.

**Significant trees, significant vegetation** – Trees and vegetation are deemed to be significant and thus require protection when they meet the standards in section 3.3.

**Single-family attached housing (townhomes)** - Two (2) or more single family dwellings with common end-walls.

**Single-family non-attached house** - A single family dwelling that does not share a wall with any other building.

**Single-family non-attached zero-lot line house** - A single family non-attached house with one (1) side yard setback equal to zero (0).

**Site** - A property (or group of adjacent parcels or lots under the same ownership) that is subject to a permit application under this code.

**Site plan review, development review** - Site design review and development review are two types of land use approvals that can be granted under this code. (See also section 4.3.)

**Special flood hazard area** - The land in the floodplain within a community subject to a one (1) percent or greater change of flooding in any given year.

**Standards and criteria** - Standards are code requirements. Criteria are the elements required to comply with a particular standard.

**Steep slopes** - Slopes of greater than twenty-five (25) percent.

**Storefront character** - The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (e.g., awnings or canopies), corner building entrances or recessed entries, and similar features.

**Storm water facility** - A detention and/or retention pond, swale, or other surface water feature that provides storage during high-rainfall events and/or water quality treatment.

**Story** - That portion of a building included between the upper surface of any floor and the upper floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. The finished floor level directly above a basement or cellar shall be considered a story.

**Street/road** - A public or private way for travel by vehicles, bicycles and pedestrians that meets the city standards in section 3.5.

**Street access** – Vehicle access taken from a public right-of-way, usually but not always requiring a street opening or curb cut. (See also section 3.2.110.)

**Street connectivity** - The number of street connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

**Street furniture/furnishings** - Benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, and similar pedestrian amenities located within a street right-of-way.

**Street grade and right-of-way** - The officially established street grade or right-of-way lines upon which a lot fronts.

**Street line** - A dividing line between a lot, tract, or parcel of land, and a contiguous street.

**Street stub** - A temporary street ending; i.e., where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

**Street tree** - A tree planted in a planter strip or tree cut-out.

**Structural alteration** - Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, or girders, or any structural change in the roof or in the exterior walls.

**Structure** - Anything constructed or erected above or below ground, affixed to the ground, or attached to something fixed to the ground. See “building.”

**Subdivision** - To divide land into four (4) or more lots within a single calendar year. (ORS 92.010(13).)

**Swale** - A type of storm water facility. Usually a broad, shallow depression with plants that filter and process storm water contaminants.

**Tangent** - Meeting a curve or surface in a single point.

**Terrace** - A porch or promenade supported by columns, or a flat roof or other platform on a building.

**Topographical constraint** - Where existing slopes prevent conformance with a code standard.

**Tower** - A portion of a building that is higher than the remainder of the building, or a tall structure of smaller dimension separate from the building it accompanies, such as the steeple of a church.

**Tract: private/public** - A piece of land set aside in a separate area for dedication to the public, a homeowner’s association, or other entity (e.g., open space, recreation facilities, sensitive lands, etc.).

**Training** - The systematic, planned maintenance, development, or enhancement of self-care skills, social skills, or independent living skills, or the planned sequences of systematic interactions, activities or structured learning situations designed to meet each resident's specified needs in the areas of physical, social, emotional, and intellectual growth.

**Transportation facilities** - The physical improvements used to move people and goods from one (1) place to another (i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.).

**Transportation mode** - The method of transportation (e.g., automobile, bus, walking, bicycling, etc.).

**Treatment** - A planned, individualized program of medical, psychological, or rehabilitative procedures, experiences, and activities designed to relieve or minimize mental, emotional or physical symptoms or social, educational, or vocational disabilities resulting from or related to the mental or emotional disturbance or physical handicap.

**Triplex** - A building with three (3) attached housing units on one (1) lot or parcel.

**Urban Growth Boundary (UGB)** - A line drawn on the city's official map that indicates the outermost limit of the city's planned expansion.

**Urban Growth Management Agreement** - A written agreement between the city and Douglas County specifying how the unincorporated area within the jointly adopted urban growth boundary is to be managed.

**Use** - The purpose for which land or a building is designed, arranged or intended or for which it is occupied or maintained, let or leased.

**Vacate plat/street** - To abandon a subdivision or street right-of-way. For example, "vacation" of a public right-of-way that is not needed or cannot be used for a street or other public purpose. A plat may be vacated, returning the property to an undivided condition.

**Variance** - An administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this code. (See section 5.2.)

**Vision clearance area** - The triangular area on a parcel or lot located at the intersection of two streets where visual obstructions are restricted for clear vision from vehicles. (See also, Figure 3.2.110.P.)

**Wetland** - Wetlands are land areas where water is the dominant factor determining the nature of soil development and the types of plant and animal communities. They are defined more specifically by section 404 of the Federal Clean Water Act, and OAR 141-85-010. For more information, contact the Oregon department of state lands.

**Window hood** - An architectural detail placed above a window, used as an accent.

**Wireless communication equipment** - Includes cell towers, antennae, monopoles, and related facilities used for radio signal transmission and receiving.



**Yard, required** - The area defined by setbacks (i.e., between the setback line and respective property line). For triangular or irregularly shaped lots, the required rear yard is that which abuts the rear lot line identified when calculating lot depth as defined above.

**Zone** - A land use area or district established by the Sutherlin city council for designated purposes.

**Zoning** - The division of the territory of a county or municipality into districts which provides various restrictions on the use of land in the districts.

## Section 1.4

### ENFORCEMENT

**1.4.100 Minimum Requirements.** In their interpretation and application, the provisions of this code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.

**1.4.110 Violations.** No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this code or any amendment thereto.

**1.4.120 Penalty.**

- A. Penalty.** A violation of this chapter is declared to be a misdemeanor punishable by a fine not to exceed \$1,000.00.
- B. Each violation a separate infraction.** Each violation of a provision of this code shall constitute a separate infraction, and each day that a violation of this code is committed or permitted to continue shall constitute a separate infraction.
- C. Abatement of violation required.** A finding of a violation of this code shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the city.
- D. Responsible party.** If a provision of this code is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

**1.4.130 Complaints Regarding Violations.** Whenever a violation of this code occurs, or is alleged to have occurred, any person may file a signed, written complaint with the city recorder. Such complaints shall state fully the causes and basis thereof. The city recorder shall refer such complaints to the proper department to investigate and take action thereon as provided by this code.

**1.4.140 Abatement of Violations.** Any development or use which occurs contrary to the provisions of this code or contrary to any permit or approval issued or granted under this code is unlawful, and may be abated as a nuisance by appropriate proceedings as approved by the city manager.

**1.4.150 Stop-Order Hearing.**

- A. Stop order issued.** Whenever any work is being done in violation of the provisions of the code

or a condition of any permit or other approval granted pursuant hereto, the may order the work stopped by notice in writing served on persons engaged in doing such work or causing such work to be done. All work under the permit or approval shall cease until it is authorized to continue.

**B. Stop-order hearing.** The city shall schedule a hearing if requested on the stop order for the earliest practicable date, but not more than thirty (30) days after the effectiveness of any required notice. At the discretion of the city planner, such hearing may be:

1. Part of a hearing on revocation of the underlying development approval; or
2. Solely to determine whether a violation has occurred. The planning commission shall hold this hearing and shall make written findings as to the violation within thirty (30) days. Upon a finding of no violation, the planning commission shall require the issuance of a resume work order. Upon finding a violation, the stop-order shall continue to be effective until the violating party furnishes sufficient proof to the planning commission that the violation has been abated. The planning commission decision is subject to review under section 4.2.140 - Type III (Public Hearing) Procedure.

## Chapter 2

### Zoning Districts

#### Sections:

#### **2.1 Zoning District Administration**

- 2.1.100 Classification of Zoning Districts.
- 2.1.110 Zoning District Map.
- 2.1.120 Determination of Zoning District Boundaries.
- 2.1.130 Accessory Uses and Structures

#### **2.2 Residential Districts**

- 2.2.100 Purpose and Applicability.
- 2.2.110 Permitted Uses, Conditional Uses, and Structures.
- 2.2.120 Development Standards.

#### **2.3 Commercial Districts**

- 2.3.100 Purpose and Applicability.
- 2.3.110 Permitted Uses, Conditional Uses, and Structures.
- 2.3.130 Development Standards.
- 2.3.135 Special Use Status for Single Family Residences.
- 2.3.100 Purpose and Applicability.

#### **2.4 Public / Semi- Public District**

- 2.4.100 Purpose and Applicability.
- 2.4.110 Permitted Uses.
- 2.4.120 Accessory Uses and Structures.
- 2.4.130 Development Standards.
- 2.4.100 Purpose and Applicability.

#### **2.5 Industrial Districts**

- 2.5.100 Purpose and Applicability.
- 2.5.110 Permitted Uses.
- 2.5.120 Development Standards
- 2.5.125 Special Status for Single Family Residences

#### **2.6 Special Use Standards**

- 2.6.100 Accessory Dwellings.
- 2.6.110 Accessory Uses and Structures.
- 2.6.120 Bed and Breakfast.
- 2.6.130 Drive-Through Facilities.
- 2.6.140 Group Care Homes and Facilities.
- 2.6.150 Home Occupation.
- 2.6.160 Manufactured Homes on Lots.
- 2.6.170 Manufactured Home Parks.
- 2.6.180 Residential Sales Office, Temporary.
- 2.6.190 Wireless Telecommunication Facilities.
- 2.6.200 Flag Lots.
- 2.6.210 RH Zone – Hillside Development Standards and Slopes over 12%

## Section 2.1

## ZONING DISTRICT ADMINISTRATION

**2.1.100 Classification of Zoning Districts.** All land within the city of Sutherlin is classified into zoning districts. The use of each lot, parcel and tract of land is subject to the uses permitted by the applicable zoning district. The zoning districts are as shown on the zoning district map.

**2.1.110 Zoning District Map.**

- A. Consistency with Zoning District Map.** The boundaries of zoning districts are indicated on the city's official zoning district map. Said map by this reference is made a part of this Sutherlin development code. A certified print of the adopted zoning district map, and any map amendments, shall be maintained by the city.
- B. Applicability of Zoning Requirements.** Each lot, tract and parcel of land or portion thereof within the zoning district boundaries as designated and marked on the zoning district map, is classified, zoned and limited to the uses as hereinafter specified and defined.
- C. Zoning District Map Amendments.** All amendments to the city zoning district map shall be in accordance with the provisions of section 4.8. The city shall make available for public inspection an up-to-date copy of the zoning map.

**2.1.120 Determination of Zoning District Boundaries.** Where due to the scale, lack of scale, lack of detail or illegibility of the city zoning district map, or due to any other reason, there is uncertainty as to the intended location of district boundary lines, the boundary lines shall be determined in accordance with the following:

- A.** Boundaries indicated as approximately following the center lines of streets, highways, railroad tracts or alleys shall be construed to follow such center lines;
- B.** Boundaries indicated as approximately following the boundaries of a parcel lot, or tract shall be construed as following such boundaries;
- C.** Boundaries indicated as approximately following a city boundary, or the urban growth boundary, shall be construed as following said boundary;
- D.** Boundaries indicated as approximately following river, stream and/or drainage channels or basins shall be construed as following river, stream and/or drainage channels or basins, as applicable; and
- E.** Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same zoning district designation that is applicable to lands abutting the vacated area. In cases where the right-of-way formerly served as a zoning district boundary, the lands formerly within the vacated right-of-way shall be allocated proportionately between the subject zoning districts down the centerline of the right-of-way.

**2.1.130 Accessory Buildings, Uses and Dwellings.** Accessory uses and structures as defined in section 1.3 shall comply with the following standards:

- A. Primary Use Required.** An accessory structure shall not be allowed before or without a primary use, as identified in sections 2.2 through 2.5.

- B. Setback Standards.** Accessory structures shall comply with the applicable minimum setback standards of the zone; the maximum setback provisions shall not apply.
- C. Compliance with Subdivision Standards.** The owner may be required to remove an accessory structure as a condition of land division approval when removal of the structure is necessary to comply with setback standards.
- D. Outdoor Sales/Display as an Accessory Use.** Temporary outdoor sales or displays shall not encroach into a public right-of-way.
- E. Special Use Standards.** The special use standards contained in section 2.6.100, Accessory Dwellings, and section 2.6.110, Accessory Uses and Structures, shall also apply.

## Section 2.2

### RESIDENTIAL DISTRICTS

#### 2.2.100 Purpose and Applicability.

- A. Purpose.** The residential districts provide for neighborhoods ranging in densities from very low to moderately high. The differences in these densities and regulations are intended to support the varying lifestyles of the City's residents. The districts provide for a range of residential habitation including residential-hillside, single family, multifamily, manufactured home, and combinations thereof, together with home occupations, schools, parks, and public services necessary for neighborhood living.
- B. Applicability.** Residential zoning districts fall under four categories:
  1. Residential Hillside (RH); This district preserves the visual and physical identity of the hills, as well as the native geologic conditions so far as practicable through larger lot sizes and special construction standards, while permitting single family residential development.
  2. Low density residential (R-1); This district is a low density area that protects established single family neighborhoods and preserves the residential quality, value identity environmental privacy, light and air and outdoor space that is meant to conform to systems and facilities which support the residential quality of the area.
  3. Medium density residential (R-2); This district is a medium density area allowing a compatible mix of both single family and multiple family housing protected as to residential quality, value, identity, environmental privacy, light and air and outdoor space that is meant to conform to systems and facilities which support the residential quality of the area.
  4. Multifamily residential (R-3); This district is a medium to high density area meant to serve as a general residential district allowing a large variety of housing and densities without conflict together with certain nonresidential uses.

2.2.110 Permitted Uses, Conditional Uses, and Structures. Table 2.2.110 identifies land uses according to permit status. See key below the table:

<b>Table 2.2.110 – Permitted Uses</b>				
<i>Uses<sup>1</sup></i>	<i>Status of Use in District</i>			
	<i>RH</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>
<b><i>Residential</i></b>				
Single Family Dwellings				
- Single family dwelling	S-P	P	P	P
- Single family non-attached zero-lot line	S-PUD	P	P	P
- Attached townhome – maximum of 4 attached	S-PUD	N	P	P
- Attached townhome – maximum of 8 attached	S-PUD	N	N	P
- Accessory dwellings	S-PUD	S	S	S
Duplex				
- Corner lot	S-PUD	P	P	P
- Interior lot	S-PUD	N	P	P
Manufactured Homes – individual lots	S-PUD	S	S	S
Manufactured Home Park	N	N	N	S
Multifamily Dwelling				
- 3 or 4 dwellings	N	N	P	P
- more than 4 dwellings	N	N	N	P
Residential care home/facility				
- Residential care home	C	S	S	S
- Residential care facility	N	N	S	S
Family daycare	P	P	P	P
Agriculture, Horticulture (and livestock) – Existing use	P	P	P	P
<b><i>Public and Institutional</i></b>				
Churches and places of worship	N	C	C	C
Clubs, lodges, similar uses	N	C	C	C
Government office and facilities (administration, public safety, transportation, utilities and similar uses)	N	C	C	C

**Key:**

<i>P</i> = Permitted	<i>RH</i> = Residential hillside district
<i>S</i> = Permitted with special standards or limitations	<i>R-1</i> = Low density district
<i>C</i> = Conditional use permit required	<i>R-2</i> = Medium density district
<i>N</i> = Not permitted	<i>R-3</i> = High density district
<i>S-PUD</i> Permitted With Planned Unit Development (All RH development applications require geotechnical study and report.)	

**Table 2.2.110 – Permitted Uses**

<i>Uses<sup>1</sup></i>	<i>Status of Use in District</i>			
	<i>RH</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>
Libraries, museums, community centers, and similar uses	N	C	C	C
Public parks and recreational facilities	P	P	P	P
Schools (public and private)	C	P	P	P
Telecommunications structures (including wireless) (S)	C	C	C	C
Uses similar to those listed above	P/S/S- PUD/C/N	P/S/C/N	P/S/C/N	P/S/C/N
Bed and Breakfast Inns and Vacation Rentals	S/C	S/C	S/C	S/C
Accessory Use and Structures	P	P	P	P

**2.2.120 Development Standards.** Table 2.2.120 provides the development standards for Sutherlin’s residential districts.

**Table 2.2.120 – Development Standards**

<i>Standard</i>	<i>RH</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>
Minimum Zone Size	None	None	None	None
Minimum-Maximum Density (dwelling units/net acre)	0-3 du/acre	0-6 du/acre	0-12 du/acre	8-27 du/acre
Minimum Lot Area (square feet)				
- single family non-attached lot	12,000 s.f.	7,500 s.f.	6,000 s.f.	5,000 s.f.
- duplex lot	na	9,000 s.f.	6,000 s.f.	6,000 s.f.
- single family attached lot	na	na	3,000 s.f.	2,000 s.f.
- multiple family lot	na	na	9,000 s.f.	6,000 s.f.
Minimum Lot Dimensions (feet)				
- width at frontage – standard	50 ft.	50 ft.	40 ft.	40 ft.
- width at frontage – townhouse	24 ft.	n/a	24 ft.	24 ft.
- width at frontage – flag lot (Section 2.6.200)	20 ft.	20 ft.	20 ft.	20 ft.
- depth – alley right-of-way	100 ft.	90 ft.	80 ft.	70 ft.
- depth – no alley r-o-w.	100 ft.	100 ft.	90 ft.	80 ft.

**Key:**

P = Permitted

S = Permitted with special standards or limitations

C = Conditional use permit required

N = Not permitted

S-PUD = Permitted With Planned Unit Development (All RH development applications require geotechnical study and report.)

RH = Residential hillside district

R-1 = Low density district

R-2 = Medium density district

R-3 = High density district

<b>Table 2.2.120 – Development Standards</b>					
<i>Standard</i>		<i>RH</i>	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>
Maximum Lot Coverage(1)		35% (Geotechnical Report Required)	50%	60%	60%
Minimum Dwelling Unit Size (except does not apply to accessory dwelling units)		1,200 sf.	1,200 s.f.	1,000 s.f.	no standard
Maximum Height In Feet	Primary structure	35 ft.	35 ft.	35 ft.	35 ft.
	Accessory structure	20 ft.	20 ft.	20 ft.	20 ft.
Minimum Setback in Feet	Front - house - garage entrance	15 ft. 20 ft.	15 ft. 20 ft.	15 ft. 20 ft.	15 ft. 20 ft.
	Side – one story	5 ft.	5 ft.	5 ft.	5 ft.
	Side – two story	10 ft.	10 ft.	7 ft.	7 ft.
	Side – townhouse (common wall)	0 ft.	0 ft.	0 ft.	0 ft.
	Street side - one story - two story	20 ft. 20 ft.	15 ft. 15 ft.	10 ft. 15 ft.	10 ft. 15 ft.
Rear	10 ft.	10 ft.	10 ft.	10 ft.	

(1) Compliance with other code standards may preclude development at the maximum allowable lot coverage.

## Section 2.3

### COMMERCIAL DISTRICTS

#### 2.3.100 Purpose and Applicability.

##### A. Purpose. The purpose of the commercial districts is to:

1. Allow a mixture of complimentary land uses that may include, retail, offices, commercial services, civic uses, and housing to create economic and social vitality and to encourage the linking of trips;
2. Develop commercial and mixed-use areas that encourage walking as an alternative to driving, and provide more employment and housing options;
3. Provide flexibility in the siting and design of new developments and redevelopment to anticipate changes in the marketplace;
4. Provide both formal and informal community gathering places;



5. Provide roadway and pedestrian connections from the commercial districts to neighborhoods and other employment areas;
6. Maintain, preserve and enhance the distinct storefront character, which identifies the downtown commercial district;
7. Encourage efficient land use by facilitating compact development and minimizing the amount of land needed for surface parking;
8. Facilitate development (land use mix, density and design) that can be served by public transit where applicable;
9. Provide appropriate locations and design standards for automobile and truck-dependent uses;
10. Maintain mobility along traffic corridors and statewide highways; and
11. Provide for automobile-oriented uses, while preventing strip-commercial development in highway corridors.

**B. Applicability.** Commercial zoning districts fall under two categories:

1. Downtown Commercial (C-1); and
2. Community Commercial (C-3).

**2.3.110 Permitted uses, Conditional Uses, and Structures.**

**A. Permitted, Conditional Uses and Structures.** The land uses listed in Table 2.3.110 are permitted in the commercial districts, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 2.3.110 and the land uses that are approved as “similar” to those in Table 2.3.110 may be permitted. The land uses identified with a “C” in Table 2.3.110 require conditional use permit approval prior to development, in accordance with section 4.5 Conditional Use Permits.

**B. Determination of Similar Land Use.** Similar use determinations shall be made in conformance with the procedures in section 4.9 Code Interpretations.

<b>Table 2.3.110 – Permitted Uses</b>		
<b>Uses</b>	<b>Status of Use in District</b>	
	<b>C-1</b>	<b>C-3</b>
<i>Residential</i> , provided that the residential component comprises not more than 50% of the building floor area.	P	P
<b>Commercial</b>		
Retail Sales and Professional/Personal Service		
- enclosed within a building	P	P
- not enclosed	N	P
Restaurants	P	P
Office and Clinics (Professional, Medical, Dental, etc., including Medical Laboratories)	P	P
Mortuaries, Crematoriums and Columbarium excluding outside storage or display	P	P
Lodging, including Bed and Breakfast	P	P
Vehicle Sales and Services, Including fuel sales	C	P

Section 2 - Zoning Districts

Commercial and Public Parking	P	P
Commercial Storage		
- enclosed in an upper story of a building	P	P
- not enclosed in building or on ground floor	C	P
Entertainment		
- enclosed in building (e.g., theater)	P	P
- not enclosed (e.g., amusement)	C	C
Recreational Vehicle Sales, Services and Parks	C	P
Wholesale		
- enclosed in a building	C	P
- not enclosed in a building	N	P
Mixed Use (residential with commercial or civic use) See Residential, above.	P	P
<b><i>Civic</i></b>		
Government	P	P
Parks and Open Space	P	P
Private Utilities	P	P
Schools		
- pre-school, daycare, and primary	C	C
- secondary, colleges, and vocational	C	C
Clubs and Religious Institutions	C	C
<b><i>Industrial</i></b>		
Manufacturing and Production		
- greater than 5,000 sq. ft.	N	C
- not enclosed in a building or on ground floor	C	C
Warehouse		
- enclosed in an upper story of a building	P	P
- not enclosed in a building or on ground floor	N	P
Telecommunications structures, including wireless	C/S	C/S
Transportation, Freight and Distribution	N	C
Industrial Service (e.g., cleaning, repair)	C	C
Processing of Raw Materials	N	C

**Key:**

P = Permitted

S = Permitted with special standards or limitations

C = Conditional use permit required

N = Not permitted

C-1 = Downtown Commercial District  
C-3 = Community Commercial District

**2.3.130 Development Standards.** All developments within the commercial districts must comply with the development standards listed in Table 2.3.130.

<b>Table 2.3.130 – Development Standards</b>		
<i>Standards</i>	<i>Status of Standard in District</i>	
	<b>C-1</b>	<b>C-3</b>
Zone Size minimum	None	None
Building Height – maximum (feet)	50 ft. 60 ft. when at least 10,000 s.f. of floor area is residential	35 ft. 50 ft. when at least 10,000 s.f. of floor area is residential
Yard Setbacks (feet)		
- front setback – minimum	0 feet	0 feet
- front setback – maximum (1)	10 feet – except the setback may be increased to provide a pedestrian plaza, extra-sidewalk, or outdoor seating area.	20 feet, when C-3 site abuts a residential district
- side setbacks		0 feet side and rear, except 10 feet minimum adjacent to
- rear setbacks	0 feet side and rear, except 10 feet minimum adjacent to residential district	residential district
Lot Size and Dimensions	No Standard	No Standard
Lot Coverage – maximum coverage (2)	80%	75%

**Notes:**

(1) The maximum front setback standard is met when at least 50 percent of the site frontage has building facade(s) placed at the minimum setback, at the maximum setback, or anyplace in between the minimum and maximum setback. Alternatively, the building may be setback by more than the maximum setback if the intervening space is improved with a pedestrian plaza with decorative pavers, landscape planters, seating, and other furnishings or amenities, as approved through Site Plan Review.

(2) Compliance with other code standards may preclude development at the maximum allowable lot coverage.

**2.3.135 Special Status for Single Family Residences.** Existing uses granted special status (allowed) in commercial districts: Notwithstanding the restrictions of any other section of the Sutherlin Municipal Code, all single-family residential dwellings built before January 1, 2006, on commercial zoned properties are considered conforming to the base district. If any building on these properties is substantially destroyed, as defined in 5.3.110, it may be rebuilt to the same size as existed when it was destroyed, subject to the regulations of any applicable overlay district. If an existing single-family residence is converted to a permitted commercial use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of section 2.3.110 and 2.3.130

## Section 2.4

## PUBLIC / SEMI-PUBLIC DISTRICTS

**2.4.100 Purpose and Applicability.**

- A. Purpose.** The purpose of this district is to provide for the review and location of public and semi-public facilities and related uses, which by necessity, character, or effect will be compatible with surrounding uses.
- B. Applicability.** The public/semi-public district applies to lands that have been so designated on the zoning map. Such designation is made upon a finding of public need for public/semi-public uses or facilities.

**2.4.110 Permitted Uses.** The following land uses are permitted in the Public/Semi-Public District, subject to Site Plan Review:

<b>Table 2.4.110 – Permitted Uses</b>	
<i>Uses</i>	<i>Status of Use in District</i>
Country clubs, private clubs, golf courses	P
Hospitals, sanitariums, nursing homes, convalescent homes, institutions of mentally disabled and not less than 50 feet from an adjoining use.	P
Places of worship; except tents, and other temporary structures or buildings not permitted	P
Private educational institutions	P
Public facilities; except not allowing public business offices, repair, or storage facilities.	P
Public parks, public recreation areas, and publicly owned and operated properties	P
Public schools	P
Uses similar to those listed above	P

**Key:**

P = Permitted

S = Permitted with special standards or limitations

C = Conditional use permit required

N = Not permitted

P = Public/Semi-Public district

**2.4.120 Permitted Accessory Uses and Structures.** A public/semi-public district accessory uses and structures are permitted subject to review and approval in a public hearing, and attachment of conditions as necessary to ensure compatibility with adjacent land uses.

**2.4.130 Development Standards.**

<b>Table 2.4.130 – Development Standards</b>	
<b>Standard</b>	<b>P</b>
Zone size minimum (square feet)	7,500 s.f.
Lot size minimum (square feet)	none
Lot depth minimum (feet)	100 ft.
Lot frontage minimum (feet)	75 ft.
Lot Coverage maximum (percent)	Minimum lot coverage shall be the same as adjoining districts. When site adjoins more than one district, an average shall be taken based upon the proportion of boundary shared with each district.
Yard Setback minimums (feet)	
- front setback	10 ft., except may be reduced to 0 ft. when the development is adjacent to the C-1 district.
- side setbacks	10 ft. side and rear
- rear setbacks	
Building Height maximum (feet)	35 ft., except increased height allowed subject to Conditional Use Permit

**Section 2.5****INDUSTRIAL DISTRICTS****2.5.100 Purpose and Applicability.**

- A. Purpose.** The industrial districts accommodates a range of heavy manufacturing, assembly, and processing of raw materials, junk yard, motor vehicle wrecking yards, light manufacturing, warehousing and distribution, industrial-office uses, automobile-oriented uses (e.g., lodging, restaurants, auto-oriented retail), and similar uses which are not appropriate in the downtown. The district's standards are based on the following principles:
1. Ensure efficient use of land and public services.
  2. Provide a balance between jobs and housing, and encourage mixed-use development.
  3. Provide transportation options for employees and customers.
  4. Provide business services close to major employment centers.
  5. Ensure compatibility between industrial uses and nearby residential areas.
  6. Provide appropriately zoned land with a range of parcel sizes for industry.
  7. Provide for automobile-oriented uses, while preventing strip-commercial development in highway corridors.
- B. Applicability.** Industrial zoning districts fall under two categories:
1. Light industrial (M-1); and
  2. General industrial (M-2).

**2.5.110 Permitted Uses.**

- A. Permitted Uses.** The land uses listed in Table 2.5.110 are permitted in the industrial districts, subject to the provisions of this chapter. Only land uses that are specifically listed in Table 2.5.110, and land uses that are approved as “similar” to those in Table 2.5.110, may be permitted. The land uses identified with a “C” in Table 2.5.110 require Conditional Use Permit approval prior to development or a change in use, in accordance with section 4.5.
- B. Determination of Similar Land Use.** Similar use determinations shall be made in conformance with the procedures in section 4.9 Code Interpretations.

<b>Table 2.5.110 – Permitted Uses</b>		
<b>Uses</b>	<b>M-1</b>	<b>M-2</b>
<b><i>Industrial</i></b>		
Heavy manufacturing, assembly, processing of raw materials	N	C
Light manufacture (e.g., electronic equipment, electronic vehicles, printing, bindery, furniture, and similar goods)	P	P
Warehousing and distribution	P	P
Junk yard, motor vehicle wrecking yard, and similar uses	N	P
Research facilities	P	N
Mini-warehouse and storage	P	N
<b><i>Residential</i></b>		
Caretaker unit	P	P
<b><i>Commercial</i></b>		
Offices and other commercial uses that are incidental to a primary industrial use	P	P
Vehicle repair, sales, rental, storage, service and fuel sales	P	N
Entertainment (e.g., theaters, amusement uses)	C	N
Hotels and motels	P	N
Medical and dental clinics and laboratories	P	N
Outdoor commercial uses (e.g., outdoor storage and sales)	P	N
Personal and professional services (e.g., child care, catering/food services, restaurants, laundromats and dry cleaners, barber shops and salons, convenience stores/mini-marts, banks and financial institutions, and similar uses)	C	N
Repair services	P	N
Wholesale trade and services	P	N
<b><i>Public and Institutional Uses</i></b>		
Government facilities (e.g., public safety, utilities, school district bus facilities, public work yards, and similar facilities)	P	P

<b>Table 2.5.110 – Permitted Uses</b>		
<b>Uses</b>	<b>M-1</b>	<b>M-2</b>
Private utilities (e.g., natural gas, electricity, telephone, cable, and similar facilities)	P	P
Parks and open space	P	P
Vocational schools	P	P
Telecommunication structures, including wireless (S)	C	C
Accessory Uses and Structures	P	P

**Key:**

- P = Permitted*  
*S = Permitted with special standards or limitations*  
*C = Conditional use permit required*  
*N = Not permitted*

**2.5.120 Development Standards.****A. Setbacks.**

<b>Table 2.5.120A – Setbacks</b>		
<b>Standards</b>	<b>M-1</b>	<b>M-2</b>
Front yard setbacks, minimum	20	20 ft. The setback standard shall increase by one foot for every one foot of building height in excess of 35 feet.
Rear yard setback, minimum	None Except that buildings shall be setback from residential districts by a minimum of 40 feet.	None Except that buildings shall be setback from residential districts by a minimum of 40 feet, and from other non-industrial districts by a minimum of 20 feet; the rear setback in this case shall increase by one foot for every one foot of building height in excess of 35 feet.
Side yard setback, minimum	None Except that buildings shall be setback from residential districts by a minimum of 25 feet.	None Except that buildings shall be setback from residential districts by a minimum of 40 feet and from other non-industrial districts by a minimum of 20 feet; the rear setback in this case shall increase by one foot for every one foot of building height in excess of 35 feet.
Lot Coverage, maximum	70 percent	80 percent

**B. Building Height** The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale:

- Base Requirement. Buildings shall be no more than three (3) stories or thirty-five (35) feet in height, whichever is greater.

2. Performance Option. The allowable building height may be increased to sixty (60) feet, when approved as part of a conditional use permit. The development approval may require additional setbacks, stepping-down of building elevations, visual buffering, screening, and/or other appropriate measures to provide a height transition between the development and adjacent non-industrial development. Roof equipment and other similar features that are necessary to the industrial operation shall be screened, and may not exceed sixty (60) feet in height without approval of a conditional use permit. Wireless communication facilities such as monopoles and towers shall be required to meet the standards under section 2.6.190.

**2.5.125 Special Status for Single Family Residences** Existing uses granted special status (allowed) in industrial districts: Notwithstanding the restrictions of any other section of the Sutherlin Municipal Code, all single-family residential dwellings built before January 1, 2006, on industrial zoned properties are considered conforming to the base district. If any building on these properties is substantially destroyed, as defined in 5.3.110, it may be rebuilt to the same size as existed when it was destroyed, subject to the regulations of any applicable overlay district. If an existing single-family residence is converted to a permitted industrial use, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of Section 2.5.110 and 2.5.120.

## Section 2.6

### Special Use Standards

Determining consistency with Special Use Standards is considered a Type I Procedure and is processed pursuant to Section 4.2.120.

**2.6.100 Accessory Dwellings.** Where accessory dwelling units (ADUs) are permitted, they shall conform to the following standards:

- A. **Building Codes.** Comply with applicable building codes and structural specialty codes;
- B. **One ADU per Lot.** A maximum of one (1) accessory dwelling unit is allowed per single family dwelling lot;
- C. **Floor Area.** The maximum floor area of the accessory dwelling shall not exceed six hundred (600) square feet. Dwellings in excess of six hundred (600) square feet are considered duplexes (not accessory dwellings), if attached to the primary dwelling, or second dwellings (also not an accessory dwelling) if not attached. Second dwellings on a lot or parcel are not permitted in the RH or R-1 zones;
- D. **Parking.** One (1) off-street parking space shall be provided for the accessory dwelling;
- E. **Development Standards.** Comply with the setback, building height, lot coverage, and other applicable development standards;
- F. **Architecture.** Accessory dwellings in all residential zones shall be constructed of similar or better quality and type of materials as used in the principal structure on the same lot. Accessory dwellings shall not be in a manufactured home. Accessory dwellings shall be stick-built. Wood, brick, stone, cultured stone, and



concrete-fiber (imitation wood) siding are allowed. Vinyl, metal, concrete block, and T111 (wood paneling) are not allowed. Acceptable roof materials include concrete composite, architectural grade composite, tile, architectural grade metal roofing with non-metallic finish, and similar quality materials as determined by the City;

- G. **Infrastructure.** Sewer, water and utility services shall be provided to the dwelling in conformance with City standards.

**2.6.110 Accessory Uses and Structures.**

- A. **Applicability.** Accessory uses and structures shall be incidental to the principal use. They must occupy less floor area, cover less lot area, and have a use that is secondary to the primary structure(s) and use(s) on the property.
- B. **Accessory Building.** Relationship to Other Uses. Accessory buildings may be used for home occupations, in conformance with section 2.6.150. Only accessory dwelling units may be used for sleeping or living purposes, and they shall conform to the standards in section 2.6.100.
- C. **Accessory Building.** Location. An accessory building shall be located on the same lot with the principal building. Accessory buildings shall conform to all regulations of the zone district wherein it exists, except as modified by the following standards:
  - 1. All accessory buildings that are not attached to the primary dwelling shall be set back a minimum of twenty-five (25) feet from the public street providing vehicle access to the primary building. These buildings may encroach into the standard rear and side yard setbacks, provided that required separation for fire protection is provided and the following standards are met:
    - a. On a corner lot, the accessory building shall not be located closer to the street side property line than that required for the main building. On a lot in the RH district, the accessory building shall not be located closer than twenty (20) feet from rear and side property lines;

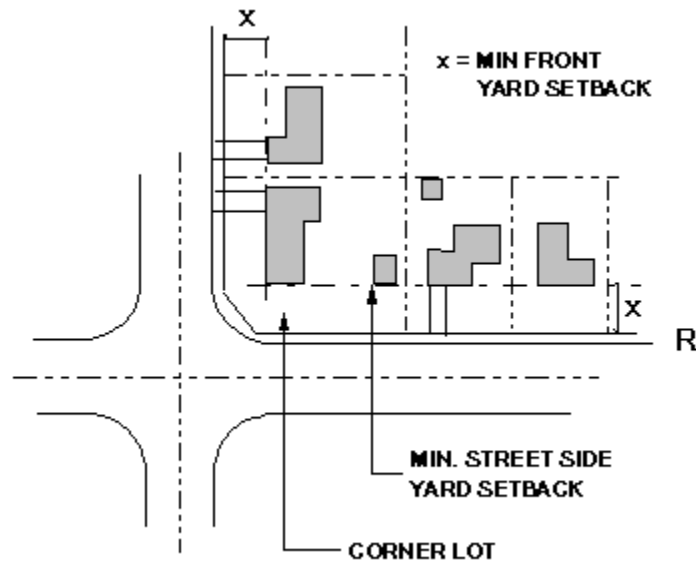


Figure 2.6.100D1a Accessory Building Street Setback

- b. On a through lot, the accessory building shall not be located closer to the rear property line than the distance required for front yard setback;
- c. An accessory building exceeding eight (8) feet in height or six hundred (600) square feet shall not be located closer than seven (7) feet to any property line.

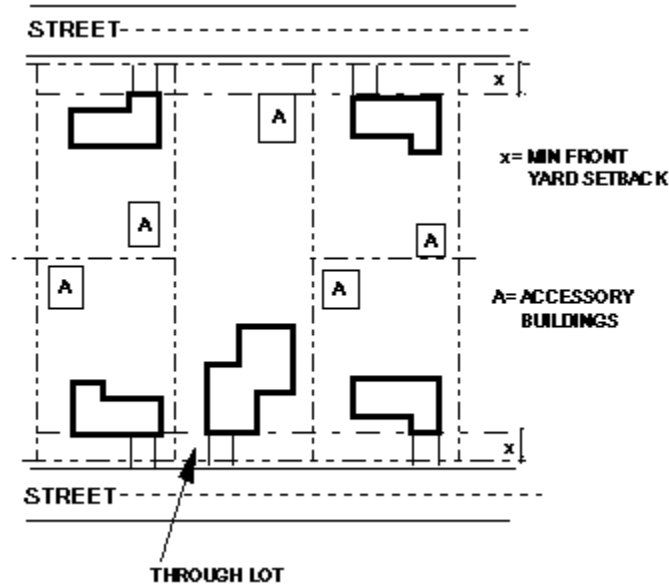


Figure 2.6.110D1c Accessory Building Height/Setback

2. Any building that is accessory to any residential building shall not be erected to a height exceeding fifteen (15) feet; except that an accessory structure may exceed fifteen (15) feet in height when each applicable setback is increased by one (1) foot for every one (1) foot of building height over fifteen (15) feet. Buildings shall not exceed the height limitation of the underlying zone;

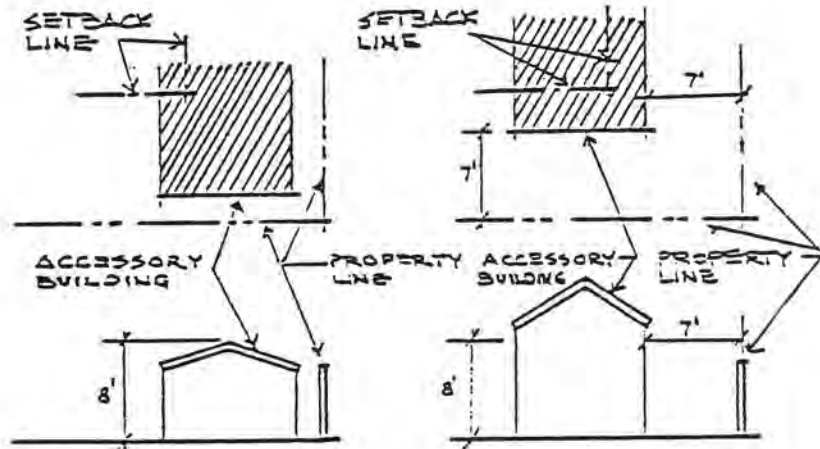


Figure 2.6.100D2 Accessory Building Lot Coverage

3. An accessory building shall not occupy more than twenty-five (25) percent of the area lying between the rear of the main building and the rear property line.

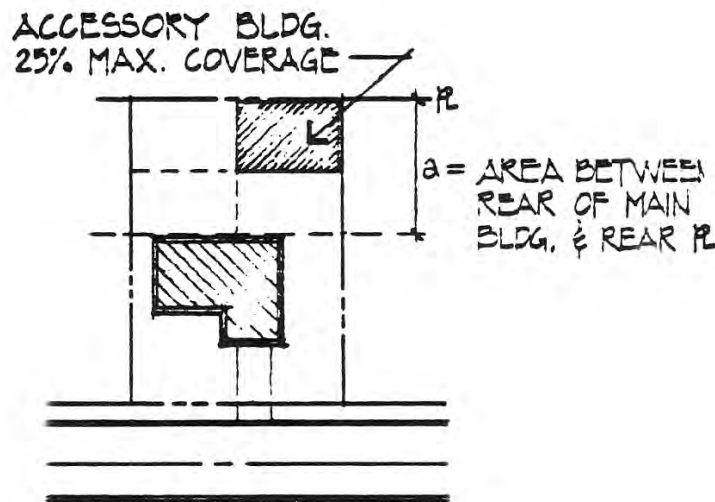


Figure 2.6.100D3 Accessory Building Rear Property Line

**2.6.120 Bed and Breakfast.** Bed and breakfast use is allowed in all commercial districts and allowed in all residential districts subject to approval of a conditional use permit and conformance to the following standards:

- A. **Accessory Use.** A bed and breakfast facility must be accessory to a residential use on the subject site. This means that the individual or family who operates the facility must occupy the house as their primary residence. The house must be at least five (5) years old before a bed and breakfast facility is allowed.
- B. **Maximum Size.** Bed and breakfast facilities are limited to a maximum of five (5) bedrooms for guests and the maximum occupancy per night shall be established by conditional use permit.
- C. **Employees.** Bed and breakfast facilities may have nonresident employees for the lodging activity such as booking rooms and food preparation, if approved as part of the conditional use permit. Hired service for normal maintenance, repair and care of the residences or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored with conditions as part of the conditional use permit approval.
- D. **Service to Guests.** Food services may only be provided to overnight guests of a bed and breakfast in residential districts; food service may be provided to overnight guests and other guests in the commercial districts. Any other service is subject to the use requirements of the land use district.
- E. **Meetings and Social Gatherings.**
  - 1. Commercial meetings. Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited at a bed and breakfast facility.
  - 2. Private social gatherings. The residents of bed and breakfast facilities may be allowed to have social gatherings, parties, or meetings if authorized in the conditional use permit.

**2.6.130 Drive-Through Facilities.** Drive-through facilities (drive-up windows and associated drive aisles at banks, restaurants, pharmacies, and other commercial uses; automotive fuel pump islands; and similar drive-through facilities) are a permitted use and shall be oriented toward side or rear yards. Where a drive-through facility or associated drive lane or queuing area must abut a street right-of way, such facility shall be setback from the street rights-of-way behind a landscape buffer of not less than eight (8) feet in width. In the C-1 zone, a drive-through facility shall not be placed within the minimum-maximum setback. See Figure 2.6.130.

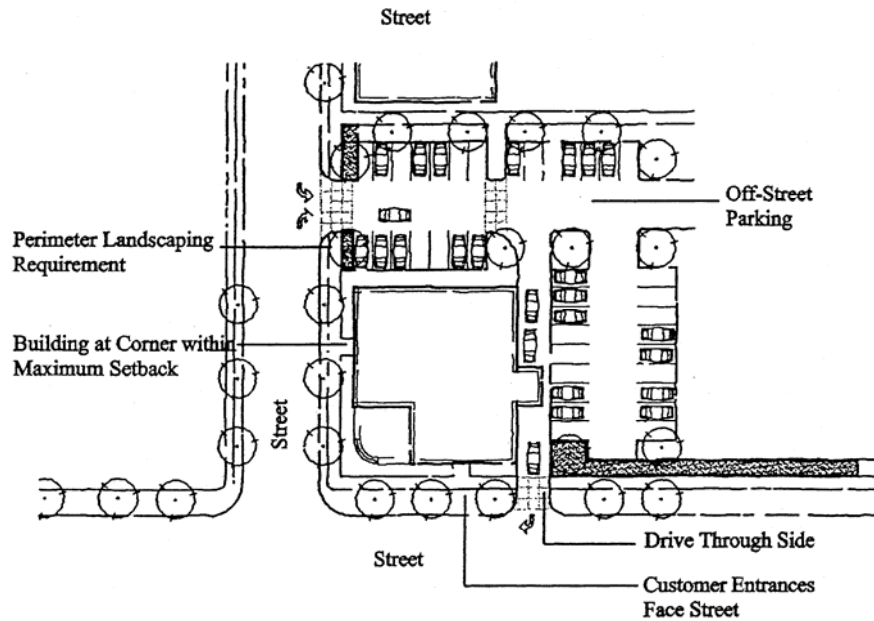


Figure 2.6.130 Drive-Through Facilities.

**2.6.140 Group Care Homes and Adult Facilities.** Group care homes are residential treatment or training homes or adult foster homes licensed by the state of Oregon. They may provide residential care alone, or in conjunction with treatment and/or training, for five (5) or fewer individuals (“homes”) or six (6) to fifteen (15) individuals (“facilities”) who need not be related. Staff persons must meet state of Oregon licensing requirements, shall not be counted in the number of facility residents, and need not be related to each other or the residents. Residential care homes and facilities shall comply with the following standards, consistent with ORS 197.660-670:

- A. Licensing.** All residential care homes shall be duly licensed by the State of Oregon.
- B. Parking.** A minimum of one (1) parking space shall be provided for each employee and typical number of visitors, in accordance with Section 3.4 Parking requirements.
- C. Development Review.** Development review shall be required for new structures to be used as residential care homes or facilities, and for conversion of an existing residence to be used as a residential care home, to ensure compliance with the licensing, parking, and other requirements of this Code.

**2.6.150 Home Occupation.** Home occupations are subject to the following standards:

- A. Appearance of Residence.**
  1. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
  2. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.

3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
4. Products and or equipment produced or used by the home occupation shall not be displayed to be visible from outside any structure.

**B. Storage.**

1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
3. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

**C. Employees.**

1. There shall be no more than one (1) employee at the home occupation site at any given time, in addition to any family member(s) who work and reside(s) at the site. As used in this chapter, the term a home occupation site means the lot on which the home occupation is conducted.
2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

**D. Advertising and Signs.** Home occupations shall comply with the residential use sign regulations in section 3.7.

**E. Vehicles, Parking and Traffic.**

1. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.
2. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 9 p.m. to 7 a.m.
3. There shall be no more than one client's or customer's vehicle at any one time and no more than eight per day at the home occupation site.

**F. Business Hours.** There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7 a.m. to 9 p.m. only, subject sections A and E, above.

**G. Prohibited Home Occupation Uses:**

1. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, State or federal standards, or that can be detected beyond the property line is prohibited.

2. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to A-F, above.
3. Any use described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibrations, such as:
  - a. Ambulance service;
  - b. Animal hospital, veterinary services, including auto painting;
  - c. Auto and other vehicle repair, including auto painting; and
  - d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.

**H. Enforcement.** The city or designee may visit and inspect the site of home occupations in accordance with this section periodically to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed in accordance with section 1.4 Enforcement.

**2.6.160 Manufactured Homes on Individual Lots.** Manufactured homes are subject to all of the following design standards, consistent with ORS 197.307(5). Exception: The following standards do not apply to units that were placed on their current site prior to the effective date of this code.

- A. Relocation.** Once occupied for residential use, a manufactured home shall not be relocated to a different residentially zoned lot in the City.
- B. Floor Plan.** The manufactured home shall be multi-sectional and have an enclosed floor area of not less than one thousand (1,000) square feet in R-2 and R-3 zones, or one thousand two hundred (1,200) square feet in R-1 and RH zones;
- C. Roof.** The manufactured home shall have a pitched roof with a slope not less than three (3) feet in height for each twelve (12) feet in width (fourteen (14) degrees);
- D. Residential Building Materials.** The manufactured home shall have non-reflective exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered “superior” to metal or vinyl siding, and composite roofing is superior to metal roofing);
- E. Garages and Carports.** The manufactured home shall have a garage or carport constructed with like materials when nearby residences have carports or garages. The city may require an attached or detached garage where that would be consistent with the predominant construction of immediately surrounding residences;
- F. Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the state building code. Evidence demonstrating that the manufactured home meets “super good cents” energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement; additional manufacturer’s certification shall not be required;

- G. **Placement.** The manufactured home shall be placed on an excavated and back-filled permanent full perimeter concrete or block foundation with footings below the frost line. The manufactured home shall not be located more than sixteen (16) inches above grade, and shall comply with the minimum set-up standards of the adopted state administrative rules for manufactured dwellings, chapter 918. Where the building site has a sloped grade, the manufactured home shall not be more than sixteen (16) inches above grade on the uphill side of the home; and
- H. **Prohibited.** A manufactured home shall not be located in a designated historic district.

**2.6.170 Manufactured Home Parks.** Manufactured home parks are subject to compliance with subsections A-F, below:

- A. **Parcel Size.** Parcels shall be a minimum of one (1) acre or larger.
- B. **Permitted Uses.** Single family residences, manufactured home park manager’s office, home occupations, and accessory structures which are necessary for the operation and maintenance of the manufactured home park (e.g., landscape maintenance). Home occupations shall comply with section 2.6.150, Home Occupations.
- C. **Space.** The minimum size pad or space for each home is two thousand five hundred (2,500) square feet. Each space shall be at least thirty (30) feet wide and forty (40) feet long, in accordance with ORS 446.100(c).
- D. **Setbacks and Building Separation.** The minimum setback between park structures and abutting properties is fifteen (15) feet. The minimum setback between park structures and public street right-of-way is fifteen (15) feet. At least a ten (10) foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of fourteen (14) feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than five (5) feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than six (6) feet to any other structure or dwelling, except that a double carport or garage may be built which serves two (2) dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least three (3) feet.
- E. **Perimeter Landscaping.** When manufactured homes are oriented with their back or side yards facing a public right-of-way, the city may require installation of fencing and planting of a fifteen (15) foot wide landscape buffer between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.
- F. **House Design (parks smaller than 3 acres).** In addition to health and safety codes and standards and other applicable regulations, manufactured homes in parks smaller than three (3) acres shall meet the following design standards, consistent with ORS 197.314(6):
  1. The manufactured home shall have a pitched roof with a slope not less than three (3) feet in height for each twelve (12) feet in width (fourteen (14) degrees);
  2. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered “superior” to metal siding, and composite roofing is superior to metal roofing);



3. Exception: Subsections 1-2, above, do not apply to manufactured homes legally placed on a site prior to the effective date of this code.

**2.6.180 Residential Sales Office, Temporary.** A temporary residential sales office (i.e., model house, manufactured home, or similar residential building) is permitted for the sale of homes being constructed on the premises and for a period not exceeding eighteen (18) months. An extension of this time requires approval by the Planning Commission/City. The residential sales office is subject to the following conditions:

- A. Temporary Occupancy Permit.** Prior to use of the premises as a temporary residential sales office, a temporary occupancy permit shall be obtained from City or its designee; and
- B. Conversion and Final Approval of Dwelling.** Prior to the sale of any dwelling that has been used as a temporary residential sales office, the dwelling shall be restored to comply with all applicable codes and ordinances, and final approval obtained from the City of Sutherlin.

**2.6.190 Wireless Telecommunication Facilities.**

- A. Purpose and Intent.** The provisions of this section are made to establish a reasoned approach for the construction, placement, modification, maintenance, and removal of telecommunication facilities. The establishment of these regulations recognize the need of telecommunication providers to build out their systems over time to provide wireless telecommunication services to municipal residents and businesses. The specific purposes of this section are as follows:
  1. To minimize the number of transmission towers throughout the community;
  2. To encourage the co-location of telecommunication facilities;
  3. To encourage the use of existing buildings, structures, utility poles or water towers as opposed to the construction of new telecommunication towers;
  4. To ensure that all telecommunication facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the community and
  5. To minimize public inconvenience and disruption. It is not the intent of the City to discriminate among providers of functionally equivalent services, or to prohibit or have the effect of prohibiting the provision of wireless services.
- B. Definitions.** For the purposes of this code, the following terms and phrases shall have the following meaning. If the general definitions in section 1.090 conflict, the following definitions shall control.

**Alternative Structures:** Existing man-made structure that camouflages or conceals the presence of telecommunication facilities, such as clock tower, bell tower, church steeple, water tower, light pole, and similar alternative-design mounting structure.

**Ancillary Facilities:** The buildings, cabinets, vaults, closures, and equipment required for operation of telecommunication facilities including

but not limited to repeaters, equipment housing, and ventilation and other mechanical equipment.

**Antennas:** An electrical conductor or group of electrical conductors that transmit or receive radio waves that function at line of sight transmission, excluding amateur radio antennas.

**Cellular System:** A wireless system that operates by dividing a large geographical service area into cells and assigning the same frequencies to multiple, non-adjacent cells (frequency reuse).

**Co-location:** The mounting or installation of an antenna on an existing tower, building or structure for the purpose of transmitting or receiving radio frequency signals for communications purposes.

**Existing Structure:** Structure in existence prior to an application for a wireless communication facility installation.

**Private Telecommunications Network:** A system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly.

**Provider:** A person in the business of offering telecommunication services for monetary or other consideration.

**Stealth Design:** A telecommunication facility that is designed or located in such a way that its appearance is not readily recognizable as telecommunications equipment.

**Telecommunication Facility:** A facility designed or used for the purpose of transmitting, receiving, or relaying wireless voice or data signals from one or more telecommunication services, including any transmission towers, poles, antennas, or other structures.

**Telecommunication Service:** The business of transmission, for money or other consideration, wireless telecommunications in electromagnetic, electronic, or optical form. This includes but is not limited to cellular radiotelephones, personal communications services, enhanced/specialized mobile radios, commercial paging services, and digital television.

**Tower:** Any structure built for the sole or primary purpose of supporting antennas and their associated facilities.

Guyed tower: A tower supported by the use of permanently anchored cables (guy wires).

Lattice tower: A tower characterized by an open framework of lateral cross members that stabilize the tower.

Monopole tower: A single upright pole, engineered to be self supporting without lateral cross supports or guys.

**C. Permit Procedures**

1. Permit Required. No telecommunication facility, as defined in Section 3.29.040, shall be constructed, modified to increase its height, installed, or otherwise located within the city, except as provided in this section. A telecommunication facility shall require a conditional use permit.
2. Conditional Use Permit. A telecommunication facility requires a conditional use permit and shall be processed in accordance with the conditional use permit procedures of Section 4.05. The criteria contained in this section, as well as the criteria contained in Section 4.05 of this code, shall govern approval or denial of the conditional use permit application. In the event of a conflict in criteria, the criteria in this section shall govern. No building permit shall be issued prior to completion of the conditional use permit process, including any local appeal.
3. Fee. The fee for a conditional use permit shall be set by council resolution. The fee for any telecommunication facility that has been erected without a building permit or without a conditional use permit shall be double the regular permit fee.
4. Application requirements:
  - a. Co-location or Installation of Antennas: In addition to standard required application material, an applicant who proposes to install or co-locate an antenna shall submit the following information. Additional application materials are required, as specified in paragraph (c) below, for applications for the required conditional use permit.
    - (1) A description of the proposed antenna's location, design and height.
    - (2) A statement documenting that placement of the antenna is designed to allow future co-location of additional antennas if technologically possible.
    - (3) Written statements from the Federal Aviation Administration, the Oregon Department of Aviation, and the Federal Communication Commission stating that the proposed wireless communication facility complies with regulations administered by that agency, or that the facility is exempt from regulation.
    - (4) A written statement indicating whether the frequency used by the applicant is in close proximity to the frequency used by local public safety officials. If the frequency is so close as to potentially interfere with public safety communications, the applicant shall provide a technical evaluation indicating the range of potential interference problems, shall consult with public safety officials about the evaluation, and shall agree in writing to cooperate in good faith with public safety officials to minimize interference to the greatest extent possible prior to installing its facilities.

- b. Construction of Towers. In addition to standard required application material, an applicant for the construction of a transmission tower shall submit the following information.
- (1) A description of the proposed tower location, design, and height.
  - (2) The general capacity of the tower in terms of the number and type of antennas it is designed to accommodate.
  - (3) A signed agreement stating that the applicant will allow co-location with other users, provided that all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow co-location on the tower.
  - (4) A landscaping plan, drawn to scale, showing the proposed and existing landscaping, including type, spacing, size, and irrigation methods.
  - (5) Written statements from the Federal Aviation Administration, the Oregon Department of Aviation, and the Federal Communication Commission stating that the proposed wireless communication facility complies with regulations administered by that agency, or that the facility is exempt from regulation.
- c. Conditional Use Permit Applications. In addition to the application requirements specified above, applications for conditional use permits shall include the following information.
- (1) A visual impact analysis showing the appearance of the proposed tower, antenna or ancillary facility from at least three points within a two-mile radius. The analysis shall include the following:
    - (a) A map of the vicinity within two miles of the proposed facility that shows where any portion of the tower would be visible;
    - (b) Photo-simulations, elevations or other visual or graphic simulations that shows the proposed facilities in place; and
    - (c) An assessment of potential mitigation measures.
  - (2) Documentation that alternative sites within a one-mile radius of the proposed site have been considered for technological feasibility and availability. Provide documentation why other technologically feasible or available sites are unacceptable.
  - (3) Documentation that co-location is impractical on existing structures for reasons of structural capacity, safety, available space, or failing to meet service coverage area needs.
  - (4) A current overall system plan for the city, showing facilities presently constructed or approved, and future expansion plans.
  - (5) A statement explaining the need for the location, design, and height of the proposed tower or antenna.

**D. Standards and Criteria**

1. Setback. A tower shall be set back at least 150 percent of its height from the nearest public road. All measurements are from the tower base except that a guyed tower shall be measured from the guy wire ground attachment.
2. Building Code Compliance. The construction of all telecommunication facilities shall comply with Roseburg code chapter 16.05 and the Oregon electrical safety specialty code and the uniform building code (Oregon structural specialty code) that is in effect at the time the building permit is approved.
3. Visual Impact:
  - a. Towers and attached antennas shall be made of galvanized steel, painted in neutral shades that are compatible with the surrounding environment, or constructed according to a stealth design, as approved by the city. Ancillary facilities shall be finished in such a way as to blend with the surrounding environment.
  - b. The lowest 6 feet of the facility or tower shall be visually screened by trees, large shrubs, solid walls, or fences.
  - c. Towers shall be located so that visual impacts from any point within the city to the ridgelines surrounding the city shall be minimized to the greatest possible extent.
  - d. Alternative structures and stealth designs shall be used whenever feasible in locating antennas.
4. Tower Height. Telecommunication facilities shall be subject to the height limitations of the zone in which the facility will be located as well as the height limitations in subsection 15. The height and mass shall not exceed that which is essential for its intended use and public safety.
5. Separation Between Towers. No tower shall be constructed within 2000 feet of any existing tower, unless this requirement is specifically waived by the city for purposes of mitigating visual impact or improving compatibility with other uses of the property.
6. Co-location. Joint use of any new telecommunication tower is required whenever feasible. New transmission towers shall be designed to accommodate co-location of additional providers. Providers who own or manage towers shall provide co-location sites for additional telecommunication service providers at a reasonable cost, to the extent practicable. All co-located facilities shall be designed in such a way as to be visually compatible with the structures on which they are placed.
7. Equipment Shelters. All associated transmittal equipment shall be housed in an enclosed shelter. Equipment shelters adjacent to towers shall not exceed 750 square feet in area or 12 feet in height. The shelter shall be screened and landscaped to minimize visual impact.
8. Fencing. Telecommunication facilities shall be surrounded with protective fencing and entered through a locked gate.
9. Roadways. All roadways constructed to access telecommunication facilities will be paved with an all-weather surface designed to support emergency equipment and of sufficient width, with approved turn-around in accordance with Uniform Fire Code rules and regulation.

10. Display. No signs, striping, graphics, or other attention-getting devices shall be permitted on towers, except that one non-illuminated sign, not to exceed three square feet, is permitted to identify the owner and to provide emergency contact information.
11. Lighting. No lighting shall be permitted on towers except as required by the Federal Aeronautics Administration or the Oregon Department of Aviation.
12. Removal of Wireless Telecommunication Facilities. A lease agreement between the property owner(s) and the provider shall be made available including a provision establishing responsibility for the removal of a wireless telecommunication facility within one year after active operation has been discontinued. The property owner(s) shall be responsible for insuring that this provision of the lease is met. The city is an intended third party beneficiary of the lease provision and shall be recorded as such with the county clerk as a deed covenant.
13. Modification of Telecommunication Facilities. All modifications of a telecommunication facility shall be reviewed as a new use, subject to the standards/design regulations pertinent to the zone designation in which it is located. It will be reviewed through a conditional use permit process.
14. Maintenance. All telecommunication facilities shall be maintained in good repair and in a safe and clean condition. All telecommunication facilities determined by the building department to be in other than good repair or a safe and clean condition shall be considered nuisances and subject to abatement proceedings.
15. Specific Standards and Criteria by Zone. All criteria of the underlying zoning district shall apply unless superceded by the following standards/criteria.
  - a. Telecommunication Facilities in Residential Zones. In the RH, R-1, R-2 and R-3 zones, telecommunication facilities will be allowed as follows:
    - (1) Antennas attached to existing alternative structures shall be allowed subject to conditional use permit approval. For the purpose of this section in residential zoning districts, “existing alternative structures” shall include the replacement of existing pole, mast, or tower structures (such as stadium light towers) for the combined purpose of their previous use and wireless facilities.
    - (2) A stealth design facility that does not exceed the height of the existing structure on which it is mounted shall be allowed subject to conditional use permit approval.
    - (3) Towers are prohibited.
  - b. Telecommunication Facilities in Non-Residential Zones.
    - (1) CS Zone. Telecommunication facilities shall be allowed upon conditional use permit approval, subject to the condition that the maximum height for any antenna or tower will not exceed 10 feet above the tallest structure or landscape element within 50 feet of the tower.
    - (2) C-1 and C-3 Zones. Telecommunication facilities attached to existing structures or alternative structures and towers

shall be allowed upon conditional use permit approval, subject to the condition that the maximum height for any antenna or tower shall not exceed 10 feet above the tallest structure or landscape element within 50 feet of the antenna or tower.

- (3) M-1 and M-2 zones. Telecommunication facilities shall be allowed upon conditional use permit approval, subject to the condition that the maximum height for any antenna or tower shall not exceed 160 feet from grade.

**2.6.210 RH Zone and slopes greater than 12% – Development Standards.** This section describes the permit requirements for lands proposed for development within the RH zone. Land designated RH has been determined to be in an area with slopes that are potentially unstable. Any cut, fill, or construction on these sites may add to this potential instability. The requirements of this section are intended to reduce as much as possible the adverse effects of development for the owner and for other properties which may be affected by ground movement, erosion or excessive runoff.

- A. Application Required.** All applications for development within the RH Zone or areas with slopes greater than 12% shall be accompanied by at least 3 copies of a site plan. Site plan requirements are detailed below in B.
- B. Site Plan Requirements.** The following plans shall be required for any development requiring a physical constraints permit:
1. Site Plan. A site plan clearly showing the following:
    - a. Project name.
    - b. Vicinity map.
    - c. Scale (the scale shall be at least one (1) inch equals fifty (50) feet or larger).
    - d. North arrow.
    - e. Date.
    - f. Street names and locations of all existing and proposed streets within or on the boundary of the proposed development.
    - g. Lot layout with dimensions for all lot lines.
    - h. Location and use of all proposed and existing buildings, fences and structures within the proposed development. Indicate which buildings are to remain and which are to be removed.
    - i. Location and size of all public utilities affected by the proposed development.
    - j. Location of drainage ways or public utility easements in and adjacent to the proposed development.
    - k. A topographic map(s) of the site at a contour interval of five (5) feet or less showing existing and proposed ground contours.
    - l. Location of all parking areas and spaces, ingress and egress on the site, and on-site circulation.
    - m. Locations of all existing natural features including, but not limited to, all trees of a caliper greater than 12 inches in diameter, natural drainage or creeks on the site, faults, and rock outcroppings. Indicate any contemplated modifications to a natural feature.
    - n. The proposed method of erosion control, water runoff control, and tree protection for the development.

- o. Building envelopes for all existing and proposed new parcels.
- 2. Additional Plans and Studies. The director may waive any of the above site plan elements, or require additional plans and studies necessary to evaluate the application including but not limited to:
  - a. Geologic Impact Statement. A site-specific geologic impact statement prepared by a qualified geotechnical engineer or geological consultant. If the size of a proposed development is increased, or the location of a proposed development is changed, a new impact statement may be required.
  - b. Certification of Plans. A statement prepared by a qualified geotechnical engineer or geological consultant certifying that the development plans and specifications comply with the limitations imposed by the geologic impact statement, and that the proposed construction will not adversely affect the site and adjacent properties.
- C. **Ministerial Actions**. Applications for hillside development which are not part of a planning action shall be reviewed and decided by the director as a Type I or II procedure.
- D. **Planning Actions**. Hillside developments which are part of either an administrative or quasi-judicial planning action shall be reviewed and decided by the approving authority per the appropriate provisions of a Type III or IV procedure.
- E. **Planning Commission Approval**. Hillside development approval shall be issued by the approving authority when the applicant has demonstrated the following:
  - 1. Hazards. The development will not cause damage or hazard to persons or property upon or adjacent to the area of development.
  - 2. Mitigation. The applicant has considered the potential hazards that the development may create and implemented reasonable measures to mitigate the potential hazards caused by the development.
  - 3. Impact. The applicant has taken all reasonable steps to reduce the adverse impact on the environment. Irreversible actions shall be considered more seriously than reversible actions. The approving authority shall consider the existing development of the surrounding area, and the maximum permitted development permitted by this Ordinance.
  - 4. Compliance. The development is in compliance with the requirements of this chapter and all other applicable city ordinances and state and federal regulations.
- F. **Changes to Plans**. The approving authority has the power to amend plans to include one or both of the following conditions if it is deemed necessary to mitigate any potential negative impact caused by the development:
  - 1. Natural Features. Require the retention and/or addition of trees and other vegetation, rocks, ponds, water courses and other natural features.
  - 2. Plan Changes. Require plan revision or modification to mitigate possible negative or irreversible effects upon the topography or natural features that the proposed development may cause.
- G. **Plan Denial**. The approving authority may deny the physical constraint permit if, in its opinion, one or more of the following is found to apply:
  - 1. The proposed development will have a detrimental effect on the lands regulated and protected by this chapter.



2. The proposed development is inconsistent with the comprehensive plan.
3. Where it appears that the proposal is part of a more extensive development that would require a master site plan, or other planning action. In this case, approval is to be postponed until a complete planning application has been processed.

**H. As-Built Certification.** Within 30 days after completion of the project, and before final acceptance of public improvements by the city engineer, the applicant shall submit to the director a statement prepared by a qualified geotechnical engineer or geological consultant certifying that the construction was completed in accordance with the plans and specifications as they relate to mitigation of the geologic impacts to the site and adjacent properties.

**I. Erosion, Slope Failure, Cuts and Fills.** This section describes standards for control of runoff, and the permit requirements for control of erosion and slope failure, and for cuts and fills. Any development which increases the natural runoff by decreasing the infiltration of the soil by any means shall conform to the following standards:

1. Roof Drainage. All roof drainage must be collected, controlled and directed either by underground pipe or concrete or asphalt gutter to a city street or storm drain or to a natural water course. The method of control and conveyance of storm water to the storm system shall be determined by the approving authority.
2. Hard Surface Drainage. All drainage from driveways, parking areas and other impervious surfaces must be collected, controlled and directed to a city street or storm drain or natural water course by underground pipe or concrete or asphalt gutter or disposed of on site. The method of control and conveyance of storm water to the storm system shall be determined by the approving authority.
3. Dry Wells. Connection to dry wells may be allowed for roof and hard surface drainage only with the approval of the city engineer, where city storm system is not available within 300 feet, the ground water table is well below the proposed dry well during all seasons, and a non-remonstrance agreement for future street and storm sewer improvements is signed by the applicant and recorded with the deed.
4. Alternative Storm Water Disposal Systems. Any alternative methods of storm water disposal not herein described, such as a bio-swale or leach field, must be approved by the city engineer.

**J. Erosion and Slope Failure.** All development on lands with highly erosive lands or slopes greater than 12%, and all development which removes vegetation or disturbs topsoil and leaves the disturbed soil exposed shall comply with the following standards:

1. Re-vegetation. Any exposed soil shall be revegetated in a manner to reestablish a complete vegetative cover within 1 year of time of planting. If irrigation is not provided, then the exposed soil must be planted with species which can survive without irrigation.
2. Maintenance. Vegetative cover, rock, dry or conventional masonry, or other permanent cover must be maintained in perpetuity on areas which have been disturbed.

3. Temporary Erosion Control. During construction, erosion control measures such as straw bales, sediment fences, etc., shall be incorporated into plans to control erosion from the site as needed.
4. Exception. The above restrictions shall not apply to areas of exposed bedrock which exhibit no erosion potential.
5. Utility Anchors. Concrete anchors shall be constructed when pipelines are installed at grades of 20% or greater, in accordance with city standards.

**K. Cuts and Fill.** All cuts, grading or fills shall be designed in a manner that will be stable for the intended use, conform to the applicable requirements of the most current versions of the uniform building code and the Oregon structural specialty code, and meet the following requirements:

1. Documentation. Prior to initiating any cut or fill in excess of 10 cubic yards, the applicant shall submit documentation showing the amount and location of each cut or fill.
2. Approval. Any cuts and/or fills greater than 50 cubic yards shall require a Site Plan approval per the provisions of Section 2.6.210(B).
3. 250+ Cubic Yards.
  - a. Any cuts and/or fills greater than 250 cubic yards must be designed by a licensed professional engineer.
  - b. If the cut and/or fill is not a city street or a public right-of-way, a licensed professional engineer shall declare to the city, after the cut and/or fill is completed, that it was constructed to plans and meets all standards set forth in the approved plans.
4. Right to Inspect. Nothing in this section shall abridge the city's right to inspect work in progress or in its completed state, to make appropriate measurements and tests to determine if the cut and fill was made according to plan, and to require alterations prior to final approval of the cut and/or fill.
5. Master Plans. Any development or partitioning which is proposed on erosive and slope failure lands must be shown on a master plan at the time the final plan or plat is filed. All development must comply with the master plan. Any improvements necessary for the implementation of the master plan (e.g., storm drains, gutters, etc.), must be constructed by the applicant prior to any development occurring on the parcels.
6. Foundations. All structures in erosive and slope failure lands shall have foundations which have been designed by a geotechnical engineer.
7. Building Envelopes. All newly created lots or lots modified by a lot line adjustment must include a buildable area of sufficient size to accommodate the uses permitted in the underlying zone, unless the division or lot line adjustment is for open space or conservation purposes.

## Chapter 3

### DESIGN STANDARDS

#### Sections:

#### **3.1 Design Standards Administration**

- 3.1.100 Applicability.
- 3.1.110 Types of Design Standards.

#### **3.2 Access and Circulation**

- 3.2.100 Purpose.
- 3.2.110 Vehicular Access and Circulation.
- 3.2.120 Pedestrian Access and Circulation.

#### **3.3 Landscaping, Street Trees, Fences and Walls**

- 3.3.100 Purpose.
- 3.3.110 Parking Area Landscaping.
- 3.3.120 Landscape Credit/Preservation.
- 3.3.130 Street Trees.
- 3.3.140 Fences and Walls.

#### **3.4 Vehicle and Bicycle Parking**

- 3.4.100 Purpose.
- 3.4.110 Applicability.
- 3.4.120 Automobile Parking Standards.
- 3.4.130 Bicycle Parking Standards.

#### **3.5 Infrastructure Standards**

- 3.5.100 Purpose and Applicability.
- 3.5.110 Transportation Standards.
- 3.5.120 Public Use Areas.
- 3.5.130 Sanitary Sewer and Water Service Improvements.
- 3.5.140 Storm Drainage Improvements.
- 3.5.150 Utilities.
- 3.5.160 Easements.
- 3.5.170 Construction Plan Approval and Assurances.
- 3.5.180 Installation.

#### **3.6 Reserved**

#### **3.7 Signs**

#### **3.8 Wetlands and Floodplains [reserved]**

## Section 3.1

### DESIGN STANDARDS ADMINISTRATION

**3.1.100 Applicability.** All development in the city must comply with the provisions of chapter 3, Design Standards. Development projects requiring land division, conditional use permit, and/or site design review approval require detailed findings demonstrating compliance with each section of chapter 3, as applicable. For smaller, less complex projects, fewer code provisions may apply and detailed findings may not be required where no discretionary land use or development permit decision is made.

## Section 3.2

### ACCESS AND CIRCULATION

**3.2.100 Purpose.** The purpose of this chapter is to ensure that developments provide safe, efficient and functional access and circulation, for pedestrians and vehicles. Section 3.2.110 provides standards for vehicular access and circulation. Section 3.2.120 provides standards for pedestrian access and circulation. Standards for transportation infrastructure improvements within the public right-of-way are provided in section 3.5.

#### **3.2.110 Vehicular Access and Circulation.**

##### **A. Intent and Purpose.**

1. The intent of this section is to manage vehicle access to development through a connected street system with shared driveways, where practicable, and circulation systems that allow multiple transportation modes and technology, while preserving the flow of traffic in terms of safety, roadway capacity, and efficiency. Access shall be managed to maintain an adequate “level of service” and to maintain the “functional classification” of roadways [See Transportation System Plan adopted November 2006]. Major roadways, including highways, arterials, and collectors, serve as the primary system for moving people and goods. “Access management” is a primary concern on these roads. Local streets and alleys provide access to individual properties. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function. This section balances the right of reasonable access to private property with the right of the public to safe and efficient travel.

2. To achieve this policy intent, county and local roadways have been categorized in the comprehensive plan by function and classified for access purposes based upon their level of importance and function. (See section 3.5, Infrastructure Standards) Regulations apply to these roadways for the purpose of reducing traffic accidents, personal injury, and property damage attributable to access systems, and to thereby improve the safety and operation of the roadway network. The regulations are also intended to protect the substantial public investment in the transportation system, facilitate economic development, and reduce the need for expensive remedial measures. These regulations also further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision of land.
- B. Applicability.** This section applies to all public roads, streets, and alleys within the city and to all properties abutting them.
- C. Access Permit Required.** Access to a public street requires an access permit in accordance with the following procedures:
1. Permits for access to City streets shall be subject to review and approval by city staff based on the standards contained in this section, and the provisions of section 3.5, Infrastructure Standards. Access permit applications are available at Sutherlin City Hall.
  2. Permits for access to state highways shall be subject to review and approval by Oregon Department of Transportation (ODOT) except when ODOT has delegated this responsibility to the city. The city will coordinate with ODOT on such permits as necessary.
  3. Permits for access to county highways shall be subject to review and approval by Douglas County. The city will coordinate with the county on such permits as necessary.
- D. Traffic Study Requirements.** The city or other agency with access jurisdiction may require a traffic study prepared by a traffic engineer to determine access, circulation and other transportation requirements. (See also, section 3.5, Infrastructure.)
- E. Conditions of Approval.** The city or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe, functional, and efficient operation of the street and highway system.
- F. Backing Movement.** Vehicle access to and from off-street parking areas, except for access to and from residential developments with one (1) or two (2) dwellings, shall not involve backing onto a public street.
- G. Access Standards and Options.** When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through

facilities, etc.), access shall be provided by one of the following methods (a minimum of ten (10) feet per lane is required). These methods are “options” to the developer/subdivider, unless one method is specifically required by the city as a condition of approval.

1. Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.
2. Option 2. Access is from a private street or driveway developed to city standards and connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A joint maintenance agreement and reciprocal access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive. The city may approve a private street under this option by a planned unit development (PUD), provided that public funds shall not be used to construct or maintain a private road, street, or drive. The city may require a public access easement as needed for emergency response access or refuse access.
3. Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access if the site abuts an arterial or collector street. Street accesses shall comply with the access spacing standards in subsection I, below.
4. Subdivisions Fronting Onto an Arterial Street. Subdivision lots fronting onto an arterial street shall not receive access onto the arterial street, except when alternate access (i.e., alleys or secondary streets) cannot be provided due to topographic or other physical constraints. In such cases, the city may require that access be provided by consolidating driveways for clusters of two (2) or more lots or for multiple buildings on a lot (e.g., includes flag lots and mid-block lanes).
5. Double-Frontage Lots. When a lot has frontage onto two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. A second access may be permitted only as necessary to accommodate projected traffic volumes. Except for corner lots, the creation of new double-frontage lots shall be prohibited in the residential district, unless topographic or physical constraints require the formation of such lots. When a fence or wall is built adjacent to the street in this case, a landscape buffer with trees and/or shrubs and ground cover not less than ten (10) feet wide shall be provided between the fence/wall and the sidewalk or street; maintenance shall be assured by the owner (i.e., through homeowner’s association, etc.).

6. Important Cross-References to Other Code Sections. Section 3.6 requires that buildings be placed at or near the front property line in some zones, and driveways and parking areas be oriented to the side or rear yard for multiple family and commercial uses. Section 3.5.110 contains private street standards.
- H. New Street.** The city may require the dedication of public right-of-way and construction of a street (e.g., frontage road, alley or other street) when access cannot otherwise be provided from an existing street, in conformance with city standards. The city considers the development impact in considering whether a new street is needed. See also, section 3.5, Infrastructure Standards.
- I. Access Spacing.** Driveway accesses shall be separated from other driveways and street intersections in accordance with the following standards and procedures:
1. Local Streets. A minimum of twenty-five (25) feet separation (as measured from the sides of the driveway/street) shall be required on local streets (i.e., streets not designated as collectors or arterials).
  2. Arterial and Collector Streets. Access spacing on collector and arterial streets, and at controlled intersections (i.e., with four-way stop sign or traffic signal) shall be determined based on the policies and standards contained in the city’s transportation system plan.
  3. Special Provisions for All Streets. Direct street access may be restricted for some land use types. For example, access consolidation, shared access, and/or access separation greater than that specified by Subsections 1-2, may be required by the city, county or ODOT for the purpose of protecting the function, safety and operation of the street for all users. Where no other alternatives exist, the permitting agency may allow construction of an access connection along the property line farthest from an intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.
- J. Number of Access Points.** For single-family (detached and attached), two (2) family, and three (3) family housing types, one (1) street access point is permitted per lot; except that two (2) access points may be permitted for two (2) family and three (3) family housing on corner lots (i.e., no more than one (1) access per street), subject to the access spacing standards in subsection I, above. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with section K, below, in order to maintain the required access spacing, and minimize the number of access points.
- K. Shared Driveways.** The number of driveways intersecting a public street shall be minimized by the use of shared driveways on adjoining lots where feasible. The city may require shared driveways as a condition of land

division or site plan review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

1. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. “Stub” means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. “Developable” means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).
2. Access easements and joint maintenance agreements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including any pathways and landscaping along such driveways, at the time of final plat approval (section 4.4) or as a condition of site development approval (section 4.3).

**L. Street Connectivity and Formation of Blocks Required.** In order to promote efficient vehicular and pedestrian circulation throughout the city, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

1. Block Length and Perimeter. The maximum block length and perimeter, measured along the property/right-of-way line, shall not exceed:
  - a. Residential Zoning. Six hundred (600) feet length and one thousand eight hundred (1,800) feet perimeter unless the previous adjacent layout or topographical conditions justify a variation;
  - b. C-1 Zoning. Four hundred (400) feet length and one thousand four hundred (1,400) feet perimeter;
  - c. C-3 Zoning. Six hundred (600) feet length only.
  - d. Industrial Zoning. No Standard.



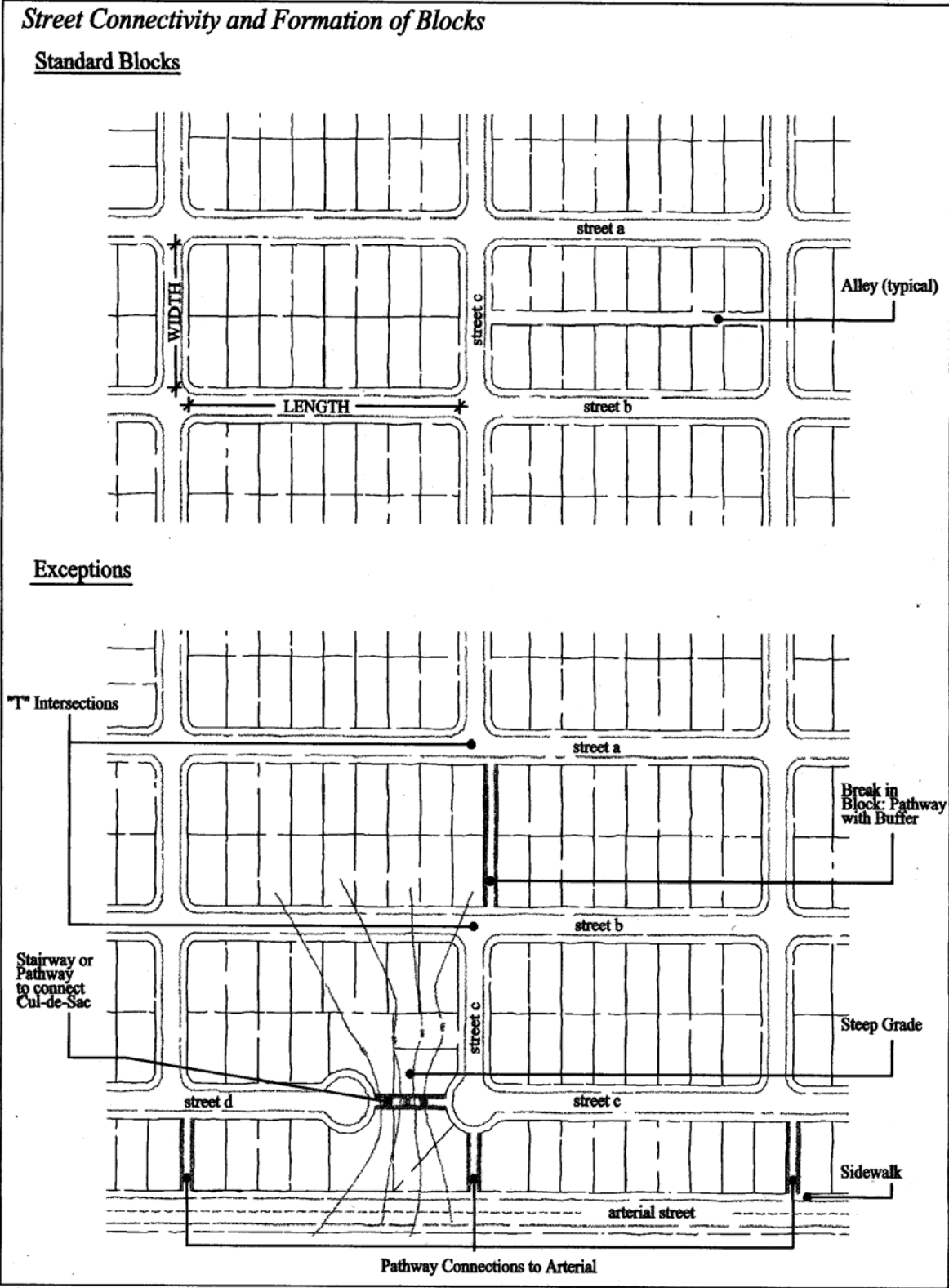


Figure 3.2.110L Street Connectivity and Formation of Blocks

2. Exception. Exceptions to standards in subsection L1 may be granted when blocks are divided by one or more pathway(s), in conformance with the provisions of section 3.2.120.A. Pathways shall be located to minimize out-of-direction travel by pedestrians and may be designed to accommodate bicycles.

**M. Driveway Openings.** Driveway openings shall be the minimum width necessary to provide the required number of vehicle travel lanes (ten (10) feet for each travel lane). The following standards (i.e., as measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians:

1. Single family, two (2) family, and three (3) family uses shall have a minimum driveway width of ten (10) feet, and a maximum width of twenty-four (24) feet, except that one (1) recreational vehicle pad driveway may be provided in addition to the standard driveway for lots containing more than seven thousand (7,000) square feet of area.
2. Multiple family uses with between four (4) and seven (7) dwelling units shall have a minimum driveway width of twenty (20) feet, and a maximum width of twenty-four (24) feet.
3. Multiple family uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more parking spaces, shall have a minimum driveway width of twenty-four (24) feet, and a maximum width of thirty (30) feet. These dimensions may be increased if the City determines that more than two (2) lanes are required based on the number of trips generated or the need for turning lanes.
4. Access widths for all other uses shall be based on ten (10) feet of width for every travel lane, except that driveways providing direct access to parking spaces shall conform to the parking area standards in chapter 3.4.
5. Driveway aprons (when required) shall be constructed of concrete to city standards and shall be installed between the street and the driveway or private drive, as shown above. Driveway aprons shall conform to ADA standards for sidewalks and pathways, which require a continuous route of travel that is a minimum of three (3) feet in width, with a cross slope not exceeding two (2) percent.

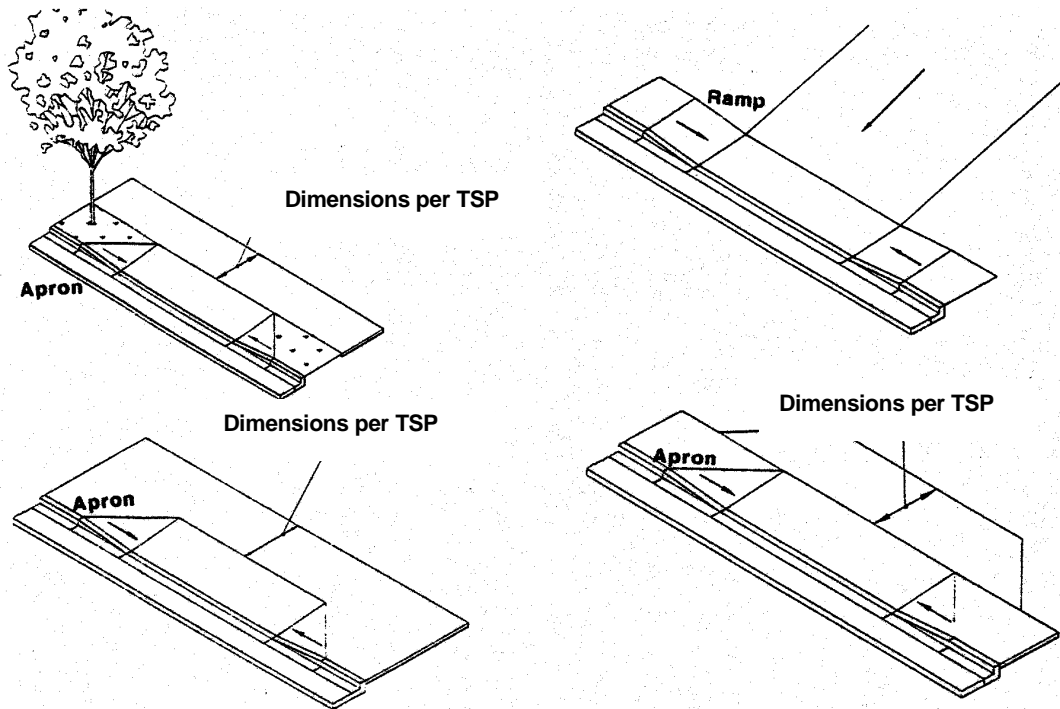


Figure 3.2.110M Driveway Openings

- N. Fire Access and Parking Area Turn-Arounds.** A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than one hundred fifty (150) feet from an existing public street or approved fire equipment access drive. Parking areas shall provide adequate aisles or turn-around areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner.
- O. Vertical Clearances.** Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of thirteen (13) feet six (6) inches for their entire length and width.
- P. Vision Clearance.** No signs, structures or vegetation in excess of three (3) feet in height shall be placed in “vision clearance areas”, as shown in figure 3.2.110P. The minimum required vision clearance area may be increased by the city upon finding that more sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.).

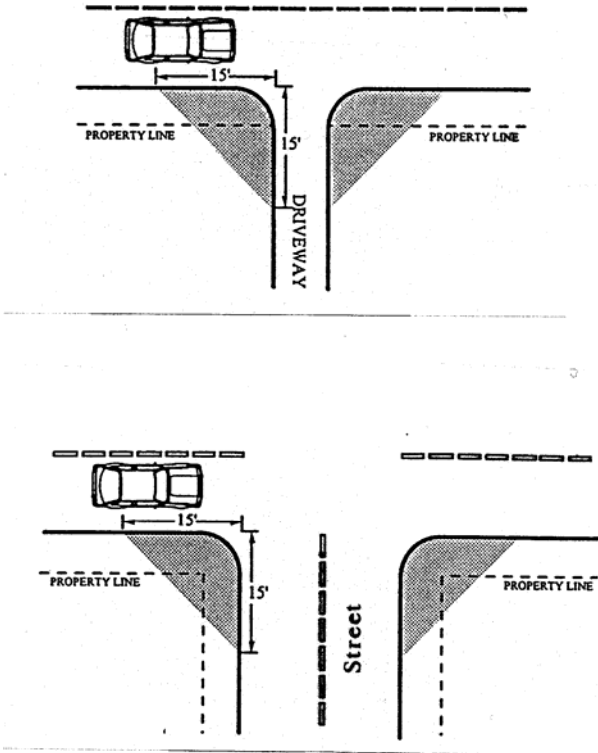


Figure 3.2.110P - Vision Clearance Areas

**Q. Flag Lots.** Flag lots may be created where the configuration of a parcel does not allow for standard width lots. A flag pole access drive may serve no more than two (2) dwelling units, including accessory dwellings and dwellings on individual lots. A drive serving more than one lot shall conform to the standards in subsections 1-4 below:

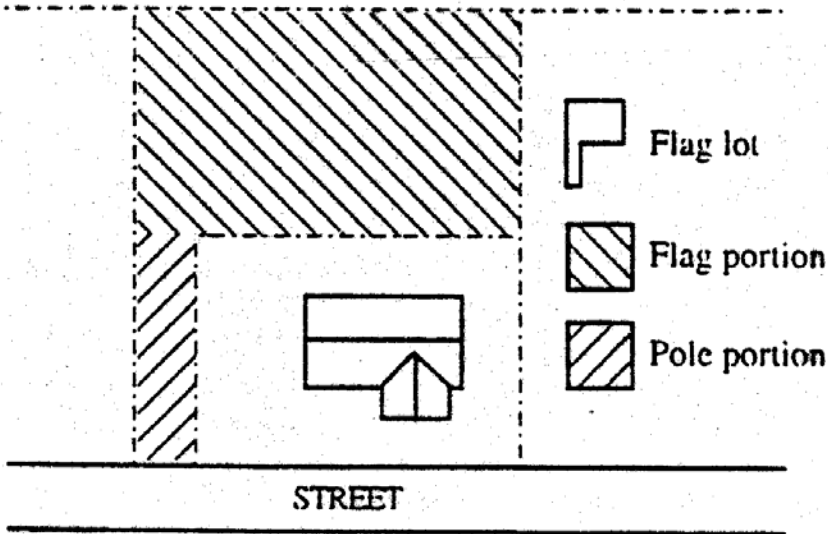


Figure 3.2.110(Q) – Flag Lot (Typical)

1. Driveway and Lane Width and Lot Frontage. The minimum width of all shared drives and lanes shall be twenty (20) feet of pavement with a minimum lot frontage width of twenty-five (25) feet wide throughout the driveway;
2. Easement. Where more than one (1) lot is to receive access from a flag pole drive, the owner shall record an easement granting access to all lots that are to receive access. The easement shall be so indicated on the preliminary plat;
3. Maximum Drive Lane Length. The maximum drive lane length is subject to requirements of the uniform fire code, but shall not exceed one hundred fifty (150) feet without an emergency turnaround approved by the city; and
4. Area Calculation. The flag pole portion of a lot shall not be counted for the purpose of meeting lot area requirements or determining setbacks.

**R. Construction.** The following standards shall apply to all driveways and private streets:

1. Surface Options. Driveways, parking areas, aisles, and turn-arounds shall be paved with asphalt, concrete or comparable surfacing; alternatively, a durable non-paving material such as pavers, or other materials approved by the city may be used to reduce surface water runoff and protect water quality.
2. Surface Water Management. When a paved surface is used, all driveways, parking areas, aisles and turn-arounds shall have on-site collection or infiltration of surface waters to minimize sheet flow of such waters onto public rights-of-way and abutting property. Surface water facilities shall be constructed in conformance with city standards.
3. Driveway Aprons. When driveway approaches or “aprons” are required to connect driveways to the public right-of-way, they shall be constructed to city standards and paved with concrete surfacing. See subsection M, above.

**3.2.120 Pedestrian Access and Circulation.**

- A. Pedestrian Access and Circulation.** To ensure safe, direct and convenient pedestrian circulation, all developments, except single family detached housing (i.e., on individual lots), shall provide a continuous pedestrian and/or multi-use pathway system. (Pathways only provide for pedestrian circulation. Multi-use pathways accommodate pedestrians and bicycles, and may also be designed to accommodate personal electronic vehicles such as golf carts or scooters.) The system of pathways shall be designed based on the standards in subsections 1-3, below:

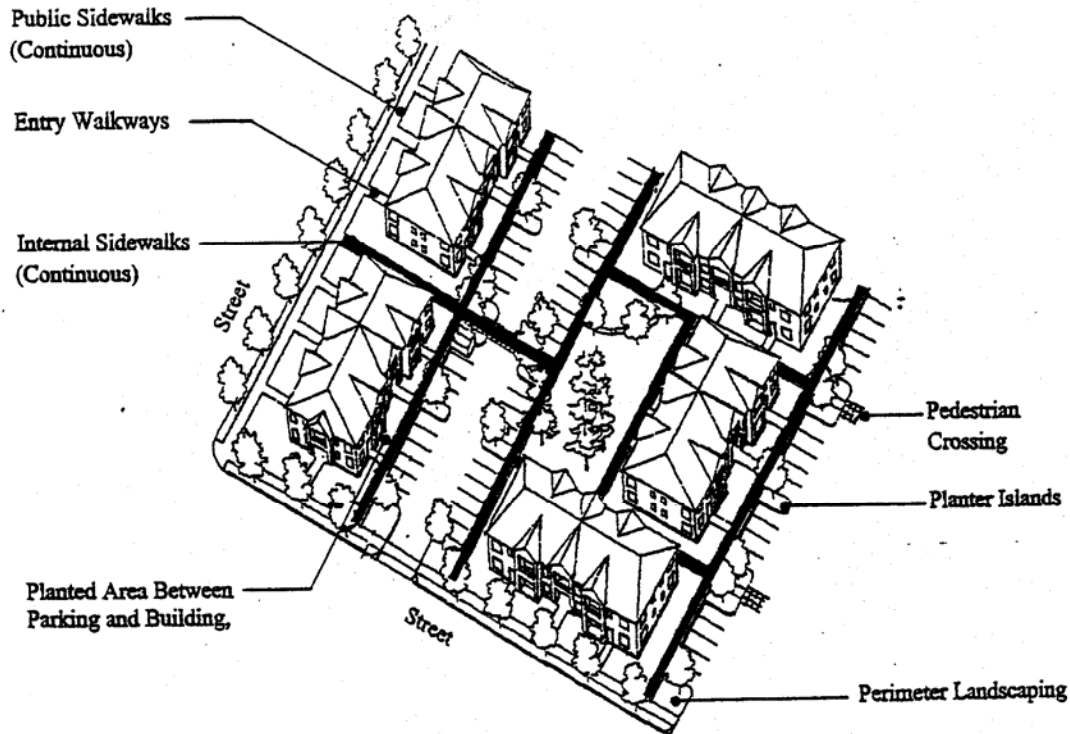


Figure 3.2.120A - Pedestrian Pathway System (Multifamily Development Example)

1. Continuous Pathways. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible. The developer may also be required to connect or stub pathway(s) to adjacent streets and private property, in accordance with the provisions of Section 3.2.110 - Vehicular Access and Circulation, and Section 3.5, Infrastructure.
2. Safe, Direct, and Convenient Pathways. Pathways within developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets, based on the following definitions:
  - a. “Reasonably direct” means route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users. Multi-use pathways may be designed with curves to minimize bicycle speed.
  - b. “Safe and convenient” means bicycle and pedestrian routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.
  - c. For commercial, industrial, mixed use, public, and institutional buildings, the “primary entrance” is the main public entrance to the building. In the case where no public

entrance exists, street connections shall be provided to the main employee entrance.

- d. For residential buildings the “primary entrance” is the front door (i.e., facing the street). For multifamily buildings in which each unit does not have its own exterior entrance, the “primary entrance” may be a lobby, courtyard or breezeway which serves as a common entrance for more than one (1) dwelling.
3. Connections within Development. For all developments subject to site plan review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable.
  4. Street Connectivity. Pathways (for pedestrians and bicycles) shall be provided at or near mid-block where the block length exceeds the length required by section 3.2.110. Pathways shall also be provided where cul-de-sacs or dead-end streets are planned, to connect the ends of the streets together, to other streets, and/or to other developments, as applicable. Pathways used to comply with these standards shall conform to all of the following criteria:
    - a. Multi-use pathways (i.e., for pedestrians and bicyclists) are no less than ten (10) feet wide and located within a twenty (20) foot wide right-of-way or easement that allows access for emergency vehicles;
    - b. If the streets within the subdivision or neighborhood are lighted, the pathways shall also be lighted;
    - c. Stairs or switchback pathways using a narrower right-of-way/easement may be required in lieu of a multi-use pathway where grades are steep;
    - d. The City may require landscaping within the pathway easement/right-of-way for screening and the privacy of adjoining properties;
    - e. The hearings body or city planner may determine, based upon facts in the record, that a pathway is impracticable due to: physical or topographic conditions (e.g., freeways, railroads, extremely steep slopes, sensitive lands, and similar physical constraints); buildings or other existing development on adjacent properties that physically prevent a connection now or in the future, considering the potential for redevelopment; and sites where the provisions of recorded leases, easements, covenants, restrictions, or other agreements recorded as of the effective date of this code prohibit the pathway connection.
- B. Design and Construction.** Pathways shall conform to all of the standards in subsections 1-5 below:

1. Vehicle/Pathway Separation. Where pathways are parallel and adjacent to a driveway or street (public or private), they shall be raised six (6) inches and curbed, or separated from the driveway/street by a five (5) foot minimum strip with bollards, a landscape berm, or other physical barrier. If a raised pathway is used, the ends of the raised portions must be equipped with curb ramps.
2. Housing/Pathway Separation. Pedestrian pathways shall be separated a minimum of five (5) feet from all residential living areas on the ground-floor, except at building entrances. Separation is measured from the pathway edge to the closest dwelling unit. The separation area shall be landscaped in conformance with the provisions of chapter 3.3. No pathway/building separation is required for commercial, industrial, public, or institutional uses.
3. Crosswalks. Where pathways cross a parking area, driveway, or street (“crosswalk”), they shall be clearly marked with contrasting paving materials, humps/raised crossings, or painted striping. An example of contrasting paving material is the use of a concrete crosswalk through an asphalt driveway. If painted striping is used, it shall consist of thermo-plastic striping or similar type of durable application.
4. Pathway Surface. Pathway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, at least six (6) feet wide, and shall conform to Americans With Disabilities Act (ADA) requirements. Multi-use pathways (i.e., for bicycles and pedestrians) shall be the same materials, at least ten (10) feet wide. Multi-use pathways meeting these standards shall be provided wherever such pathways are indicated in the transportation system plan, parks master plan, or comprehensive plan. Such multi-use pathways shall be provided within a minimum twenty (20) foot wide public access easement or dedicated right-of-way. (See also, section 3.5 Infrastructure Standards.)
5. Accessible routes. Pathways shall comply with the ADA, which requires accessible routes of travel.



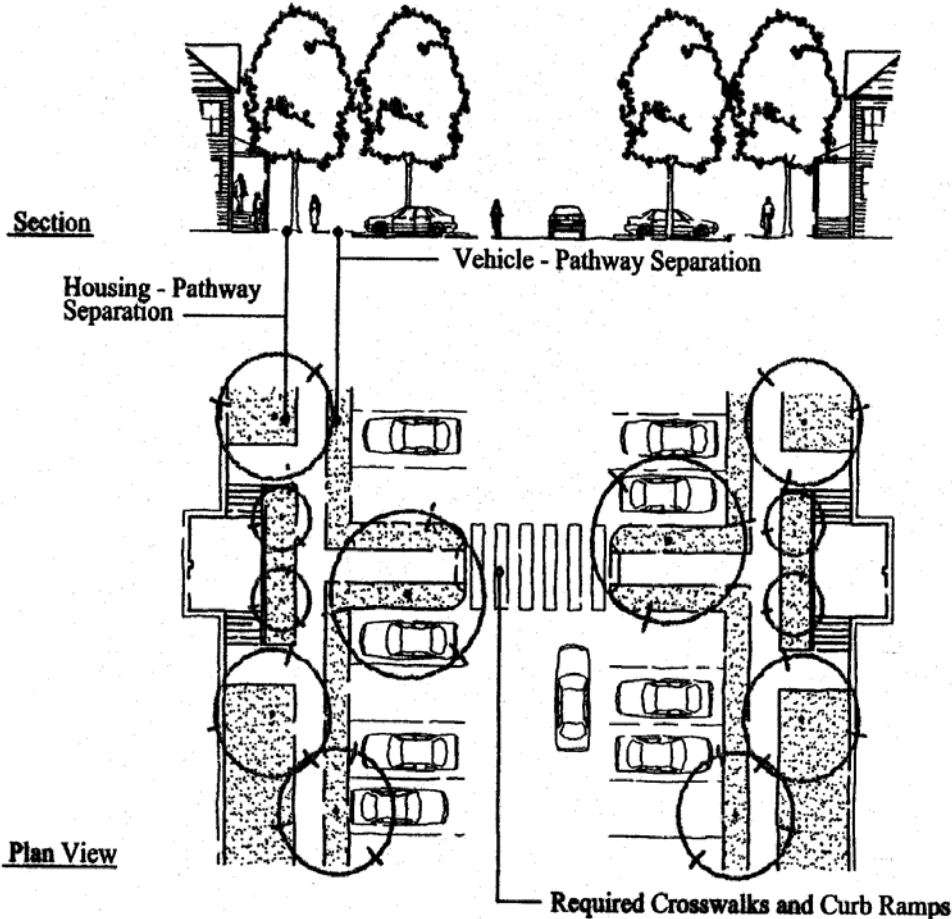


Figure 3.2.120B - Pathway Standards (Typical)

Section 3.3

PARKING AREA SCREENING, LANDSCAPING, STREET TREES, FENCES AND WALLS

**3.3.100 Purpose.** The section is intended to promote community health, safety and welfare by setting development standards and incentives for improving the appearance of the community through parking area landscapes, including street trees, landscape protection/credit and fences and walls. Together, these elements of the natural and built environment contribute to the visual quality, environmental health and character of the community. Trees and landscaping provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic and improve water quality by reducing water temperature, erosion and sedimentation. Walls, fences, trees and other landscape materials also provide vital screening and buffering between land uses. The chapter is organized into the following sections:

- A. **Section 3.3.110 – Parking Area Landscaping and Buffering.** The design of parking area landscaping shall be a requirement and responsibility of the developer for every new development and should consider visibility of signage, traffic circulation, comfortable pedestrian access, and aesthetics. Trees shall not be cited as a reason for applying for or granting a variance on placement of signs.
- B. **Section 3.3.120 – Landscape Credit/Preservation.** Provides a system of landscape credits available to property owners and developers to preserve existing trees and incorporate these trees into the landscape system.
- C. **Section 3.3.130 - Street Trees.** Identifies approved and prohibited street trees.
- D. **Section 3.3.140 - Fences and Walls.** Sets standards for new fences and walls, including maximum allowable height and materials, to promote security, personal safety, privacy, and aesthetics.

**3.3.110 Parking Area Landscaping and Buffering.** This section shall apply to all developments requiring site plan review approval and all parking and maneuvering areas.

- A. **Application.** Parking area landscaping and buffering standards shall apply to all public and private outdoor parking areas that provide for 4 or more spaces or to any paved vehicular use area 3000 square feet or larger on the same lot or on contiguous tax lots under the same common ownership or use. Parking area landscaping requirements are limited to 10% of the gross land area.
- B. **Exemptions.** The parking area landscaping and buffering standards shall be exempt for building additions which increase the size of an existing building by less than 20% of the gross floor area. In addition, any paved vehicular area which provides fewer than 10 spaces shall be exempt from the interior lot line buffering and interior parking area landscaping requirements. Areas used specifically as a utility storage lot or a truck loading area shall also be exempt from interior parking area landscaping requirements unless the use abuts an R-1 property.
- C. **Specifications for Trees and Plant Materials.**
  1. Deciduous Trees. Deciduous shade or ornamental trees shall be a minimum 1½ inch caliper measured 6 inches above ground, balled and burlapped.
  2. Conifer or Evergreen Trees. Coniferous or evergreen trees shall be a minimum of 6 feet in height above ground, balled and burlapped.
  3. Evergreen and Deciduous Shrubs. Evergreen and deciduous shrubs shall be at least 1 to 5 gallon size.
  4. Living Ground Covers. Living ground covers shall be fully rooted and shall be well branched or leafed.
  5. Other Ground Covers. Other ground covers shall consist of a decorative treatment of bark, rock, or other attractive ground cover.

6. Lawns. Lawns shall consist of grasses, including sod, or seeds. Lawns shall be 100% coverage and weed free.

**D. Parking Area Buffering.** Parking areas shall be buffered from the required areas listed below with a 5 foot wide strip of landscaping materials beginning at the property line.

1. Required Buffer Areas. The parking area shall be buffered from the following areas:
  - a. Street frontage. The parking area shall be buffered from adjacent lineal street frontage, exclusive of driveways, entrances, and exits, with the designated landscaping strip.
  - b. Interior Lot Lines. The parking area shall be buffered from the interior lot line when abutting residential zones with the designated landscaping strip. Where screening is required, the screening area shall be incorporated into the landscaping strip. This requirement shall not in any way prohibit joint access driveways between two or more adjacent parking areas.
2. Buffer Area Landscaping Standards. Minimum landscaping acceptable per 50 lineal feet of required buffer area is as follows:
  - a. One tree at least 6 feet in height. The tree shall be selected from the street tree list (See section 3.3.130 (D) (E)) in order to avoid root damage to pavement and utilities.
  - b. 5 five-gallon or 8 one-gallon shrubs.
  - c. The remaining area shall be treated with living ground cover, lawn, or other ground cover.

**E. Interior Parking Area Landscaping.** Minimum area required to be landscaped within a parking lot shall be no less than five percent (5%) of the total area within the paved parking and maneuvering area or at a ratio of one landscape planter per 10 parking spaces, whichever is greater. Area landscaped to meet minimum interior parking area landscaping requirements shall be located within the paved parking lot area, not in adjacent buffer or screening areas. This requirement shall not in any way prohibit a developer from grouping the required interior landscaping area in one or more sections of the parking lot. Trees and landscaping shall be installed as follows:

1. Each 160 square feet of required interior parking area landscaping shall contain 1 tree at least 6 feet high. At least 2 shrubs shall be placed for every 100 square feet of interior parking lot landscaping. The remaining planter area shall be treated with ground cover.
2. The tree species may be selected from the street tree list (See section 3.3.130) to avoid root damage to pavement and utilities, and damage from droppings on parked cars and walkways.
3. Planters shall be surrounded by a perimeter curb not less than 4 inches high.

4. The tree shall be planted in a landscaped area such that the tree trunk is at least 2 feet from any curb or paved area.
- F. Prohibited Trees.** Trees listed in Section 3.3.130 (D) and (E) are prohibited for use as street trees as their roots cause damage to sewers, pavements, and sidewalks. Furthermore, these trees are prohibited for planting in a parking lot buffer area adjacent to a street or right-of-way.
- G. Irrigation of Required Landscaping.** All required landscaped areas must be provided with a piped underground water supply irrigation system, unless a licensed landscape professional submits written verification that the proposed plant materials do not require irrigation. Irrigation systems installed in the public right-of-way require an encroachment permit from the city engineer.
- H. Landscape Plan Submittal Requirements.** A landscape plan, drawn to scale, must accompany site plan review applications. The plan must show the following elements, drawn to scale, in conjunction with the requirements of this code:
1. Type of landscaping, fencing, or other screening materials, including name of plant species. Heights of landscaping materials shall also be noted.
  2. Location and size of landscaped areas on the development site.
  3. Abutting land uses and/or zones.
  4. If existing trees and plant materials are proposed to be preserved, methods for the protection of the plant material shall be noted. This shall include the drip line measurements for trees (See section 3.3.120) below for information on landscape area credit for the preservation of existing trees).
  5. Plan for underground irrigation system.
- I. Performance Guarantees.** Certificates of occupancy may be issued prior to the complete installation of all required landscaping if a signed bid contract equal to 100% of the cost of plant materials and labor is submitted to the planning director. In addition, the applicant will be required to sign a standard development agreement to ensure such landscape installation within nine months of occupancy permit issuance.
- J. Clear Vision.** All buffering and landscaping material shall not encroach into the Clear Vision areas at the intersections of streets or at the intersection of a street and driveway, as defined in Section 3.2.110 (P).
- K. Maintenance of Landscaped Areas.** It shall be the continuing obligation of the property owner to maintain required landscaped areas in an attractive manner, free of weeds and noxious vegetation. In addition, the minimum amount of required living landscape materials shall be maintained.

**3.3.120 Landscape Area Credit/Preservation.** A system of landscape area credits has been established as an incentive for property owners and developers to preserve existing trees and to include them in the landscape plan for proposed developments.

- A. **Criteria for Landscape Credit.** Tree(s) preserved on the development site may reduce the total landscaped area required for interior parking lots. Credit shall be considered for approval if a qualified arborist or landscape professional submits the following information to the planning director:
  - 1. A statement confirming that the size, health, and physical appearance of the tree(s) warrant landscape credit.
  - 2. A protection plan for the trees' health during construction. This shall include verification of the radius of the drip line area or an area recommended by a licensed landscape professional. The drip line area shall be defined as the ground area and vegetation measured from the outermost branches to the trunk of the tree. Trees preserved for landscape credit shall not have construction or grading occur within the drip line.
  - 3. A plan for future maintenance of the tree(s).
- B. **Landscape Credit System.** The planning director shall grant landscape credit based on the total area of the preserved tree drip line or the number of required interior parking area planters. The area of the drip line shall be directly credited toward the required landscaping area for interior parking lots. As an alternative to this crediting method, the planning director may reduce the number of required interior parking area planters by 1 for each preserved tree on the development site. In order to secure credit for either method, the entire area within the drip line of the preserved tree must be protected from encroachment unless an alternative is otherwise approved by the planning director.
- C. **Limits to Landscape Area Credit.** Landscape credits for preserved trees shall not eliminate or reduce the parking area screening and buffering requirements. Landscape credit shall be applied only to the required interior parking area landscaping. Credit for preserved trees shall be limited to 60% of the total interior parking area landscaping requirement. The remaining 40% shall be provided according to section 3.3.110(E). Landscape credit shall not be granted for trees preserved within a required riparian habitat protection area.

**3.3.130 Street Trees.** Street trees shall be provided for all developments that are subject to land division or site plan review. The city may count preserved significant trees adjacent to streets toward street tree requirements. Requirements for street tree planting strips are provided in section 3.5 Infrastructure Standards. Street trees planted within the street buffer, within sidewalks or adjacent to sidewalks shall conform to the following lists:

- A. **Approved Street Trees.** The following tree species are recommended for use as street trees or trees planted within five feet of a public sidewalk or street:
  - 1. Small Trees. Small or narrow stature trees (under 25 feet, less than 20 feet wide) may be spread at any interval 20 feet apart or greater. Sidewalk cuts shall be a minimum of 4'x4'.
    - a. Acer Ginnala Flame – Flame Maple

- b. Cornus Florida – Flowering Dogwood
  - c. Pyrus Calleryana – Aristocrat – Aristocrat Pear
  - d. Pyrus Calleryana Glens Form – Chanticleer Flowering Pear
  - e. Prunus Sargentii “Columnaris” – Sergeant Columnar Cherry
  - f. Cercis Canadensis – Eastern Redbud
2. Medium Trees. Medium sized tree (25-40 feet tall, 16-35 feet wide) may be spread at any interval 30 feet apart or greater. Sidewalk cuts shall be a minimum of 5’x5’.
- a. Acer Platanoides – “Crimson King” – Crimson King Maple
  - b. Prunus serrulata – “Kwanzan” – Kwanzan Cherry
  - c. Cercis Canadensis – Eastern Redbud
  - d. Acer Rubrum “October Glory” – October Glory Maple
  - e. Pyrus calleryana “Redspire” – Redspire Pear
  - f. Nyssa Sylvatica – Black Tupelo
  - g. Prunus Subhirtella “Autumnalis Rosea” – Autumn Flowering Cherry
3. Large Trees. Large trees (over 40 feet, more than 35 feet wide) may be spaced at any interval 40 feet or greater. Large trees may only be planted within sidewalks that are a minimum of 12 feet in width and the sidewalk cuts shall be a minimum of 6’x6’.
- a. Acer Rubrum “Armstrong” – Armstrong Maple
  - b. Acer Rubrum “Franksred” – Red Sunset Maple
  - c. Fraxinus Oxycarpa “Raywood” – Raywood Ash
  - d. Tilia Cordata – “Greenspire” – Greenspire Linden
  - e. Acer Saccharum “Green Mountain” – Sugar Maple
  - f. Fraxinus Americana “Junginger” – Autumn Purple Ash
  - g. Quercus Palustris – Pin Oak
  - h. Liriodendron Tulipifera – Tulip Tree
  - i. Fraxinus Pennsylvanica “Marshall” – Marshall Ash
4. Trees Allowable Under Power Lines - Small Trees. Small or narrow trees (under 25 feet, less than 20 feet wide) may be spread at any interval 20 feet apart or greater. Sidewalk cuts shall be a minimum of 4’x4’.
- a. Cercis Canadensis – Eastern Redbud
  - b. Acer Ginnala – Flame Maple
  - c. Cornus Kousa – Kousa Dogwood
  - d. Prunus Cerasifera “Thundercloud” – Thundercloud Plum
- B. Prohibited Trees** – The following tree species are prohibited from use as street trees or within 25 feet of a sidewalk or street right-of-way as their roots cause damage to sewers, pavement and sidewalks:
- 1. Salix spp - Willows
  - 2. Populus spp – Cottonwoods/Poplars
  - 3. Acer macrophyllum – Big Leaf Maple
- C. Not Recommended Street Trees** – Tree species not recommended for use as street trees or near public facilities. However, these tree species may be

planted if the identified issues are satisfactorily addressed, accepted by the owner and identified on the site plan. Trees may be acceptable under certain conditions.

1. Acer Negundo – Box Elder
2. Ailanthus – Tree of Heaven; invasive roots
3. Albizzia julibrissi – Silk Tree; litter, aggressive roots
4. Alnus rubra – Red Alder; short lived, brittle, favorite of tent caterpillars.
5. Betula spp – Birches; aphids, low branching, invasive roots.
6. Catalpa – invasive roots, short lived, litter.
7. Crataegus spp – Hawthorns; insect and disease prone, aphids.
8. Platanus spp – Sycamore, London Plane; invasive vigorous root system, anthracnose disease.
9. Robinia Pseudoalacia – black locust; brittle, aggressive roots, thorny.
10. Sorbus Ausuparia –Mountain Ash; fruit may be a sidewalk hazard.
11. Ulmus spp – Elms; elm leaf beetle, dutch elm disease, invasive roots.
12. Liquidambar Styraciflua – Sweet Gum; invasive root system.
13. Fruit trees, Nut trees and all conifers.

**3.3.140**  
walls:

**Fences and Walls.** The following standards shall apply to all fences and

- A. General Requirements.** All fences and walls shall comply with the standards of this section. The city may require installation of walls and/or fences as a condition of development approval, in accordance with section 4.5, Conditional Use Permits or section 4.3, Development Review and Site Plan Review. Walls built for required landscape buffers shall comply with section 3.3.120.
- B. Dimensions.**
  1. The maximum allowable height of fences and walls is six (6) feet as measured from the lowest grade at the base of the wall or fence, except that retaining walls and terraced walls may exceed six (6) feet when permitted as part of a site development approval, or as necessary to construct streets and sidewalks. A building permit is required for walls exceeding six (6) feet in height, in conformance with the uniform building code.
  2. The height of fences and walls along or within a front yard setback shall not exceed four (4) feet (except decorative arbors, gates, etc.), as measured from the grade closest to the street right-of-way.
  3. Fences and walls shall comply with the vision clearance standards of section 3.2.110.O.
- C. Prohibited Materials.** Barbed wire, razor wire, and similar armor-type fences are prohibited, accept when specifically required as a condition of approval through site plan review or conditional use permit approval.

- D. Maintenance.** For safety and for compliance with the purpose of this chapter, walls and fences required as a condition of development approval shall be maintained in good condition, or otherwise replaced by the owner.

### Section 3.4

#### VEHICLE AND BICYCLE PARKING

**3.4.100 Purpose.** The purpose of this chapter is to provide basic and flexible standards for development of vehicle and bicycle parking. The design of parking areas is critically important to the viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Historically, some communities have required more parking than is necessary for some land uses, paving extensive areas of land that could be put to better use. Because vehicle parking facilities can occupy large amounts of land, they must be planned and designed carefully to use the land efficiently while maintaining the visual character of the community. This chapter recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements (i.e., “minimum” and “performance-based” standards). This chapter also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children, as well as adults, need safe and adequate spaces to park their bicycles throughout the community.

**3.4.110 Applicability.** All developments subject to site plan review (section 4.3), including development of parking facilities, shall comply with the provisions of this chapter.

#### **3.4.120 Vehicle Parking Standards.**

- A. Minimum Off-Street Vehicle Parking.** The minimum number of required off-street vehicle parking spaces (i.e., parking that is located in parking lots and garages and not in the street right-of-way) shall be determined based on the standards in Table 3.4.120.A, except that there is no minimum number of off-street parking spaces required in the downtown commercial (C-1) zone. The number of required off-street vehicle parking spaces shall be determined in accordance with the following standards. Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape. Credit is allowed for “on-street parking”, as provided below in 3.4.120 B.



Table 3.4.120.A - Vehicle Parking - Minimum Standards Option

Use	Parking Standard
<b>Residential Uses</b>	
Single family detached housing.	2 parking spaces per detached single family dwelling or manufactured home on an individual lot.
Two- and three-family housing	1.5 spaces per dwelling unit.
Multi-family and single family attached housing. a. Studio units or 1-bedroom units less than 500 sq. ft b. 1-bedroom units 500 sq. ft. or larger c. 2-bedroom units d. 3-bedroom or greater units e. Retirement complexes for seniors 55-years or greater f. Visitor Parking	a. 1space/unit. b. 1.50 spaces/unit. c. 1.75 spaces/unit. d. 2 spaces/unit e. 1 space per unit.  f. 1 space for every 10 dwellings; no visitor parking requirement for projects with 1-9 dwellings where on-street parking is present.
Rooming and boarding houses, dormitories.	2 spaces for each 3 guest rooms, or one per three beds, whichever is more;
Senior housing.	Same as for retirement complexes
Manufactured home parks.	Same as for single family detached housing.
Accessory dwelling.	None required.
<b>Commercial Uses</b>	
Auto, boat or trailer sales, retail nurseries and similar bulk retail uses.	1 space per 1,000 square feet of the first 10,000 square feet of gross land area; plus one space per 5,000 square feet for the excess over 10,000 square feet of gross land area; and one space per two employees.
Business, general retail, personal services.	General - 1 space for 350 square feet of gross floor area. Furniture and appliances - one space per 750 square feet of gross floor area.
Chapels and mortuaries.	1 space per 4 fixed seats in the main chapel.
Hotels and motels.	1 space for each guest room, plus 1 space for the manager.
Offices.	Medical and Dental Offices - 1 space per 350 square feet of gross floor area;
General Offices.	1 space per 450 square feet of gross floor area.
Restaurants, bars, ice cream parlors and similar uses.	1 space per four seats or one space per 100 sq. ft. of gross leasable floor area, whichever is less.

<b>Table 3.4.120.A - Vehicle Parking - Minimum Standards Option</b>	
<b>Use</b>	<b>Parking Standard</b>
Theaters, auditoriums, stadiums, gymnasiums, similar uses.	1 space per 4 seats.
<b><i>Industrial Uses</i></b>	
Industrial uses, except warehousing.	1 space per 2 employees on the largest shift or for each 700 square feet of gross floor area, whichever is less, plus 1 space per company vehicle
Warehousing.	1 space per 1,000 square feet of gross floor area or for each 2 employees, whichever is greater, plus 1 space per company vehicle.
Public utilities (gas, water, telephone, etc.), not including business offices.	1 space per 2 employees on the largest shift, plus 1 space per company vehicle; a minimum of two spaces is required.
<b><i>Public and Institutional Uses</i></b>	
Child care centers having 13 or more children.	1 space per 2 employees; a minimum of 2 spaces is required.
Churches and similar places of worship.	1 space per every 100 square feet of combined sanctuary and school space (includes accessory uses).
Golf courses, except miniature.	8 spaces per hole, plus additional spaces for auxiliary uses set forth in this section. Miniature golf courses -4 spaces per hole.
Hospitals.	2 spaces per patient bed.
Nursing and convalescent homes.	1 space per 3 patient beds.
Rest homes, homes for the aged, or assisted living.	1 space per 2 patient beds or 1 space per apartment unit.
Schools, elementary and junior high.	1 ½ space per classroom, or the requirements for public assembly areas as set forth herein, whichever is greater.
High schools.	1 ½ spaces per classroom, plus 1 space per 10 students the school is designed to accommodate, or the requirements for public assembly as set forth herein, whichever is greater.
Colleges, universities and trade schools	1 ½ spaces per classroom, plus 1 space per 5 students the school is designed to accommodate, plus requirements for on-campus student housing.
<b><i>Unspecified Uses and Parking Demand Study Option</i></b>	
Where a use is not specifically listed in this table, or an alternative parking	Similar Use Ruling/City Planner Code Interpretation

Table 3.4.120.A - Vehicle Parking - Minimum Standards Option

Use	Parking Standard
<p>standard is proposed, parking requirements shall be determined based on a parking demand study and/or by finding that a use is similar to one or more use(s) listed in terms of parking needs.</p>	

- B. On-Street Parking Credit.** The amount of off-street parking required shall be reduced by one (1) off-street parking space for every on-street parking space adjacent to the development. On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed in the downtown commercial (C-1) zone. The following constitutes an on-street parking space:
1. Parallel parking, each twenty-four (24) feet of uninterrupted curb;
  2. Forty-five (45) or sixty (60) degree diagonal, each with eighteen (18) feet of curb;
  3. Ninety (90) degree (perpendicular) parking, each with ten (10) feet of curb;
  4. Curb space must be connected to the lot which contains the use;
  5. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and
  6. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces is permitted.
- C. Parking Location and Shared Parking.**
1. Location. Vehicle parking is allowed only on approved parking shoulders (streets), within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this code. Specific locations for parking are indicated in chapter 2 for some land uses (e.g., the requirement that parking be located to side or rear of buildings, with access from alleys, for some uses). (See also, section 3.2, Access and Circulation).
  2. Off-site parking. Except for single family dwellings, the vehicle parking spaces required by this chapter may be located on another parcel of land, provided the parcel is within three hundred (300) feet of the use it serves. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written instrument.

3. Mixed uses. If more than one (1) type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.
4. Shared parking. Required parking facilities for two (2) or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.
5. Availability of facilities. Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers and/or employees, as applicable. Signs shall conform to the standards of section 3.7.

**D. Maximum Number of Parking Spaces.** The number of parking spaces provided by any particular use in ground surface parking lots shall not exceed the required minimum number of spaces provided by this section by more than thirty (30) percent. Spaces provided on-street, or within the building footprint of structures, such as in rooftop parking, or under-structure parking, or in multi-level parking above or below surface lots, may not apply towards the maximum number of allowable spaces. Parking spaces provided through “shared parking” also do not apply toward the maximum number.

- E. Parking Area Dimensions.** Minimum dimensions for parking spaces:
1. Motor vehicle parking spaces shall measure eight (8) feet six (6) inches wide by eighteen (18) feet long or by sixteen (16) feet long, with not more than a two (2) foot overhang when allowed;
  2. All parallel motor vehicle parking spaces shall measure eight (8) feet six (6) inches by twenty-two (22) feet;
  3. End spaces for motor vehicles shall provide a three (3) foot maneuvering area. (See figure 3.4.120E, below);
  4. Parking area layout shall conform to the dimensions in Figure 3.4.120E below;
  5. Parking areas shall conform to ADA standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to federal ADA guidelines; and
  6. Bicycle parking shall be on a two (2) feet by six (6) feet minimum concrete pad per bike, or within a garage or patio of residential use.

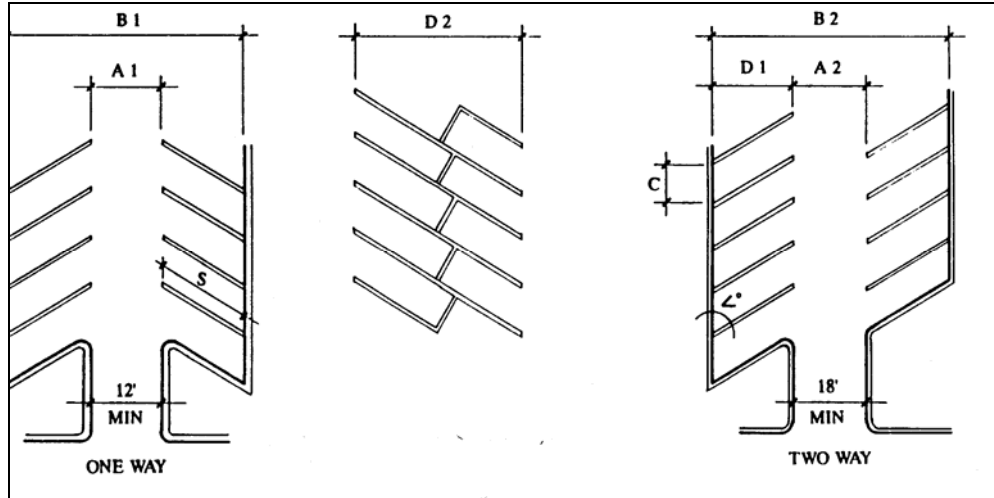


Figure 3.4.120E Parking Area Dimensions

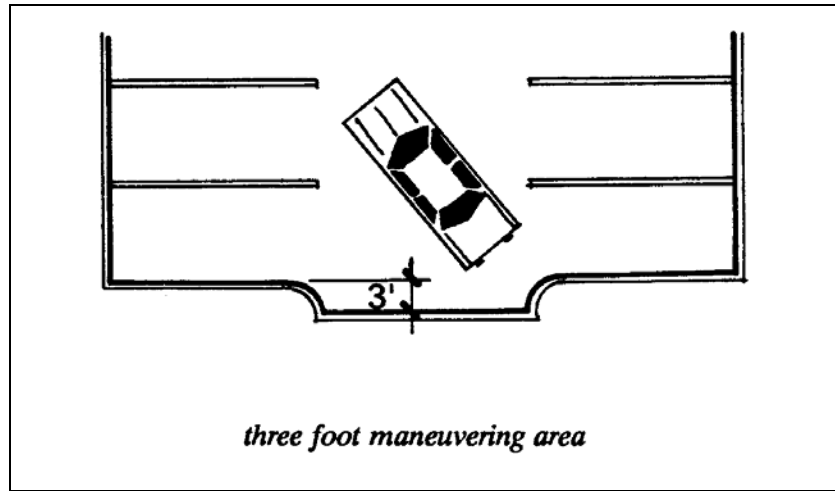


Figure 3.4.120E (Continued) Parking Area Dimensions

Standard Space	PARKING ANGLE <math>< \circ</math>	CURB LENGTH	STALL DEPTH		AISLE WIDTH		BAY WIDTH		STRIPE LENGTH
			SINGLE D1	DOUBLE D2	ONE WAY A1	TWO WAY A2	ONE WAY B1	TWO WAY B2	
			90°	8'-6"	18'	36'	23'	23'	
60°	10'	20'	40'	17'	18'	57'	58'	23'	
45°	12'	18'-6"	37'	13'	18'	50'	55'	26'-6"	
30°	17'	16'-6"	33'	12'	18'	45'	51'	32'-8"	
0°	22'	8'-6"	17'	12'	18'	29'	35'	8'-6"	

**F. Important cross-references.** See also, chapter 2, Zoning Districts; section 3.2, Access and Circulation; and section 3.3, Landscaping, Street Trees, Fences and Walls.

**3.4.130 Bicycle Parking Requirements.** All uses that are subject to site plan review shall provide bicycle parking, in conformance with the following standards, which are evaluated during site plan review:

**A. Number of Bicycle Parking Spaces.** A minimum of two (2) bicycle parking spaces per use is required for all uses with greater than ten (10) vehicle parking spaces. The following additional standards apply specific types of development:

1. Multi-Family Residences. Every residential use of four (4) or more dwelling units provides at least one (1) sheltered bicycle parking space for each dwelling unit. Sheltered bicycle parking spaces may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the bicycle parking spaces may be sheltered from sun and precipitation under an eave, overhang, an independent structure, or similar cover.
2. Parking Lots. All public and commercial parking lots and parking structures provide a minimum of one bicycle parking space for every ten (10) motor vehicle parking spaces.
3. Schools. Elementary and middle schools, both private and public, provide one bicycle parking space for every ten (10) students and employees. High schools provide one bicycle parking space for every five (5) students and employees. All spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.
4. Colleges and Trade Schools. Colleges and trade schools provide one bicycle parking space for every ten (10) motor vehicle spaces plus one (1) space for every dormitory unit. Fifty (50) percent of the bicycle parking spaces shall be sheltered under an eave, overhang, independent structure, or similar cover.
5. Downtown Commercial (C-1) Zone. Within the C-1 zone, bicycle parking for customers shall be provided along the street at a rate of at least one (1) space per use. Individual uses may provide their own parking, or spaces may be clustered to serve up to six (6) bicycles. Bicycle parking spaces should be located in front of the stores along the street, either on the sidewalks or in specially constructed areas such as pedestrian curb extensions. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least thirty-six (36) inches between bicycles and other existing and potential obstructions. Customer spaces may or may not be sheltered. When provided, sheltered parking (within a building, or under an eave, overhang, or similar structure) should be provided at a rate of one space per ten (10) employees, with a minimum of one (1) space per store. Bicycle rack design shall be subject to review and approval by the city engineer.

6. Multiple Uses. For buildings with multiple uses (such as a commercial or mixed-use center), bicycle parking standards shall be calculated by using the total number of motor vehicle parking spaces required for the entire development.
- B. Exemptions.** This section does not apply to single family, two (2) family, and three (3) family housing (attached, detached or manufactured housing), home occupations, agriculture and livestock uses, or other developments with fewer than ten (10) vehicle parking spaces.
- C. Location and Design.** Bicycle parking shall be conveniently located with respect to both the street right-of-way and at least one (1) building entrance (e.g., no farther away than the closest parking space). It should be incorporated whenever possible into building design and coordinated with the design of street furniture when it is provided. Street furniture includes benches, street lights, planters and other pedestrian amenities.
- D. Visibility and Security.** Bicycle parking shall be visible to cyclists from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.
- E. Options for Storage.** Bicycle parking requirements for long-term and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building.
- F. Lighting.** Bicycle parking shall be least as well lit as vehicle parking for security.
- G. Reserved Areas.** Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.
- H. Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall located so as to not conflict with vision clearance standards (section 3.2 Access and Circulation).

### Section 3.5

#### INFRASTRUCTURE STANDARDS

- 3.5.100 Purpose and Applicability.**
- A. Purpose.** This section provides planning and design standards for transportation, sewer, water, and storm drainage infrastructure.
  - B. When Standards Apply.** All development shall be served with adequate infrastructure including transportation, sewer, water, and storm drainage, in conformance with this section and consistent with the city’s engineering design criteria.
  - C. Standard Specifications.** The city of Sutherlin general engineering requirements and standard specifications for street, storm drain, sewer, and waterline construction are incorporated in this code by reference.

- D Conditions of Development Approval.** No development may occur unless required public infrastructure is in place or guaranteed, in conformance with the provisions of this code. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development. Findings in the development approval shall indicate how the required improvements are roughly proportional to the impact.

**3.5.110 Transportation Standards.**

- A. Purpose.** The purpose of this section is to implement the Transportation System Plan and protect the City’s investment in the public street system. Upon dedication of streets to the public, the City accepts maintenance responsibility for the street. Failure to meet City standards, may place an undue maintenance burden on the public, which may be only marginally benefited by the street improvement. Variances to street standards must be evaluated in this context.
- B. Development Standards.** No development shall occur unless the development has frontage onto or approved access from a public street, in conformance with the provisions of section 3.2, Access and Circulation, and the following standards are met:
  1. Private streets shall not be permitted, except as approved by a PUD. In approving a private street as part of a PUD, the city must find that construction of a public street is impracticable, and the street will be constructed to a standard that approximates the city standards for public streets, except as modified to address physical site constraints. The city shall not be responsible for maintaining or improving any private street.
  2. Streets within and/or adjacent to a development shall be improved in accordance with the comprehensive plan, transportation system plan and the provisions of this section, as determined by the city.
  3. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this section, and public streets shall be dedicated to the applicable City, County or County jurisdiction.
  4. New streets and private streets shall be paved.
  5. The city may accept a future improvement guarantee (e.g., owner signs and records a city approved agreement to participate in local improvement assessment) in lieu of street improvements if one (1) or more of the following conditions exist:
    - a. A partial improvement may create a potential safety hazard to motorists or pedestrians;
    - b. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the



project under review does not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;

- c. The improvement would be in conflict with an adopted capital improvement plan;
- d. Requiring the applicant to bear the full cost of improvement would exceed the rough-proportionality standard in section 3.5.100D; or
- e. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets.

**C. Creation of Rights-of-Way for Streets and Related Purposes.** Streets shall be created through the approval and recording of a final subdivision or partition plat, or quit claim deed, provided that the street is deemed essential by the city for the purpose of implementing the comprehensive plan / transportation system plan, and the deeded right-of-way conforms to the standards of this code. All deeds of dedication shall be in a form prescribed by the city and shall name "the public," as grantee.

**D. Creation of Access Easements.** Access easements are only allowed with a private street or drive meeting city standards for one single family unit. Access easements are discouraged in all residential districts, unless they are an integral part of a PUD, or required by the city for access management reasons (i.e., shared driveways along arterial streets). The city may approve an access easement established by deed when the easement is necessary to provide for access and circulation in conformance with section 3.2.110 (K), Access and Circulation. Access easements shall be created and maintained in accordance with the uniform fire code, section 10.207, and shall be shown and described on any final subdivision or partition plat that requires them.

**E. Street Location, Width and Grade.** Except as noted below, the location, width and grade of all streets shall conform to the transportation system plan, as applicable; and an approved street plan or subdivision plat. Street location, width and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets:

- 1. Street grades shall be approved by the city, in accordance with the design standards in subsection N, below; and
- 2. Where the location of a street is not shown in an existing street plan (see subsection H), the location of streets in a development shall either:
  - a. Provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this section; or
  - b. Conform to a street plan adopted by the city council, if it is impractical to connect with existing street patterns because

of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.

**F. Minimum Rights-of-Way and Street Sections.** Street rights-of-way and improvements shall be the widths in Table 3.5.110. A variance shall be required in conformance with section 5.2.110 to vary the standards in Table 3.5.110. Where a range of width is indicated, the width shall be determined by the decision-making authority based upon the following factors:

1. Street classification in the comprehensive plan/transportation system plan;
2. Anticipated traffic generation;
3. On-street parking needs;
4. Sidewalk and bikeway requirements based on anticipated level of use;
5. Requirements for placement of utilities;
6. Street lighting;
7. Minimize drainage, slope, and wetland impacts;
8. Street tree location, as provided for in section 3.3;
9. Protection of significant vegetation, as provided for in section 3.3;
10. Safety and comfort for motorists, bicyclists, and pedestrians;
11. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;
12. Access needs for emergency vehicles; and
13. Transition between different street widths (i.e., existing streets and new streets), as applicable.

**Table 3.5.110F – Street and Pathway Design Standards**

TYPE OF STREET	AVE. DAILY TRIPS (ADT)	RIGHT OF WAY WIDTH	CURB-TO-CURB PAVEMENT WIDTH	WITHIN CURB-TO-CURB AREA				CURB on both sides	PLANTING STRIP on both sides	SIDE-WALKS on both sides
				MOTOR VEHICLE TRAVEL LANES	MEDIAN AND/OR CENTER TURN LANE	BIKE LANE on both sides	ON-STREET PARKING			
ARTERIAL AVENUE/STREET										
2-Lane Parking Both Sides	8,000 to 30,000 ADT	60'-84'	38'-52'	11'-12'	none	2 at 6'	8' bays	6"	7'-8' 1	6'-8' 2
3-Lane		72'-96'	34'-48"	11'-12'	12'	2 at 6'	8' bays	6"	7'-8' 1	6'-8' 2
5-Lane		94'-120'	56'-72'	11'-12'	12'	2 at 6'	8' bays	6"	7'-8' 1	6'-8' 2
Parkway		80'	34'-44'	11'	12'	2 at 5' each	N/A	6"4	8' 1	8' 2

Table 3.5.110F – Street and Pathway Design Standards										
TYPE OF STREET	AVE. DAILY TRIPS (ADT)	RIGHT OF WAY WIDTH	CURB-TO-CURB PAVEMENT WIDTH	WITHIN CURB-TO-CURB AREA				CURB on both sides	PLANTING STRIP on both sides	SIDEWALKS on both sides
				MOTOR VEHICLE TRAVEL LANES	MEDIAN AND/OR CENTER TURN LANE	BIKE LANE on both sides	ON-STREET PARKING			
COLLECTOR STREETS Residential:  Parking Both Sides  Commercial:  3-Lane Parking Both Sides  Commercial/Industrial Parking Both Sides  Commercial/Industrial Parking One Side  Commercial/Mixed-Use Collector Parking Both Sides	1,500 to 5,000 ADT	58'-62'	32'-34'	10'	N/A		7' lanes	6"	7'-8'	5'-6'
		74'-82'	40'-42'	10'-11'	12'	N/A 3	8' lane	6"	7'-8' 1	6'-8' 2
		62'-70'	36'-38'	10'-11'	12'	N/A 3	8' lanes	6"	7'-8' 1	6'-8' 2
		64'-72'	28'-40'	10'-11'	N/A	2 at 5' each	8' lanes	6"	7'-8' 1	6'-8' 2
		56'-58'	38'-40'	10'-11'	N/A	N/A 3	8' lanes	6"	7'-8' 1	6'-8' 2
LOCAL RESIDENTIAL STREETS [4]	Less than 1,500 ADT	48'-56'	25'-27'	10'	N/A	N/A 3	one 7'	6"	7'-8'	5'-6'
		52'-60'	32'-34'	9'-10'	N/A	N/A 3	two 7" lanes	6"	7'-8'	5'-6'
FLAG LOT ACCESS <sup>1</sup>		25'	20'	N/A	N/A	N/A	none	none	none	None
ALLEYS	NA	16'-20'	12'-16' paved width, 2' strip on both sides	NA	NA	NA	none	none	none	None
ACCESSWAYS & MULTI-USE PATHS	NA	10'-18'	6'-12' paved width, 2'-4' strips on both sides	NA	NA	NA	none	none	none	None

<sup>1</sup> Hardscape planting strip with tree wells shall be used in commercial and mixed-use development areas (where on-street parking is provided);

<sup>2</sup> 6' sidewalk shall be installed in residential areas, 8'-10' sidewalk shall be installed in commercial areas;

<sup>3</sup> Bike lanes are generally not needed on low volume (less than 3,000 ADT) and/or low travel speed (less than 25 mph) streets;

<sup>4</sup> Option for residential street and/or Parkway with sidewalks or pathways separated from roadway by drainage swale (no curb). Sidewalk installation may not be required on some existing local streets without sidewalks when existing and future traffic volumes are low; e.g., less than 500 ADT, or 10 dwellings and no sidewalk connection can be made.

<sup>5</sup> See 3.2.110 (Q)

Table 3.5.110F provides a summary of key street characteristics, design criteria, and applications.

Figure -1. Two-Lane Arterial – Parking Both Sides

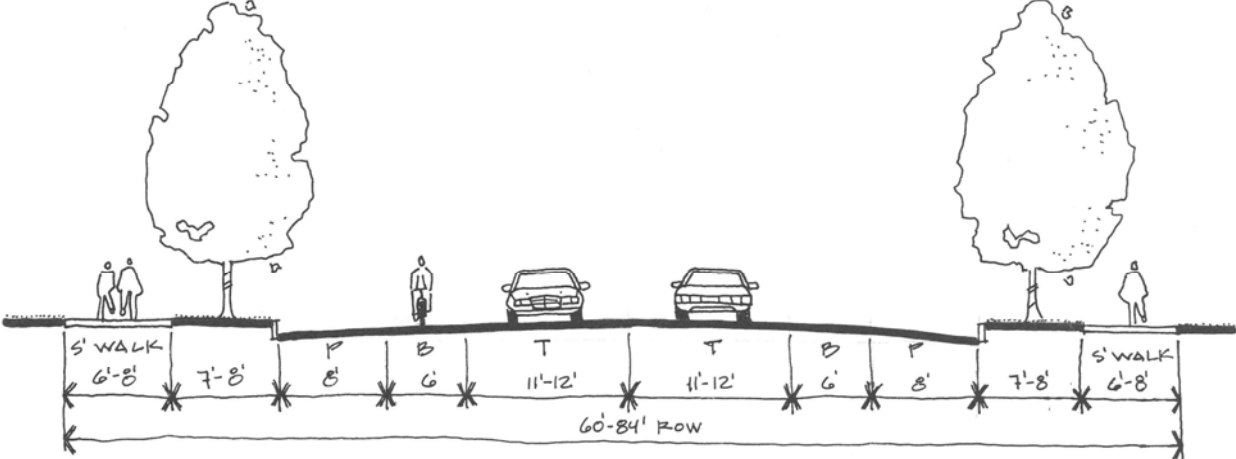


Figure -2. Three-Lane Arterial

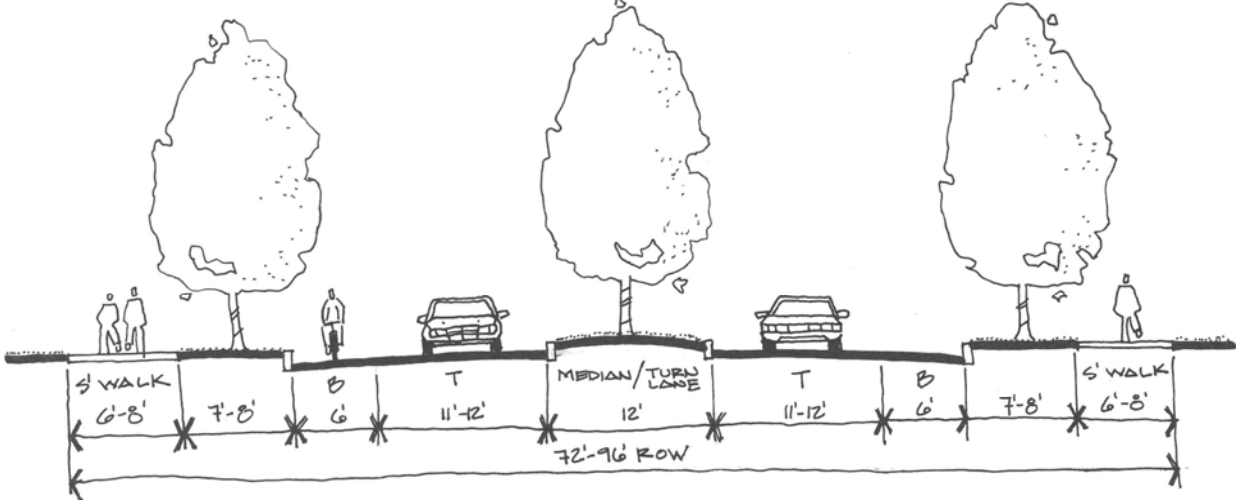


Figure -3. Five-Lane Arterial

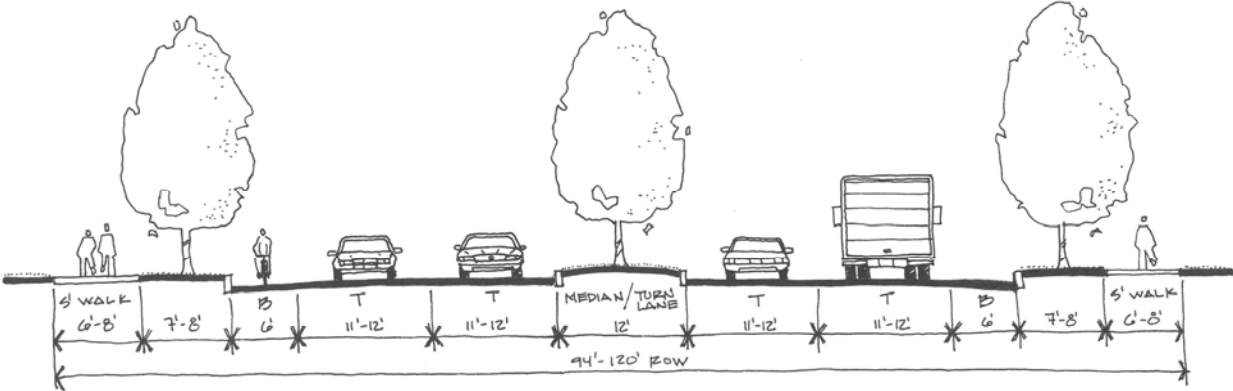


Figure -4. Parkway

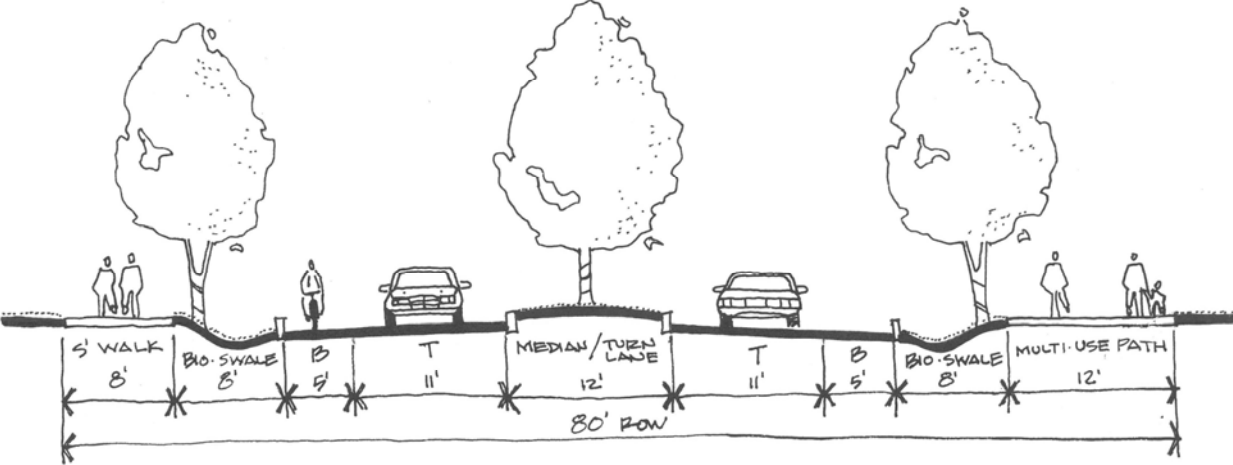


Figure -5. Three-Lane Collector – Parking Both Sides

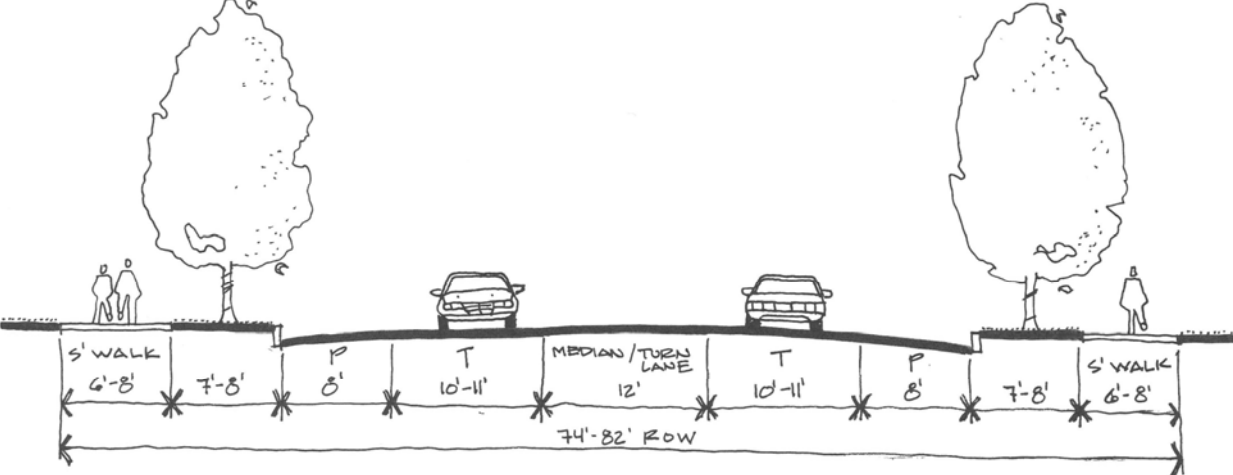


Figure -6. Commercial / Industrial Collector – Parking Both Sides

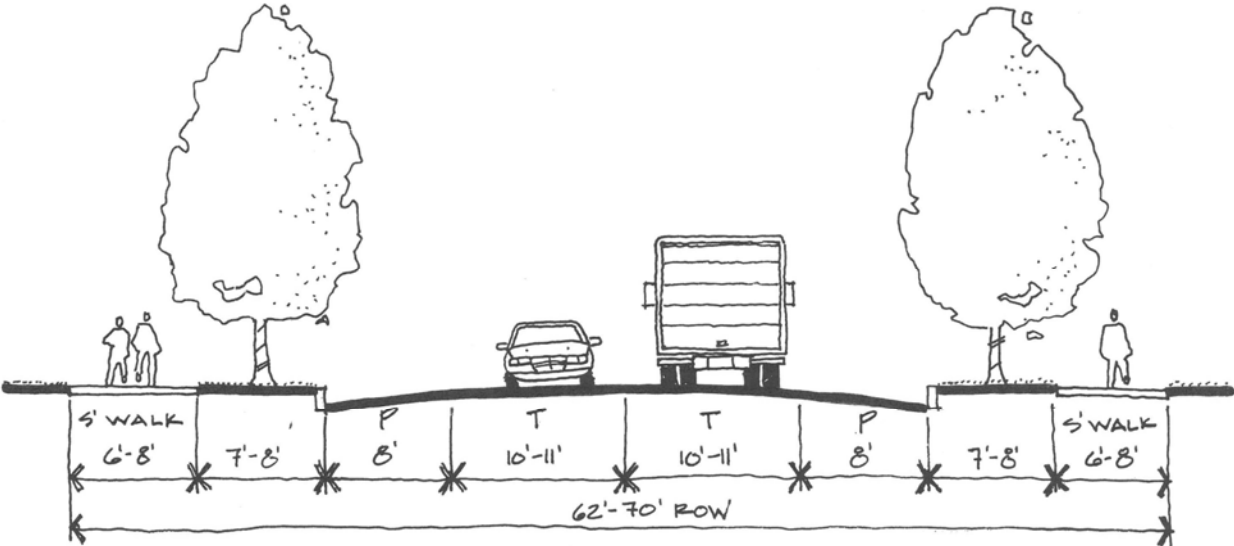


Figure -7. Commercial / Industrial Collector – Parking One Side

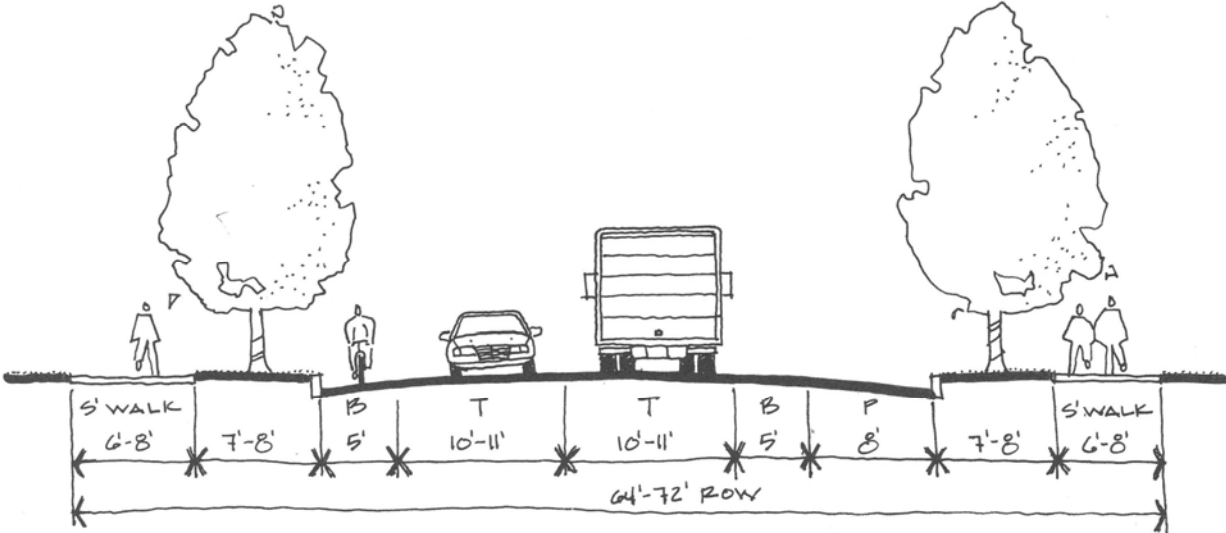


Figure -8. Commercial / Mixed-Use Collector – Parking Both Sides

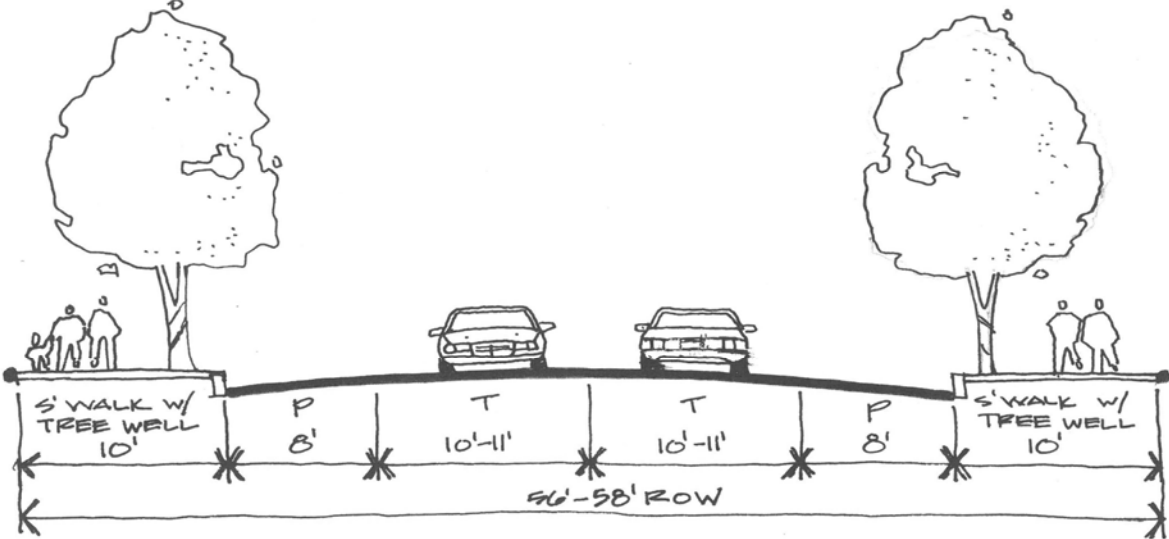


Figure -9. Residential Collector

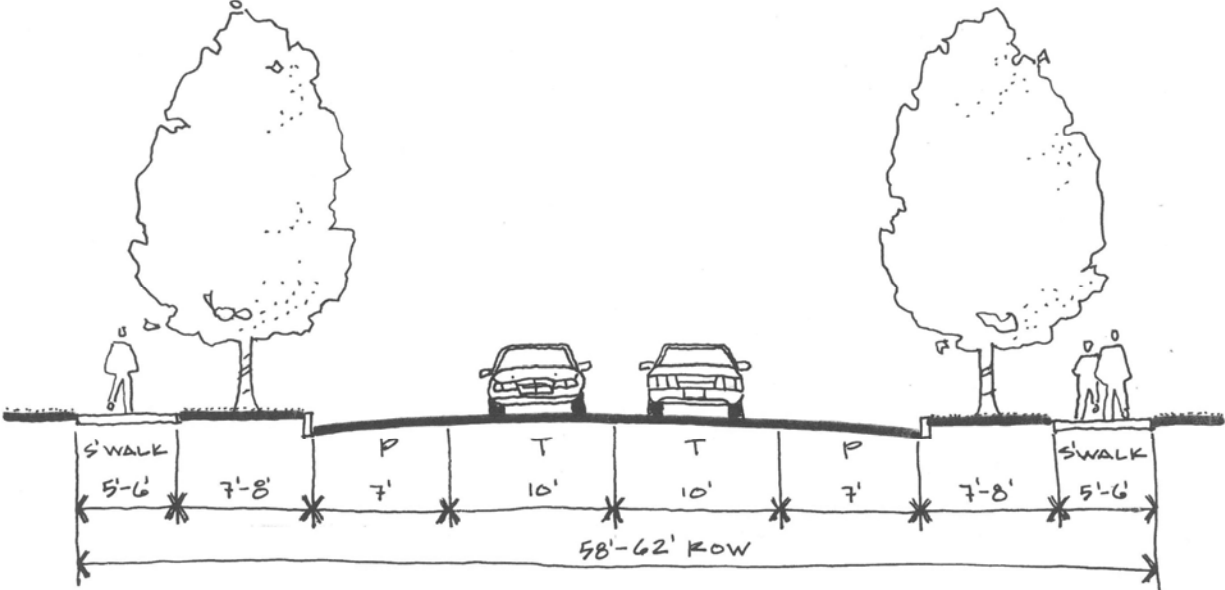


Figure -10. Local Residential Street – Parking One Side

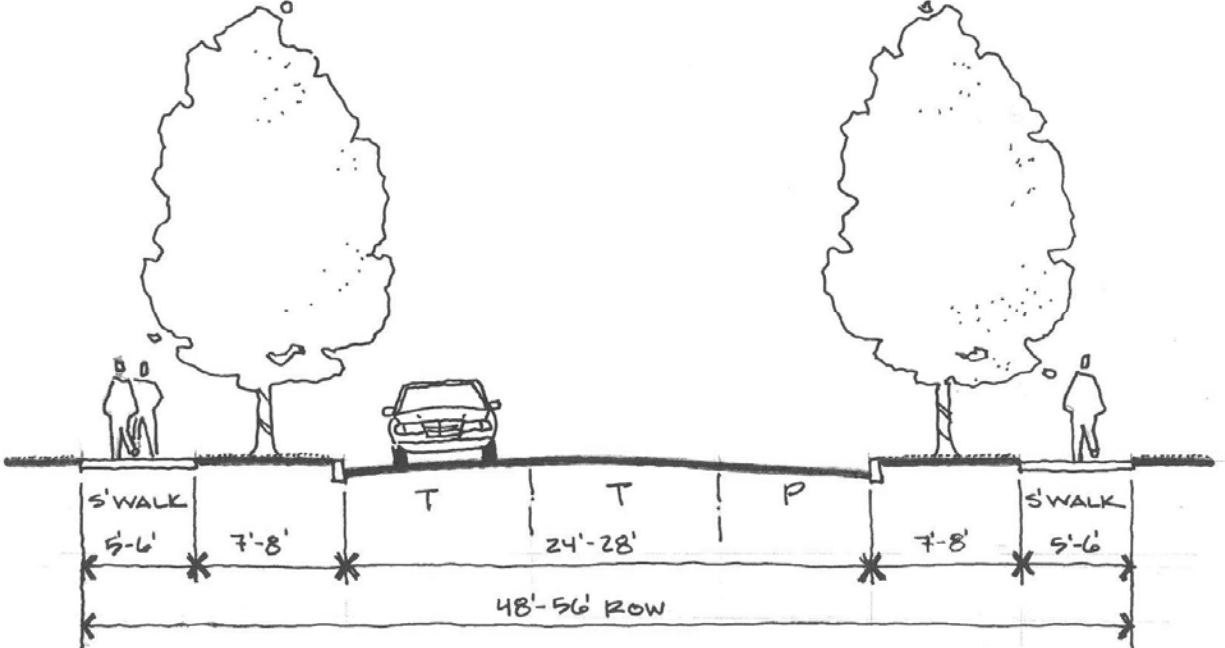
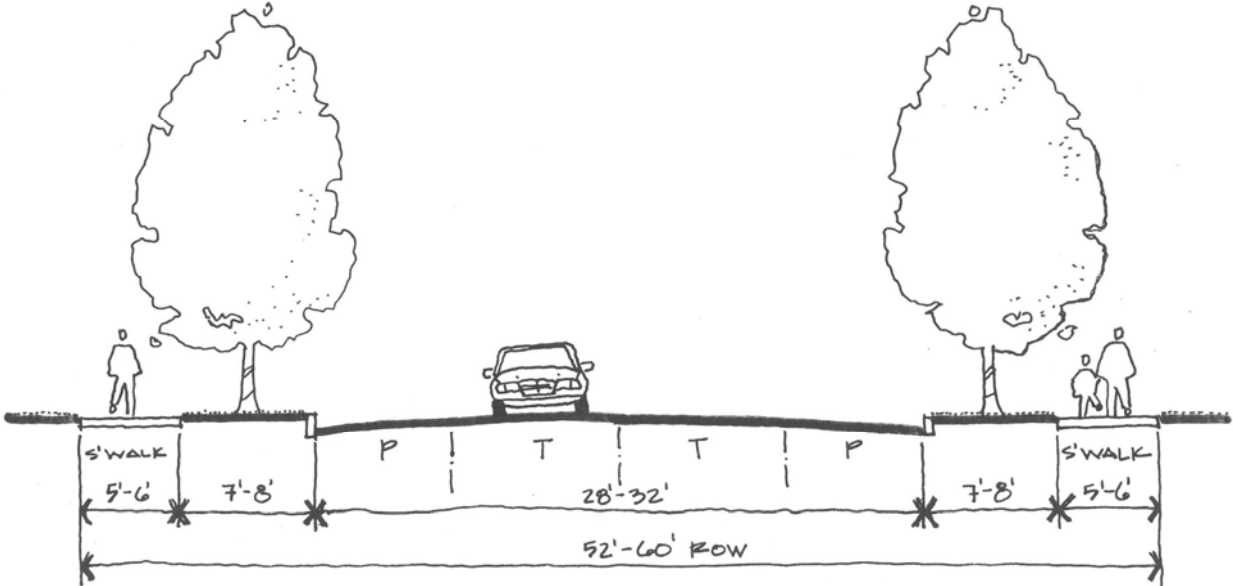


Figure -11. Local Residential Street– Parking Both Sides



**G. Traffic Signals.** Traffic signals shall be required with development when traffic signal warrants are met, in conformance with the highway capacity manual, and manual of uniform traffic control devices. The location of traffic signals shall be noted on approved street plans. Where a proposed



street intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed. The developer's financial contribution (i.e., cost estimate and/or pro rata percentage of cost if shared among multiple parties) toward the required improvement and the timing of improvements shall be included as a condition of development approval.

**H. Future Street Plan and Extension of Streets.**

1. The City shall require the submittal of a future street plan in conjunction with an application for a subdivision or partition when the subject request could effect development of the city's future street system. The purpose of the future street plan is to facilitate orderly development of an interconnected street system, provide greater certainty to the city and neighboring property owners, and allow for future growth in conformance with the comprehensive plan and transportation system plan. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other parcels within six hundred (600) feet surrounding and adjacent to the proposed land division. The street plan is not binding; rather it is intended to show potential future street extensions with future development
2. Streets shall be extended to the boundary lines of the parcel or tract to be developed, when the city determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. Developers are encouraged to also install conduits for other utilities in coordination with those utilities. The point where the streets temporarily end shall conform to a-c, below:
  - a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets when the adjoining property is developed.
  - b. A reflective barricade (e.g., fence, bollards, or similar vehicle barrier) shall be constructed at the end of the street by the partitioner or subdivider and shall not be removed until authorized by the city or other applicable agency with jurisdiction over the street. The cost of the barricade shall be included in the street construction cost.
  - c. Temporary turnarounds (e.g., hammerhead or bulb-shaped configuration) shall be constructed for stub streets over one hundred (150) feet in length.

**I. Street Alignment and Connections.**

1. Staggering of streets making "T" intersections at collectors and arterials shall not be designed so that jogs of less than three hundred (300) feet on such streets are created, as measured from the centerline of the intersecting streets.

2. Spacing between local street intersections shall have a minimum separation of one hundred twenty-five (125) feet, except where more closely spaced intersections are designed to provide an open space, pocket park, common area or similar neighborhood amenity. This standard applies to four-way and three-way (off-set) intersections.
3. All local and collector streets that abut or stub to a development site shall be extended within the site to provide through circulation unless prevented by environmental or topographical constraints, existing development patterns or compliance with other standards in this Code. This exception applies when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than fifteen (15) percent for a distance of two hundred fifty (250) feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes some reasonable street connection.
4. Proposed streets or street extensions shall be located to provide direct access to existing or planned commercial services and other neighborhood facilities, such as schools, shopping areas and parks.
5. In order to promote efficient vehicular and pedestrian circulation throughout the city, the design of subdivisions and alignment of new streets shall conform to the following standards in chapter 3.2, Access and Circulation. The maximum block length shall not exceed:
  - a. Residential districts – Six hundred (600) feet;
  - b. Commercial districts – Four hundred (400) feet;
  - c. Industrial districts - Not applicable.
 Exceptions to the standards in a-b may be granted when an access way is provided at or near mid-block, in conformance with the provisions of section 3.2.120A.

**J. Sidewalks, Planter Strips, Bicycle Lanes.** Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the standards in Table 3.5.110F, applicable provisions of the transportation system plan, the comprehensive plan, and adopted street plans. Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner.

**K. Intersection Angles.** Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle or where a reduced angle is necessary to provide an open space, pocket park, common area or similar neighborhood amenity. In addition, the following standards shall apply:

1. Streets shall have at least twenty-five (25) feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance;
  2. Intersections which are not at right angles shall have a minimum corner radius of twenty (20) feet along the right-of-way lines of the acute angle; and
  3. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than twenty (20) feet.
- L. Existing Rights-of-Way.** Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be provided at the time of partition, subdivision, or development, subject to the provision of section 3.5.100D.
- M. Cul-de-sacs.** A dead-end street shall be no more than four hundred (400) feet long, and shall only be used when open space (e.g., street ends at park or greenway), environmental, or topographical constraints; existing development patterns; or compliance with other standards in this code preclude street extension and through circulation. Such dead-end-street shall conform to all of the following standards:
1. The city may require a dead-end or cul-de-sac street to stub to the outer property line of the development when future street extension may be possible through redevelopment of an adjacent property (e.g., existing development on adjacent property could redevelop and allow extension in foreseeable future).
  2. All cul-de-sacs exceeding one hundred fifty (150) feet shall terminate with a circular or hammer-head turnaround. Circular turnarounds shall have a radius of no less forty (40) feet (i.e., from center to edge of pavement); except that turnarounds may be larger when they contain a landscaped island or parking bay in their center. When an island or parking bay is provided, there shall be a fire apparatus lane of twenty (20) feet in width; and
  3. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
- N. Grades and Curves.** Grades shall not exceed ten (10) percent on arterials, twelve (12) percent on collector streets, or twelve (12) percent on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet) when approved by the city engineer, and:
1. Curb radii shall not be less than seven hundred (700) feet on arterials, five hundred (500) feet on major collectors, three hundred fifty (350) feet on minor collectors, or one hundred (100) feet on other streets; and

2. Streets intersecting with a minor collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging five percent or less. Landings are that portion of the street within twenty (20) feet of the edge of the intersecting street at full improvement.
- O. Curbs, Curb Cuts, Ramps, and Driveway Approaches.** Concrete curbs, curb cuts, wheelchair and bicycle ramps, and driveway approaches shall be constructed in accordance with standards specified in section 3.2 , Access and Circulation.
- P. Streets Adjacent to Railroad Right-of-Way.** Wherever the proposed development contains or is adjacent to a railroad right-of-way, a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land shall be created. New railroad crossings and modifications to existing crossings are subject to review and approval by ODOT. The city will coordinate with ODOT on such requests.
- Q. Development Adjoining Arterial Streets.** Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall separate residential access and through traffic, and shall minimize traffic conflicts. The design shall include one or more of the following:
1. A parallel access street along the arterial with a landscape buffer separating the two (2) streets;
  2. Deep lots abutting the arterial or major collector to provide adequate buffering with frontage along another street. Double-frontage lots shall conform to the buffering standards in Section 3.2.110G;
  3. Screen planting at the rear or side property line to be contained in a non-access reservation (e.g., public easement or tract) along the arterial;
  4. Other treatment suitable to meet the objectives of this subsection; or
  5. If a lot has access to two (2) streets with different classifications, primary access shall be from the lower classification street, in conformance with section 3.2.110.
- R. Alleys, Public or Private.** Alleys shall conform to the standards in Table 3.5.100. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius of not less than 12 feet.
- S. Private Streets.** Private streets shall not be permitted, except as approved by a PUD. In approving a private street as part of a PUD, the city must find that construction of a public street is impracticable, and the street will be constructed to a standard that approximates the city standards for public streets, except as modified to address physical site constraints. The city shall not be responsible for maintaining or improving any private street. Such streets shall not be used to avoid required connections with public

streets or avoid compliance with maximum block length standards in section 3.2.110, Access and Circulation. Gated communities (i.e., where a gate limits access to a development from a public street) are prohibited. Design standards for private streets shall conform to the provisions of Table 3.5.100.

- T. Street Names.** No street name shall be used that duplicates or could be confused with the names of existing streets in the vicinity of the city, except for extensions of existing streets. Street names, signs and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers. Street names shall conform to section 12.24, as amended, of the Sutherlin Municipal Code.
- U. Filed Street Survey and Survey Monuments Required.** Upon completion of a street improvement and prior to acceptance by the city, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the city that all boundary and interior monuments shall be reestablished and protected and required street survey(s) have been filed.
- V. Street Signs.** The city, county or county with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.
- W. Mail Boxes.** Plans for mail boxes to be used shall be approved by the United States Postal Service.
- X. Street Light Standards.** Street lights shall be installed in accordance with city standards.
- Y. Street Cross-Sections.** The final lift of asphalt or concrete pavement shall be placed on all new constructed public roadways prior to final city acceptance of the roadway.
  - 1. Sub-base and leveling course shall be of select crushed rock;
  - 2. Surface material shall be of Class C or B asphaltic concrete;
  - 3. The final lift shall be Class C asphaltic concrete as defined by A.P.W.A. standard specifications; and
  - 4. No lift shall be less than one and one half (1 ½) inches in thickness.

**3.5.120 Public Use Areas.**

- A. Dedication Requirements.**
  - 1. Where a proposed park, open space, playground, public facility, or other public use shown in a plan adopted by the city is located in whole or in part in a partition or subdivision, the city may require the dedication or reservation of this area on the final plat for the partition or subdivision.

2. If determined by the planning commission to be in the public interest in accordance with adopted comprehensive plan policies, and where an adopted plan of the city does not indicate proposed public use areas, the city may require the dedication or reservation of areas within the subdivision of a character, extent and location suitable for the development of parks and other public uses.
  3. All required dedications of public use areas shall conform to section 3.5.100D regarding conditions of approval and proportionality of exactions.
- B. Acquisition by Public Agency.** If the developer is required to reserve land area for a park, playground, or other public use, the land shall be conveyed to a public agency or other entity approved by the city for management and maintenance within twelve (12) months of final plat approval, or the reservation shall be released to the property owner.
- C. System Development Charge Credit.** Dedication of land to the city for public use areas shall be eligible as a credit toward any required system development charge for parks, water, sewer, or storm water, as applicable.

**3.5.130 Sanitary Sewer and Water Service Improvements.**

- A. Sewers and Water Mains Required.** Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the city’s construction specifications and the applicable comprehensive plan policies.
- B. Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the city engineer has approved all sanitary sewer and water plans in conformance with city standards.
- C. Over-sizing.** Proposed sewer and water systems shall be sized to accommodate additional development within the area as projected by the comprehensive plan. The developer shall be entitled to system development charge credits for the over-sizing.
- D. Permits Denied.** Development permits may be restricted by the city through moratoria, in conformance with ORS 197.505, where a deficiency exists in the existing water or sewer system that cannot be rectified by the development, and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of county or federal standards pertaining to operation of domestic water and sewerage treatment systems.

**3.5.140 Storm Drainage.**

- A. General Provisions.** The city shall issue a development permit only where adequate provisions for storm water and flood water runoff have been made.

- B. Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be large enough to accommodate potential runoff from the entire upstream drainage area, whether inside or outside the development, in conformance with the city’s storm drainage master plan. Such facilities shall be subject to review and approval by the city engineer.
- C. Effect on Downstream Drainage.** The effect on downstream drainage shall be evaluated in all project proposals, and all projects shall conform to the storm drainage master plan. Where it is anticipated by the city that the additional runoff resulting from the development will overload an existing drainage facility, the city shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with city standards.
- D. Easements.** Where a development is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way provided for conveyance of storm water. The easement shall be subject to review and approval by the city engineer and shall include at a minimum the watercourse and such further width as will be adequate for conveyance and maintenance.
- E. Certification of No Impact to Neighboring Property.** Developers shall submit a stamped certification by a licensed engineer stating that the rate of storm water drainage during and after development will not increase as a result of the proposed development. The certification shall further state that the developer will adhere to all applicable storm drainage, grading, erosion, and sediment control requirements. The city may impose conditions of approval and/or require submittal of engineered plans that demonstrate there will be no impact to neighboring properties.

**3.5.150 Utilities.**

- A. Underground Utilities.** Except where above-ground utility lines already exist, all new or relocated utility lines including, but not limited to, those required for electric, communication, lighting and cable television services and related facilities shall be placed underground. This requirement does not apply to surface mounted connection boxes and meter cabinets, temporary utility service facilities during construction, and high capacity electric lines operating at fifty thousand (50,000) volts or above. In order to facilitate underground placement of utilities as required by this section, the following additional standards apply to all new subdivisions:
  1. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic (section 3.2);
  2. The city reserves the right to approve the location of all surface mounted facilities;

3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
  4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.
- B. Easements.** Easements shall be provided for all underground utility facilities.
- C. Exception to Under-Grounding Requirement.** Pursuant to a Type II process, an exception to the under-grounding requirement may be granted due to physical constraints, such as steep topography, sensitive lands (section 3.6), or existing development conditions.

**3.5.160 Easements.** Easements for sewers, storm drainage and water quality facilities, water mains, electric lines or other public utilities shall be dedicated on a final plat, or provided for in the deed restrictions. See also, section 4.3 Development Review and Site Plan Review, and chapter 4.4 Land Divisions and Lot Line Adjustments. The developer or applicant shall make arrangements with the city, the applicable district and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The city's standard minimum width for public main line utility easements shall be fifteen (15) feet unless otherwise specified by the utility company, applicable district, or city engineer.

**3.5.170 Construction Plan Approval and Assurances.** No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the city, permit fee paid, and permit issued. The permit fee shall be set by city council. The city may require the developer or subdivider to provide bonding or other performance guarantees to ensure completion of required public improvements. See also, section 4.3 Development Review and Site Plan Review, and section 4.4 Land Divisions and Lot Line Adjustments.

**3.5.180 Installation.**

- A. Conformance Required.** Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the city.
- B. Adopted Installation Standards.** The city's general engineering requirements and standard specifications and the Oregon Chapter A.P.W.A. standard specifications shall be a part of the city's adopted installation standard(s). Where conflict occurs, the A.P.W.A standards shall prevail. Other standards may also be required upon recommendation of the city engineer.
- C. Commencement.** Work shall not begin until the city has been notified in advance.



- D. Resumption.** If work is discontinued for more than one (1) month, it shall not be resumed until the city is notified.
- E. Engineer’s Certification and As-Built Plans.** A registered civil engineer (or as appropriate) licensed in Oregon shall provide written certification in a form required by the city that all improvements, workmanship and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to city acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer’s engineer shall also provide two (2) set(s) of “as-built” plans, in conformance with the city engineer’s specifications, for permanent filing with the city.
- F. City Inspection.** Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications requested by the developer shall be subject to review and approval under section 4.7, Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.

**Section 3.6 [RESERVED]**

## SECTION 3.7 SIGNS

**3.7.100 Purpose.** The purpose of this section is to add sign requirements to the several zoning districts for the preservation of the character of the area's structures and uses; the needs of residential, agricultural, commercial and industrial potential; the need for healthful, safe and convenient use of all lands and the conservation and promulgation of values and resources.

### 3.7.110 Sign Requirements

1. **RH/R-1 Residential.** A residential use is allowed a nonilluminated residential identification sign of not more than two square feet to identify the residents, the street name and number, the name of the building or building complex. For home occupations, a sign of not more than two square feet is allowed.
2. **R-2/R-3 Residential, Medium/High Density.** Nonilluminated signs of not more than eight square feet pertaining to activity on a property may be erected at a distance of ten feet or more inside a lot line. Advertising for home occupations is not permitted.
3. **C-1 Downtown Commercial District.** Nonilluminated or externally-illuminated signs of no more than thirty-two (32) square feet in area advertising the business conducted on the premises. Signs shall be made of wood or a wood-like material. Paper signs are prohibited. Signs shall be attached to the structure with a minimum of eight feet vertical clearance above the public way, and shall extend horizontally from the building to a point located between the structure and the curb no more than three feet from the curb. No sign shall be placed in the public way.
4. **Commercial and Industrial Districts.** Electrically lighted signs are permitted, provided that they shall not be glaring nor located in such a manner as to conflict with traffic control devices and provided further that their illumination shall be restricted to the property on which they are located, and they are no larger than eighty (80) square feet.
5. **Requirements Applicable to All Districts.** No sign advertising a business which is not conducted on the premises or a commodity or service which is not the primary product or sale or service on the premises shall be allowed. (Ord. 798 § 4.050, 1992)

**Section 3.8**

**WETLANDS AND FLOODPLAINS [Reserved]**

## Chapter 4

### DEVELOPMENT APPLICATIONS AND REVIEW PROCEDURES

#### Sections:

#### **4.1 Administration of Land Use and Development Permits**

4.1.100 Introduction

#### **4.2 Types of Applications and Review Procedures**

4.2.100 Purpose.  
4.2.110 Description of Permit Procedures.  
4.2.115 Exceptions to Tables 4.2.110.  
4.2.120 Type I Procedure.  
4.2.130 Type II Procedure.  
4.2.140 Type III Procedure.  
4.2.150 Type IV Procedure.  
4.2.160 General Provisions.  
4.2.170 Special Procedures.

#### **4.3 Development Review and Site Plan Review**

4.3.100 Purpose.  
4.3.110 Applicability.  
4.3.120 Development Review Approval Criteria.  
4.3.130 Site Plan Review – General Requirements.  
4.3.140 Site Plan Review – Application Submission Requirement.  
4.3.150 Site Plan Review Approval Criteria.  
4.3.160 Bonding and Assurances.  
4.3.170 Development in Accordance With Permit Approval.

#### **4.4 Land Divisions and Property Line Adjustments**

4.4.100 Purpose.  
4.4.110 General Provisions.  
4.4.120 Approval Procedures.  
4.4.130 Tentative Plan Application Requirements.  
4.4.140 Approval Criteria – Tentative Plan.  
4.4.150 Variances Authorized.  
4.4.160 Final Plat Submission Requirements and Approval Criteria.  
4.4.170 Public Improvements Approval.  
4.4.180 Performance Guarantee.  
4.4.190 Filing and Recording.  
4.4.200 Replatting and Vacation of Plats.  
4.4.210 Property Line Adjustments.

#### **4.5 Conditional Use Permits**

4.5.100 Purpose.  
4.5.110 Approval Procedure.

- 4.5.120 Application Requirements.
- 4.5.130 Criteria, Standards and Conditions of Approval.
- 4.5.140 Additional Development Standards for Conditional Uses.

**4.6 Planned Unit Developments**

- 4.6.100 Purpose.
- 4.6.110 Applicability.
- 4.6.120 Review and Approvals Process.
- 4.6.130 Allowed Uses.
- 4.6.140 Applicability of Zoning District Standards (Chapter 2).
- 4.6.150 Applicability of Design Standards (Chapter 3).
- 4.6.160 Concept Plan Application.
- 4.6.170 Concept Plan Approval Criteria.
- 4.6.180 Administrative Procedures.
- 4.6.190 Detailed Development Plan Application Requirements.
- 4.6.200 Detailed Development Plan Approval Criteria.
- 4.6.210 Land Division, Development Review, Site Plan Review and Building Permit Approvals.

**4.7 Modifications to Approved Plans and Conditions of Approval**

- 4.7.100 Purpose.
- 4.7.110 Applicability.
- 4.7.120 Major Modifications.
- 4.7.130 Minor Modifications.

**4.8 Zoning District Map Amendments**

- 4.8.100 Purpose.
- 4.8.110 Appeal Procedures.
- 4.8.120 Quasi-Judicial Amendments.
- 4.8.130 Conditions of Approval.
- 4.8.140 Record of Amendments.
- 4.8.150 Transportation Planning Rule Compliance.

**4.9 Code Interpretations**

- 4.9.100 Purpose.
- 4.9.110 Code Interpretation Procedure.

**4.10 Miscellaneous Permits**

- 4.10.100 Temporary Use Permits.
- 4.10.110 Temporary Manufactured Dwelling Medical Hardship Permits.
- 4.10.120 Home Occupations.

**4.11 Plan Amendments**

- 4.11.100 Purpose and Applicability
- 4.11.110 Approval procedures

**Section 4.1**

**ADMINISTRATION OF LAND USE AND DEVELOPMENT PERMITS**

**4.1.100 Introduction.** Chapter 4 provides all of the application requirements and procedures for obtaining permits required by this code. Please refer to Table 4.2.110 in section 4.2 for a key to determining which land use permits and procedures are required, and the decision-making body for a particular type of permit application.

**Section 4.2**

**TYPES OF APPLICATIONS AND REVIEW PROCEDURES**

**4.2.100 Purpose.** The purpose of this section is to establish standard decision-making procedures that will enable the city, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

**4.2.110 Description of Permit Procedures.** All land use and development permit applications, except building permits, shall be considered by using the procedures contained in this chapter. There are four types of permit/decision-making procedures: Type I, II, III, and IV:

- A. Type I Procedure.** Type I decisions are made by the planning director or someone he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applying city standards and criteria requires no use of discretion.
- B. Type II Procedure.** Type II decisions are made by the planning director after public notice and an opportunity to submit written testimony. The appeal of a Type II decision is heard by the planning commission.
- C. Type III Procedure.** Type III decisions are made by the planning commission after public notice and a hearing, with appeals reviewed by the city council.
- D. Type IV Procedure.** Type IV decisions are considered initially by the planning commission with final decisions made by the city council. Both bodies provide public notice and a hearing.

<b>Table 4.2.110 - Approvals by Type of Application and Decision-making Procedure</b>		
<i>Development Decision</i>	<i>Procedure Type</i>	<i>Code Reference</i>
Access Permit (public street)	Type I	Sections 3.2, 4.3, 4.4
Annexation	Type IV	Section 4.11
Code Amendment	Type IV	Section 4.11
Code Interpretation	Type II	Section 4.9
Comprehensive Plan Amendments and Urban Growth Boundary Amendments	Type IV	Section 4.11

Conditional Use Permit	Type III	Section 4.5
Development Review	Type I	Section 4.3, Building Code
Flood Plain Development Permit	Type I	Building Code
Home Occupation Permit	Type I	Section 4.10
Lot Line Adjustment	Type I	Section 4.4
Modification to Approval	Type II	Section 4.7
Non-Conforming Use or Development Determination	Type I	Section 5.3
Partition		
Tentative Plan	Type II	Section 4.4
Final Plat	Type I	Section 4.4.120
Extension	Type I	Section 4.4.120
Plan Amendment	Type IV	Section 4.11
Planned Unit Development	Type III	Section 4.6
Sign Permit	Type I	Section 3.7
Site Plan Review	Type II	Section 4.3
Subdivision		
Tentative Plan	Type II	Section 4.4
Final Plat	Type I	Section 4.4.120
Extension	Type I	Section 4.4.120
Extension	Type I	Section 4.4.120
Temporary Use Permit	Type II	Section 4.10
Variances		
Class A	Type I	Section 5.2
Class B	Type II	Section 5.2
Class C	Type III	Section 5.2
Zoning District Map Change	Type III	Section 4.8

**4.2.115 Exceptions to Table 4.2.110.** Instead of the procedure type identified in Table 4.2.110, the planning director may use a higher procedure type for an application where the planning director determines that a greater amount of public process is needed in order to provide a consolidated review of applications for the same development proposal or in order to address legal requirements applicable to the application.

**4.2.120 Type I Procedure.**

**A. Application Requirements.**

1. Application Forms. Type I applications shall be made on forms provided by the city.
2. Application Requirements. Type I applications shall:
  - a. Include the information requested on the application form;
  - b. Address the criteria in sufficient detail for review and action;



- c. Be accompanied by the required fee; and
  - d. Include the information required for the specific application request as set out in sections 4.3- 4.11.
- B. Planning Director Decision.** The planning director shall issue a decision addressing all of the relevant approval criteria. Based on the criteria and the facts contained within the record, the planning director shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at city hall.
- C. Final Decision and Effective Date.** The planning director's decision shall be final and effective on the date it is mailed or otherwise provided in writing to the applicant, whichever occurs first. The decision is the final decision of the city.

**4.2.130 Type II Procedure.**

- A. Preapplication Conference.** A preapplication conference is required prior to submittal of a Type II application. Preapplication conference requirements and procedures are in section 4.2.160.
- B. Application Requirements.**
- 1. Application Forms. Type II applications shall be made on forms provided by the city.
  - 2. Application Requirements. Type II applications shall:
    - a. Include the information requested on the application form;
    - b. Be filed with a narrative statement that explains how the application satisfies each of the relevant criteria in sufficient detail for review and action;
    - c. Be accompanied by the required fee;
    - d. Include an impact study for all land division applications proposing ten (10) or more residential lots, and for all site plan applications proposing ten thousand (10,000) square feet or more site area. The impact study shall:
      - (1) Quantify/assess the effect of the development on public facilities and services;
      - (2) Address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development; and
      - (3) For each public facility system and type of impact, the study shall propose improvements necessary to meet city standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users;
    - e. In situations where the dedication of real property to the city is required to satisfy a criterion, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly

proportional to the projected impacts of the development. (See also, chapter 3, Design Standards); and

- f. Include the information required for the specific application request as set out in sections 4.3 – 4.11.

**C. Notice of Application.**

1. Before making a Type II decision, the planning director shall mail notice to:
  - a. The applicant; and
  - b. All owners of record of real property within one hundred (100) feet of the subject site.
2. The notice of a pending Type II decision shall:
  - a. Provide a fourteen (14) day period for submitting written comments before a decision is made on the application;
  - b. List the relevant approval criteria by commonly used citation;
  - c. State the place, date and time the comments are due;
  - d. Include the name and telephone number of a contact person regarding the decision;
  - e. Identify the specific permits or approvals requested;
  - f. Describe the street address or other easily understandable reference to the location of the site;
  - g. State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period and that issues must be raised with sufficient specificity to enable the planning director to respond;
  - h. Briefly summarize the decision-making process; and
  - i. State that copies of all evidence relied upon by the applicant are available for review, and that copies can be obtained at cost.

**D. Planning Director Decision.** The planning director shall issue a written decision addressing all of the relevant approval criteria. Based upon the criteria, and the facts contained within the record, the planning director shall approve, approve with conditions, or deny the requested permit or action.

**E. Notice of Planning Director Decision.**

1. Within five (5) business days after the planning director signs the decision, a notice of decision shall be sent by mail to:
  - a. All owners of record of real property within one hundred (100) feet of the subject property;
  - b. The applicant; and
  - c. Any person who submitted comments for the planning director's consideration.
2. The Type II notice of decision shall contain:
  - a. A description of the applicant's proposal and the use or uses which could be authorized;
  - b. The address or other geographic description of the property proposed for development;
  - c. A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, the applicable

criteria and the city's decision are available for inspection at no cost and copies will be provided at cost;

- d. The date the decision shall become final, unless appealed;
- e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision as provided in section 4.2.130 G. and may not appeal directly to the State Land Use Board of Appeals; and
- f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, the name of a city representative to contact and telephone number and where further information can be obtained concerning the appeal process.

**F. Final Decision and Effective Date.** The planning director's decision is final for purposes of appeal when it is mailed by the city. It is effective on the day after the local appeal period expires with no valid appeal filed.

**G. Appeal of a Type II Planning Director Decision.** The planning director's decision may be appealed to the planning commission as follows:

1. Who May Appeal. The following people have legal standing to appeal the planning director's decision:
  - a. The applicant;
  - b. Any person who was mailed written notice of the planning director's decision;
  - c. Any person who is adversely affected or aggrieved by the planning director's decision; or
  - d. Any other person who participated in the proceeding by submitting written comments.
2. Notice of Appeal.
  - a. Time for Filing. A notice of appeal shall be filed with the planning director by 5 p.m. of the day after the notice of decision was mailed;
  - b. Content of Notice of Appeal. The notice of appeal shall contain:
    - (1) The appeal form provided by the city;
    - (2) An identification of the planning director decision being appealed, including the date of the decision;
    - (3) A statement demonstrating the person filing the notice of appeal has standing to appeal; and
    - (4) The filing fee.
3. Appeal Procedures. The notice and hearing procedures for an appeal of the planning director's decision on a Type II application shall be those used by the city to make an initial decision on a Type III application as provided in sections 4.2.140.C. – G.

#### 4.2.140 Type III Procedure.

**A. Preapplication Conference.** A preapplication conference is required for all Type III applications. The requirements and procedures for a preapplication conference are described in Section 4.2.160.C.

**B. Application Requirements.**

- 1. Application Forms. Type III applications shall be made on forms provided by the city.
- 2. Application Requirements. Type III applications shall:
  - a. Include the information requested on the application form;
  - b. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
  - c. Be accompanied by the required fee;
  - d. Include one set of pre-stamped and pre-addressed envelopes for all property owners of record as specified in section 4.2.140.C. (notice of hearing). The records of the Douglas County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. Alternatively, the applicant may pay a fee for the city to prepare the public notice mailing;
  - e. Include the information required for the specific application request as set and in sections 4.3 – 4.11;
  - f. Include an impact study for all Type III applications. The impact study shall:
    - (1) Quantify/assess the effect of the development on public facilities and services;
    - (2) Address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development; and
    - (3) For each public facility system and type of impact, the study shall propose improvements necessary to meet city standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users; and
  - g. In situations where the dedication of real property to the city is required to satisfy a criterion, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development (See also, chapter 3, Design Standards).

**C. Notice of Planning Commission Hearing.**

- 1. Notice. The city shall give notice of the planning commission in the following manner:
  - a. At least twenty (20) days before the hearing date, notice shall be mailed to:
    - (1) The applicant and all owners of record of the property which is the subject of the application;

- (2) All property owners of record within one hundred (100) feet of the site;
    - (3) For Type II appeals, the appellant and persons who provided testimony during the planning director's proceedings; and
    - (4) For a zoning district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175(8).
  - b. At least fourteen (14) days before the first hearing, notice of the hearing shall be printed in a newspaper of general circulation in the city; and
  - c. At least fourteen (14) days before the hearing, the applicant shall post notice of the hearing on the property per subsection 2 below.
2. Content of Notice. Notice to be mailed, published, or posted per subsection 1 above shall contain the following information:
  - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
  - b. The criteria from the development code that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. A statement that the failure to raise an issue in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
  - f. The name of a city representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at city hall at no cost and that copies will be provided at reasonable cost;
  - h. A statement that a copy of the city's staff report will be available for review at no cost at least seven days before the hearing, and that a copy will be provided on request at reasonable cost; and
  - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
- D. Planning Commission Standard of Review and Conduct of the Public Hearing.** The planning commission shall determine whether the application is consistent with the applicable criteria or can be made consistent through the imposition of reasonable conditions. The planning commission shall accept new evidence with respect to all applicable criteria.
- E. Planning Commission Decision.** The planning commission shall issue a final

written decision containing findings and conclusions, which either approves, approves with specific conditions or denies the application. The planning commission's order shall be filed with the director within fourteen (14) business days after the close of the deliberation.

**F. Notice of Planning Commission Decision.** Written notice of the planning commission decision shall be mailed to the applicant and to all participants of record within five (5) business days after the planning commission's decision. Failure of any person to receive mailed notice shall not invalidate the decision. The notice shall include an explanation of appeal procedures.

**G. Final Decision and Effective Date.**

1. The decision of the planning commission on any Type III application is final for purposes of local appeal on the date the notice of decision is mailed by the city. In these cases, the planning commission decision is effective on the day after the local appeal period expires with no valid appeal filed.
2. The planning commission decision on appeal from any Type II decision is both effective and final for purposes of appeal on the date the notice of decision is mailed by the city.

**H. Appeal of Type III Planning Commission Decision.**

1. Who May Appeal. The following people have legal standing to appeal the planning commission decision:
  - a. The applicant; and
  - b. Any other person who participated in the proceeding before the planning commission.
2. Notice of Appeal.
  - a. A notice of appeal shall be filed with the planning director by 5 p.m. of the 14<sup>th</sup> day after the date the notice of decision was mailed.
  - b. The notice of appeal shall include:
    - (1) The appeal form provided by the city;
    - (2) An identification of the planning commission decision being appealed, including the date of the decision;
    - (3) A statement demonstrating the person filing the notice of appeal has standing to appeal;
    - (4) A statement of the issue(s) on appeal that explains specifically how the planning commission failed to properly evaluate the application or make a decision consistent with the applicable criteria; and
    - (5) The filing fee.
  - d. Appeals from Type III decisions are limited to the issues raised during the planning commission proceedings and specified in the notice of appeal.
3. Appeal Procedures.
  - a. Notice. At least twenty (20) days before the city council hearing date, the city shall mail notice of the appeal hearing to the following:

- (1) The applicant;
  - (2) The appellant; and
  - (3) Persons who provided testimony during the planning commission proceedings.
- b. Content of Notice. Notice of the appeal hearing mailed per subsection 2.a. above shall contain the following information:
- (1) Identification of the application on appeal;
  - (2) The criteria from the development code that are identified in the notice of appeal as the basis for the appeal;
  - (3) The street address or other easily understood geographical reference to the subject property;
  - (4) The date, time, and location of the public hearing;
  - (5) A statement that the failure to raise an issue in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
  - (6) The name of a city representative to contact and the telephone number where additional information on the application may be obtained;
  - (7) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at city hall at no cost and that copies will be provided at reasonable cost;
  - (8) A statement that a copy of the city's staff report will be available for review at no cost at least seven days before the hearing, and that a copy will be provided on request at reasonable cost; and
  - (9) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
- c. Standard of Review and Conduct of the Public Hearing. The city council shall determine whether the planning commission erred. The city council shall limit its review to those issues identified in the notice of appeal and accept argument and new evidence only with respect to the criteria and issues identified in the notice of appeal.
- d. City Council Decision. The city council shall issue a final written decision containing findings and conclusions addressing the issues on appeal and which either approves, approves with specific conditions or denies the application. The city council's decision shall be filed with the director within fourteen (14) business days after the close of the deliberation.

- e. Notice of City Council Decision. Written notice of the city council’s decision shall be mailed to the applicant, the appellant and to all persons who participated in the city council proceedings within five (5) business days after the city council’s decision. Failure of any person to receive mailed notice shall not invalidate the decision. The notice shall include an explanation of appeal procedures.
- f. Final Decision and Effective Date. The city council’s decision is both effective and final for purposes of appeal on the date the notice of decision is mailed by the city.

**4.2.150 Type IV Procedure.**

- A. Pre-Application Conference.** A pre-application conference is required for Type IV applications. The requirements and procedures for a preapplication conference are described in Section 4.2.160.C.
- B. Timing of Requests.** The City may establish a schedule specifying at least two times per year at which applications for Type IV actions will be accepted.
- C. Application Requirements.**
  - 1. Application Forms. Type IV applications shall be made on forms provided by the city.
  - 2. Application Requirements. Type IV applications shall:
    - a. Include the information requested on the application form;
    - b. Include a map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
    - c. Be accompanied by the required fee;
    - d. Be filed with a narrative statement that explains how the application satisfies each of the relevant approval criteria in sufficient detail for review and action; and
    - e. Include the information required for the specific application request as set out in sections 4.3 – 4.11.
- D. Notice of Planning Commission Hearing.**
  - 1. Required Hearings. A minimum of two hearings, one before the planning commission and one before the city council, are required for all Type IV applications, except annexations. Annexations only require one hearing by the city council.
  - 2. Notice. Except as provided in subsection D.4. of this section, the city shall give notice of the planning commission public hearing in the following manner:
    - a. At least twenty (20) days before the date of the planning commission’s hearing, a notice shall be mailed to:
      - (1) The applicant;
      - (2) Any affected governmental agency;
      - (3) For a zone change affecting a manufactured home or



mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

- b. At least fourteen (14) days before the scheduled planning commission public hearing date, notice shall be published in a newspaper of general circulation in the city;
  - c. The city shall mail a notice of the proposed comprehensive plan amendment to the Department of Land Conservation and Development (DLCD) at least forty-five (45) days before the first public hearing at which public testimony or new evidence will be received; and
  - d. Notifications for annexation shall follow the provisions in ORS 222.
3. Content of Notice. Except as provided in subsection D.4. of this section, the mailed and published notices shall include the following information:
- a. The name of a city representative to contact and the telephone number where additional information about the application can be obtained;
  - b. A general description of the proposal and the place where all relevant materials and information may be obtained or reviewed;
  - c. The time, place, and date of the planning commission public hearing; and
  - d. The criteria that will be applied to the proposal.
4. Notice for Site-Specific Type IV Applications. When a Type IV application proposes a site-specific, quasi-judicial action, notice of the planning commission hearing shall be provided as set out in section 4.2.140.C.
- E. Planning Commission Standard of Review and Conduct of the Public Hearing.** The planning commission shall determine whether the application is consistent with the applicable criteria or can be made consistent through the imposition of reasonable conditions. The planning commission shall accept new evidence with respect to all applicable criteria.
- F. Planning Commission Recommendation.** The planning commission shall issue a final written recommendation containing findings and conclusions and recommending that the city council either approve, approve with specific conditions or deny the application. The planning commission's recommendation shall be filed with the planning director within fourteen (14) business days after the close of the deliberation.
- G. Notice of City Council Hearing.**
1. Notice. At least twenty (20) days before the city council hearing date, the city shall mail notice of the hearing to the following:
    - a. The applicant;
    - b. Persons who provided testimony during the planning commission proceedings; and
    - c. Persons who requested notice of the planning commission recommendation.

2. Content of Notice. Notice of the city council hearing mailed per subsection 1. above shall contain the following information:
  - a. Identification of the application on appeal;
  - b. The applicable criteria from the development code;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. A statement that the failure to raise an issue in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
  - f. The name of a city representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at city hall at no cost and that copies will be provided at reasonable cost;
  - h. A statement that a copy of the city's staff report will be available for review at no cost at least seven days before the hearing, and that a copy will be provided on request at reasonable cost; and
  - i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
- H. City Council Standard of Review and Conduct of Public Hearing.** The city council shall consider, but not be bound by, the planning commission recommendation. The decision shall be based on whether the application is consistent with the applicable criteria or can be made consistent through the imposition of reasonable conditions. The city council shall conduct a de novo hearing and shall accept new evidence.
- I. City Council Decision.** The city council shall issue a final written decision containing findings and conclusions and either approving, approving with specific conditions, or denying the application. The city council may remand the application to the planning commission for rehearing or reconsideration on all or part of the application. Unless the decision is a denial, the council shall act by ordinance. The city council's final decision shall be filed with the planning director within fourteen (14) business days after the close of the council deliberation.
- J. Notice of City Council Decision.** Written notice of the city council's decision shall be mailed to the applicant, all participants of record, and (if legally required) the Department of Land Conservation and Development, within five (5) business days after the city council decision is signed by the mayor or city council president. The city shall also provide notice to all persons as required by ORS 197.615. Failure of any person to receive mailed notice shall not invalidate the decision. The notice shall include an explanation of appeal procedures.

**K. Final Decision and Effective Date.** A Type IV decision, if approved, shall take effect and shall become final as specified in the city charter or the enacting ordinance, or if denied, upon mailing of the notice of decision to the applicant.

**4.2.160 General Provisions.**

**A. Time Computation.** In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the close of city business hours on the next day which is not a Saturday or legal holiday.

**B. Pre-application Conferences.**

- 1. Participants. When a preapplication conference is required, the applicant shall meet with the planning director or his/her designee(s).
- 2. Information Provided. At such conference, the planning director shall:
  - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
  - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
  - c. Provide available technical data and assistance which will aid the applicant;
  - d. Identify other governmental policies and regulations that relate to the application; and
  - e. Reasonably identify other opportunities or constraints concerning the application.
- 3. Disclaimer. Failure of the planning director or his/her designee to provide any of the information required by this subsection shall not constitute a waiver of any of the standards, criteria or requirements for the application.
- 4. Changes in the Law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

**C. Applications.**

- 1. Initiation of Applications:
  - a. Applications may be initiated by:
    - (1) Order of city council;
    - (2) Resolution of the planning commission;
    - (3) The planning director; or
    - (4) A record owner of the property that is the subject of the application (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

- b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.
    2. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same parcel(s) of land, the proceedings shall be consolidated for review and the city shall follow the process for the highest applicable type.
    3. Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:
      - a. Acceptance. When an application is received by the city, if the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:
        - (1) The required form;
        - (2) The required fee; and
        - (3) The signature of the applicant on the required form, and signed written authorization of the property owner of record, if the applicant is not the owner.
      - b. Completeness.
        - (1) Review and Notification. After the application is accepted, the planning director shall review the application for completeness. If the application is complete as submitted, the planning director shall mail the applicant a notice deeming the application complete. If the application is incomplete, the planning director shall notify the applicant in writing of exactly what information is missing within thirty (30) days of receipt of the application
        - (2) When Application Deemed Complete for Review. The application shall be deemed complete upon the receipt by the planning director of:
          - (a) All of the missing information;
          - (b) Some of the missing information and written notice from the applicant that no other information will be provided; or
          - (c) Written notice from the applicant that none of the missing information will be provided.
        - (3) Standards and Criteria that Apply to the Application. If the application was complete with first submitted or the applicant submits the requested additional information within one hundred, eighty (180) days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- D. Scrivener's Errors.** The planning director has the authority to correct scrivener's errors in adopted findings of fact and decision documents.

- E. Re-submittal of Application Following Denial.** An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least twelve (12) months from the date the final city action is made denying the application, unless there is substantial change in the facts or a change in city policy which could change the outcome, as determined by the planning director.

**4.2.170 Special Procedures.**

- A. Expedited Land Divisions.** An expedited land division (ELD) shall be defined and may be used as in ORS 197.360.
1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or Planned Unit Development (PUD) instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it.
  2. Review Procedure. An ELD shall be reviewed in accordance with the procedures in ORS 197.365.
  3. Appeal Procedure. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375.

**Section 4.3**

**DEVELOPMENT REVIEW AND SITE PLAN REVIEW**

**4.3.100 Purpose.** The purpose of this Section is to:

- A.** Provide rules, regulations and standards for efficient and effective administration of development review and site plan review.
- B.** Carry out the development pattern and plan of the comprehensive plan policies.
- C.** Promote the public health, safety and general welfare.
- D.** Lessen or avoid congestion in the streets, and secure safety from fire, flood, pollution and other dangers.
- E.** Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage.
- F.** Encourage the conservation of energy resources.
- G.** Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

**4.3.110 Applicability.**

- A. Development Review or Site Plan Review.** Development review or site plan review is required for building permits proposing new construction or

modifications of existing construction, except that regular maintenance, repair and replacement of materials (e.g., replacement or reconditioning of like roofs, siding, windows, awnings, paint etc.), parking resurfacing and similar maintenance and repair shall be exempt. The criteria for each type of review are as follows:

- B. Site Plan Review.** Site plan review follows Type II procedures as set out in section 4.2.130. It applies to all developments in the city, except those specifically listed under subsection A above. Site plan review ensures compliance with zoning and development standards (e.g., use, building setbacks, lot coverage, maximum building height, etc.) in chapter 2, as well as the more detailed design standards and public improvement requirements in chapter 3 (e.g., access, public infrastructure, parking, landscaping, signs).
- C. Development Review.** Development review follows Type I procedures as set out in section 4.2.140. Development review is required for all developments, except for non-attached single family dwellings built on individual lots. It is based on clear and objective standards and ensures compliance with zoning and development standards, such as building setbacks, lot coverage, maximum building height, and similar provisions of chapter 2. Development review is required for all of the types of development listed below:

  - 1. Accessory dwellings of any size;
  - 2. Developments on less than ten thousand (10,000) square feet of site area, which are not part of a larger project;
  - 3. Building additions and accessory structures containing not more than two thousand (2,000) square feet, except as required under subsection 1, above;
  - 4. Minor modifications to development approvals as defined by Section 4.7, except this does not apply to non-attached single family dwellings;
  - 5. Any proposed development that has a valid conditional use permit and meeting the criteria in 1-4, above. Major modifications to a development with a conditional use permit shall require review and approval in accordance with section 4.5 - Conditional Use Permits;
  - 6. Home occupation, subject to review under section 4.10;
  - 7. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in section 4.10; and
  - 8. Other developments when development review is required by a condition of approval.

**4.3.120 Development Review Approval Criteria.** Applications for development review shall be conducted as a Type I procedure, as described in section 4.2.120. Prior to issuance of building permits, the following standards shall be met:

- A.** The proposed land use is permitted by the underlying zoning district (chapter 2);
- B.** The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying zoning district and any overlay zone are met (chapter 2);
- C.** All applicable building and fire code standards are met; and

- D. Approval shall lapse, and a new application shall be required, if a building permit has not been issued within one (1) year of development review approval.

**4.3.130 Site Plan Review – General Requirements.** Site plan review is required for projects that exceed the thresholds for development review, as provided in section 4.3.110. Site plan reviews are processed using Type II procedures, as provided in section 4.2, and using the approval criteria contained in section 4.3.150.

**4.3.140 Site Plan Review - Application Submission Requirements.** All of the following information is required for site plan review application submittal:

A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required by section 4.2.130 B and 4.3.140 B.

B. **Site Plan Review Application Requirements.** An application for site plan review shall include the following information, unless specifically waived by the planning director:

1. Site analysis map. At a minimum the site analysis map shall contain the following:
  - a. The property that is the subject of the application, all contiguous property in common ownership and the surrounding property to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
  - b. Topographic contour lines at intervals determined by the city;
  - c. Identification of slopes greater than fifteen (15) percent;
  - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
  - e. Potential natural hazard areas, including any areas identified as subject to a one hundred (100) year flood, areas subject to high water table, and areas mapped by the City, County, or state as having a potential for geologic hazards;
  - f. Resource areas, such as marsh and wetland areas, streams, wildlife habitat identified by the city or other state of Oregon or federal resource regulatory agencies as requiring protection;
  - g. Existing site features, such as existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
  - h. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
  - i. The location, size and species of trees and other vegetation having a twelve (12) inch caliper (at four (4) feet above grade) or greater;

- j. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed(s) for the property(s) that are the subject of the application;
  - k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable; and
  - l. Other information, as determined by the planning director: The city may require studies or exhibits prepared by qualified professionals to address specific site features.
2. Proposed site plan. The site plan shall contain the following information, if applicable:
- a. The proposed development site, including boundaries, dimensions, and gross area;
  - b. Natural features and/or existing structures identified on the site analysis map which are proposed to remain on the site;
  - c. Natural features and/or existing structures identified on the site analysis map which are proposed to be removed or modified by the development;
  - d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
  - e. The location and dimensions of all existing and proposed utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
  - f. The location and dimensions of proposed entrances and exits to the site for vehicular, pedestrian, and bicycle access;
  - g. The location and dimensions of all proposed parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
  - h. Proposed pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
  - i. Proposed loading and service areas for waste disposal, loading and delivery;
  - j. Proposed outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;
  - k. Location, type, and height of proposed outdoor lighting;
  - l. Location of proposed mail boxes, if known;
  - m. Location of bus stops and other public or private transportation facilities;
  - n. Locations, sizes, and types of proposed signs; and
  - o. Other information, determined by the planning director: The city may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this code.



3. Architectural drawings. Architectural drawings shall be submitted showing:
  - a. Building elevations for all sides of building(s) with finished floor elevations, building height, and width dimensions;
  - b. Building materials, color and type. The city may require color board sample for projects in the downtown to ensure compatibility with existing buildings; and
  - c. The name of the architect or designer.
4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of one thousand (1,000) cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with section 3.5.
5. Landscape plan. A landscape plan pursuant to section 3.3 is required and shall show the following:
  - a. The location and height of existing and proposed fences and other buffering or screening materials;
  - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - c. The location of the existing and proposed plant materials;
  - d. Existing and proposed building and pavement outlines;
  - e. Irrigation plan (may be automatic or other approved method of irrigation); and
  - f. Other information as deemed appropriate by the planning director.
6. Sign drawings shall be required in conformance with the city's sign code (section 3.7).
7. Copies of all existing and proposed restrictions or covenants.
8. Letter or narrative report documenting compliance with the applicable approval criteria contained in section 4.3.150.

**4.3.150 Site Plan Review Approval Criteria.** The planning director shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying a site plan review application:

- A. Zoning District.** The application complies with all of the applicable provisions of the underlying zoning district (section 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;
- B. Design Standards.** The application complies with the following design standards contained in chapter 3:
  1. Access and circulation (section 3.2)
  2. Landscaping, street trees, fences and walls (section 3.3)
  3. Vehicle and bicycle parking (section 3.4)

- 4. Infrastructure (section 3.5)
- 6. Signs (section 3.7)
- C. **Non-Conforming Development.** Existing non-conforming development may require development standard upgrade in conformance with section 5.3, Non-Conforming Uses and Development;
- D. **Existing Conditions of Approval.** Conditions required as part of a previously approved Land Division (section 4.4), Conditional Use Permit (section 4.5), Planned Unit Development (section 4.6), or other approval for the site have been met.
- E. **Phased Development.** Phasing of development may be approved with the Site Plan Review application, subject to the following standards and procedures:
  - 1. A phasing plan shall be submitted with the site plan review application.
  - 2. The reviewing authority shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than two (2) years without reapplying for site plan review.
  - 3. Approval of a phased site plan review proposal requires satisfaction of all of the following criteria:
    - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
    - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require city receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with section 4.3.160. A temporary public facility is any facility not constructed to the applicable city standard;
    - c. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as part of the approved development proposal; and
    - d. An application for phasing may be approved after site plan review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (section 4.7).
- F. **Variances.** Exceptions to the criteria above, may be granted only when approved as a Variance (section 5.2).

**4.3.160 Bonding and Assurances.**

- A. **Performance Bonds for Public Improvements.** On all projects where public improvements are required, the city shall require an irrevocable letter of credit or a bond in an amount not greater than one hundred (100) percent of a city approved engineer's estimate equaling the city's cost of performing the public improvement, or other adequate assurances to guarantee the public improvements.
- B. **Release of Performance Bonds.** The bond or other assurance shall be released when the planning director finds the completed project conforms to the site development approval, including all conditions of approval.
- C. **Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the

landscaping as determined by a certified landscape architect is filed with the city assuring such installation within six (6) months after occupancy. If the installation of the landscaping is not completed within the six (6) month period, the security may be used by the city to complete the installation.

**4.3.170 Development in Accordance With Permit Approval.** Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site plan review approval) and building permits. Construction of public improvements shall not commence until the city has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The city may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with section 4.3.160. Development review and site plan review approvals shall be subject to all of the following standards and limitations:

- A. Modifications to Approved Plans and Developments.** Modifications to approved plans and/or conditions of approval shall be processed under section 4.7.120, Major Modifications, and 4.7.130, Minor Modifications, as applicable.
- B. Approval Period.** Development review and site plan review approvals shall be effective for a period of one (1) year from the date of approval. Unless extended pursuant to C., below, the approval shall lapse if:
  - 1. A building permit has not been issued within a one (1) year period; or
  - 2. The city has determined that construction on the site is in violation of the approved plan.
- C. Extension.** The planning director shall, upon written request submitted by the applicant before the expiration date, grant an extension of the approval period not to exceed one year; provided that:
  - 1. No modifications are or have been made to the original approved site plan review plan;
  - 2. The applicant can show intent of initiating construction on the site within the one year period;
  - 3. There have been no changes to the applicable code provisions on which the approval was based. If there have been changes to the applicable code provisions then a new site plan review shall be required; and
  - 4. The applicant demonstrates that failure to obtain building permits within one (1) year of site plan approval was beyond the applicant’s control.

**Section 4.4**

**LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS**

- 4.4.100 Purpose.** The purpose of this section is to:
  - A.** Provide rules, regulations, and standards governing the approval of subdivisions, partitions and property line adjustments.

- B. Carry out the city's development pattern, as envisioned by the comprehensive plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options.
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization.
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers.
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage.
- G. Encourage the conservation of energy resources.

**4.4.110 General Provisions.**

- A. **Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed through a two (2) step process: the tentative plan and the final plat.
- B. **Compliance With ORS Chapter 92.** All subdivision and partition proposals shall be in conformance to state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

**4.4.120 Approval Procedures.**

- A. **Review of Tentative Plan.** Review of a tentative plan for a subdivision or partition shall be processed using the Type II procedure, as provided in section 4.2.130. All tentative plans shall be reviewed using approval criteria contained in 4.4.140. An application for subdivision may be reviewed concurrently with an application for a planned unit development under section 4.6.
- B. **Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed by means of a Type I procedure under section 4.2.120, using the approval criteria in section 4.4.160.
- C. **Tentative Plan Expiration.** Tentative plan approval shall be effective for a period of two (2) years from the date approval is final. Approval of the tentative plan shall expire if a final plat has not been submitted or the tentative plan has not been extended within two (2) years from the date the tentative plan approval became final.
- D. **Modifications and Extensions.**
  - 1. The applicant may request changes to the approved tentative plan or conditions of approval following the procedures and criteria provided in section 4.7.
  - 2. The planning director shall, using the Type I procedures, grant one extension of the approval period not to exceed one year; provided that:
    - a. The applicant has submitted written intent to file a final plat within the one-year extension period;

- b. There have been no changes to the applicable code provisions on which the approval was based; and
- c. The extension request is made before expiration of the original approved plan.

**4.4.130 Tentative Plan Application Requirements – Partition and Subdivision.** The applicant shall submit an application containing drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

**A. General Information:**

- 1. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (please check with county surveyor);
- 2. Date, north arrow, and scale of drawing;
- 3. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
- 4. Names, addresses and telephone numbers of the owners, project designer, engineer(s), and or surveyor, and the date of the survey; and
- 5. Identification of the drawing as a “tentative plan.”

**B. Site Analysis:**

- 1. Streets: Location, name, present width of all existing streets, alleys and rights-of-way on and abutting the site;
- 2. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- 3. Utilities: Location and identity of all existing utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest ones;
- 4. Ground elevations shown by contour lines at five (5) foot vertical intervals for ground slopes exceeding ten (10) percent and at two (2) foot intervals for ground slopes of less than ten (10) percent. Such ground elevations shall be related to some established bench mark or other datum approved by the county surveyor;
- 5. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- 6. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;
- 7. Wetland and floodplain, including wetland areas, streams, wildlife habitat, and other areas identified by the city or natural resource regulatory agencies as requiring protection;
- 8. Site features, including existing structures, pavement, areas having unique views, drainage ways, and ditches;
- 9. Designated historic and cultural resources on the site and adjacent parcels or lots; and
- 10. The location, size and species of existing trees having a caliper (diameter) of twelve (12) inches or greater at four (4) feet above grade.

**C. Proposed improvements:**

1. Proposed public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts which are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
2. Location, width and purpose of all proposed easements and dedications;
3. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;
4. Proposed uses of the property, including all proposed common areas or improvements, areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use;
5. Proposed improvements, as required by chapter 3, Design Standards, and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
6. The proposed source of domestic water;
7. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;
8. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
9. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with Oregon Department of Transportation (ODOT) related to proposed railroad crossing(s);
10. Proposed changes to navigable streams, or other water courses. Provision or closure of public access to these areas shall be shown on the tentative plan, as applicable;
11. Identification of the base flood elevation, if applicable to the site;
12. Grading plan, if site is larger than five (5) acres;
13. Evidence of contact with ODOT for any development requiring access to a highway under the state's jurisdiction; and
14. Evidence of contact with the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands.

**D. Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two times or two hundred (200) percent the minimum lot size allowed by the underlying zoning district), re-division plan showing:

1. Potential future lot division(s) addressing the housing and density standards of chapter 2;
2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way; and
3. A disclaimer that the re-division plan is a conceptual plan intended to show potential future development. It shall not be binding on the city or property owners, except as may be required through conditions of land

division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.

**4.4.140 Approval Criteria - Tentative Plan.** The city shall approve, approve with conditions or deny a tentative plan based on the following approval criteria:

- A.** The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
- B.** The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to uniformly transition to such facilities in existing or approved subdivisions and partitions on adjoining property as to width, general direction and in all other respects.
- C.** Lot Size and Residential Density. The subdivision meets the lot size and residential density standards required by the zoning district (chapter 2)
- D.** When dividing a tract into large lots or parcels (i.e. greater than two times or 200 percent the minimum lot size allowed in the underlying zoning district, the lots parcels are of such size, shape and orientation as to facilitate future re-division in accordance with the requirements of the zoning district and this code.
- E.** Block and lot standards. All proposed blocks (i.e., one (1) or more lots bound by public streets), lots and parcels conform to the specific requirements below:
  - 1. All lots and blocks shall comply with the lot area, setback, and dimensional requirements of the applicable zoning district (chapter 2), and the standards of section 3.2 Access and Circulation, and the flag lot standards of section 3.2.110 (Q), if applicable.
  - 2. Setbacks shall be as required by the applicable zoning district (chapter 2).
  - 3. Every lot shall conform to the standards of section 3.2, Access and Circulation.
  - 4. The applicant may be required to install landscaping, walls, fences, or other screening as a condition of subdivision approval. See also, chapter 2 Zoning Districts, and section 3.3, Landscaping, Street Trees, Fences and Walls.
  - 5. In conformance with the uniform fire code, a twenty (20) foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than one hundred fifty (150) feet from a public right-of-way or approved access drive. See also, section 3.2 Access and Circulation.
  - 6. Where a common private drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat and the county clerk's reference number shown on the face of the plat.
- F. Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway. Development in a one hundred (100) year flood plain shall comply with federal emergency management agency requirements, including filling to elevate structures above the base flood

elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before city approval of the final plat.

- G. Determination of Base Flood Elevation.** Where a development site consists of ten (10) or more lots, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the Director.
- H. Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to prevent or minimize flood damage to the extent practicable.
- I. Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required.
- J. Floodplain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to the one hundred (100) year flood plain outside the zero-foot rise flood plain, and the comprehensive plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway adjoining or within the flood plain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the flood plain in accordance with the city's adopted trails plan or pedestrian and bikeway plans, as applicable. The city shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, consistent with section 3.5, and section 3.5.100.D in particular.
- K. Phased Development.** The city may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than two (2) years without reapplying for a tentative plan approval. The criteria for approving a phased land division proposal are:

  - 1. Public facilities shall be constructed in conjunction with or prior to each phase;
  - 2. The development and occupancy of any phase dependent on the use of temporary public facilities shall require city receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.4.180. A temporary public facility is any facility not constructed to the applicable city standard;
  - 3. The phased development shall not result in requiring the city or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal.
- L. Lot Size Averaging.** The city may allow residential lots or parcels less than the minimum lot size under the applicable zoning district for projects that provide common open space or active recreation land and facilities. Such open space shall provide public access easements containing paved trails. The lot or parcel sizes shall meet the following:



- 1. The average area for all residential lots or parcels shall not be less than that allowed by the underlying zone; and
- 2. No lot or parcel created under this provision shall be less than eighty (80) percent of the minimum lot size allowed in the underlying zone.  
For example, if the minimum lot size is seven thousand five hundred (7,500) square feet, the following three (3) parcels could be created as part of a single partition application: six thousand (6,000) square feet, seven thousand five hundred (7,500) square feet, and nine thousand (9,000) square feet.

**M. Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in section 4.10.100, Temporary Uses.

**N. Conditions of Approval.** The city may attach such conditions as are necessary to carry out provisions of this code, and other applicable ordinances and regulations, and may require landscape screening between uses, or access reserve strips granted to the city for the purpose of controlling access to adjoining undeveloped properties. See also, section 3.5.100.D (Infrastructure).

**4.4.150 Variances Authorized.** Adjustments to the standards of this section shall be processed in accordance with section 5.2 Variances. Applications for variances shall be submitted at the same time an application for land division or property line adjustment is submitted.

**4.4.160 Final Plat Submission Requirements and Approval Criteria.**

**A. Submission Requirements.** Final plats shall be reviewed and approved by the city prior to recording with Douglas County. The applicant shall submit the final plat within two (2) years of the approval of the tentative plan as provided by section 4.4.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the city. The city will not accept as complete an application for final plat until the tentative plan has been approved.

**B. Approval Criteria.** By means of a Type I procedure, the planning director shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:

- 1. The final plat complies with the approved tentative plan, and all conditions of approval have been satisfied;
- 2. All public improvements required by the tentative plan have been installed and approved by the planning director. Alternatively, the developer has provided a performance guarantee in accordance with section 4.4.180;
- 3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;
- 4. The streets and roads held for private use have been approved by the city as conforming to the tentative plan and, where applicable, the associated PUD;
- 5. The plat contains a dedication to the public of all public improvements,

including but not limited to streets, public pathways and trails, access reserve strips, parks, and sewage disposal, storm drainage, and water supply systems;

6. The applicant has provided copies of all recorded homeowners association Codes, Covenants, and Restrictions (CC&R's), deed restrictions, private easements and agreements (e.g., for access, common areas, parking, etc.), and other recorded documents pertaining to common improvements recorded and referenced on the plat;
7. Water and sanitary sewer service is available to each and every lot, is provided; or bond, contract or other assurance has been provided by the subdivider to the city that such services will be installed in accordance with section 3.5, Infrastructure Standards, and the bond requirements of section 4.4.180. The amount of the bond, contract or other assurance by the subdivider shall be determined by a registered professional engineer, subject to review and approval by the city; and
8. The plat contains an affidavit by the surveyor who surveyed the land represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. Geological Survey or giving two or more permanent objects for identifying its location.

**4.4.170 Public Improvements Approval.** Before city approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved, or the subdivider shall provide a performance guarantee, in accordance with section 4.4.180.

**4.4.180 Performance Guarantee.**

- A. Performance Guarantee Required.** When a performance guarantee is required under section 4.4.170, the subdivider shall file an assurance of performance with the city supported by one (1) of the following:
  1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
  2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the city in writing that it may be terminated; or
  3. Cash.
- B. Determination of Sum.** The assurance of performance shall be for a sum determined by the city as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. Itemized Improvement Estimate.** The developer shall furnish to the city an itemized improvement estimate, certified by a registered civil engineer, to assist the city in calculating the amount of the performance assurance.
- D. Agreement.** At a minimum an agreement shall include all of the following:

- 1. A specific period within which all required improvements and repairs shall be completed;
  - 2. A provision that, if work is not completed within the period specified, the city may complete the work and recover the full cost and expenses from the applicant; and
  - 3. The improvement fees and deposits that are required.
- E. Failure to Perform.** In the event the developer fails to carry out all provisions of the agreement and the city has un-reimbursed costs or expenses resulting from such failure, the city shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the city.

**4.4.190 Filing and Recording.**

- A. Filing Plat with County.** Within sixty (60) days of the city approval of the final plat, the applicant shall submit the final plat to Douglas County for signatures of county officials as required by ORS Chapter 92.
- B. Proof of Recording.** Upon final recording with the county, the applicant shall submit to the city a mylar copy and two (2) paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly-created lots.
- C. Prerequisites to Recording the Plat.**
  - 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
  - 2. No plat shall be recorded until it is approved by the county surveyor in the manner provided by ORS Chapter 92.

**4.4.200 Replatting and Vacation of Plats.**

- A. Replatting and Vacations.** Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. Procedure.** All applications for a replat or vacation shall be processed in accordance with the procedures and criteria for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See section 4.2, Types of Applications and Review Procedures.)
- C. Additional Criteria.** A replat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys or if it fails to meet any applicable criteria.

- D. **Recording of Vacations.** All approved plat vacations shall be recorded in accordance with 4.4.190 and the following procedures:
  1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
  2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.
- E. **After Sale of Lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
- F. **Vacation of Streets.** All street vacations shall comply with the procedures and standards set forth in section and ORS Chapter 271.

**4.4.210 Property Line Adjustments.** Property line adjustments include the relocation or elimination of a common property line between abutting properties when no new parcels or lots are created. The application submission and approvals process is as follows:

- A. **Application Requirements.** All applications for property line adjustment shall be made on forms provided by the city and shall include information required for a Type I application, as governed by section 4.2.120. The application shall include:
  1. A preliminary lot line map identifying all existing and proposed lot lines and dimensions;
  2. Footprints and dimensions of existing structures (including accessory structures);
  3. Location and dimensions of driveways and public and private streets within or abutting the subject lots;
  4. Location of significant vegetation;
  5. Existing fences and walls; and
  6. Any other information deemed necessary by the planning director for ensuring compliance with city codes.
- B. **Approval Procedures.** Property line adjustments shall be processed using the Type I procedure, as provided by section 4.2.120, using approval criteria contained in subsection C, below.
- C. **Approval Criteria.** The planning director shall approve or deny a request for a property line adjustment in writing based on findings that all of the following criteria are satisfied:
  1. No additional parcel or lot is not created by the property line adjustment, however the number of lots or parcels may be reduced;
  2. Lot standards. All lots and parcels comply with the applicable lot standards of the zoning district (chapter 2) including lot area and dimensions and the flag lot standards of section 2.6.200, if applicable;
  3. Access. All lots and parcels comply with the standards or requirements of section 3.2 – Access and Circulation;
  4. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the setback standards of the zoning district (chapter 2); and

- 5. Exemptions from dedications and improvements. A property line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.

**D. Recording Property Line Adjustments.**

- 1. Expiration of approval. The property line adjustment approval shall be effective for a period of ninety (90) days from the date approval is final. The property line adjustment approval shall lapse if:
  - a. The property line adjustment is not recorded within the time limit set out above;
  - b. The property line adjustment has been improperly recorded with Douglas County without the satisfactory completion of all conditions attached to the approval; or
  - c. The final recording is a departure from the approved plan.
- 2. Covenant. Where all lots involved in a property line adjustment are under the same ownership, the owner shall sign and record a covenant accompanying the property line adjustment. The purpose of the covenant shall be to affect the completion of necessary tax lot adjustments in the Douglas County Assessor’s Records to reflect the new boundaries.
- 3. Filing with City. The applicant shall submit the copy of the recorded property line adjustment survey map to the city, Douglas County Assessor’s office, and Douglas County surveyor’s office within fifteen (15) days of recording and prior to the issuance of any building permits on the re-configured lots.

**E. Extension.** The city shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:

- 1. No changes are made on the original plan as approved by the city;
- 2. The applicant has submitted a written intent of recording the approved property line adjustment within the one (1) year extension period;
- 3. The extension request is made before expiration of the original approved plan.

**Section 4.5**

**CONDITIONAL USE PERMITS**

**4.5.100 Purpose.** There are certain uses which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “conditional uses” in chapter 2, Zoning Districts. The purpose of section 4.5 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

**4.5.110 Approval Procedures.**

- A. Initial Application.** Review of an application for a new conditional use shall be processed using the Type III procedure (section 4.2.140). The application shall meet the requirements of section 4.5.120, and the approval criteria contained in section 4.5.130.
- B. Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with section 4.7, Modifications.

**4.5.120 Application Requirements.** In addition to the application requirements required in section 4.2.140, the applicant for a conditional use permit shall include the following information, as applicable (for a description of each item, please refer to section 4.3.140, Site Plan Review Application Requirements):

- A.** A site analysis map;
- B.** A proposed site plan;
- C.** A preliminary grading plan;
- D.** A landscape plan;
- E.** Architectural drawings of all structures;
- F.** Drawings of all proposed signs;
- G.** A copy of all existing and proposed restrictions or covenants; and
- H.** Narrative report or letter documenting compliance with all applicable approval criteria in section 4.5.130.

**4.5.130 Criteria, Standards and Conditions of Approval.** The planning commission shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following:

- A. Use Criteria.**
  - 1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
  - 2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other code standards, or other reasonable conditions of approval; and
  - 3. Public facilities have adequate capacity to serve the proposal or will be made adequate by the applicant.
- B. Site Plan Criteria.** The criteria for site plan review approval (section 4.3.150) shall be met.
- C. Conditions of Approval.** The city may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or wetlands and floodplain; and
13. Requiring the dedication of sufficient land to the public, and/or construction of a pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of section 3.2, and section 3.2.100.D in particular.

**4.5.140 Additional Development Standards for Conditional Uses.**

- A. Concurrent Variance Application(s).** A conditional use permit shall not grant variances to regulations otherwise prescribed by the development code. Variance application(s) may be filed in conjunction with the conditional use permit application and both applications may be reviewed at the same hearing.
- B. Additional Development Standards.** Development standards for specific uses are contained in chapter 2, Zoning Districts.

**Section 4.6**

**PLANNED UNIT DEVELOPMENTS**

**4.6.100 Purpose.** The purposes of this section are to:

- A.** Provide a means for master planning large or unusual development sites;

- B. Encourage innovative planning that results in more mixed use development, improved protection of open spaces, and greater housing and transportation options than what is typical under standard code requirements;
- C. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified living environments;
- D. Facilitate the efficient use of land through flexible development standards;
- E. Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
- F. Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development; and
- G. Encourage energy conservation and improved air and water quality.

**4.6.110 Applicability.** The planned unit development procedures and criteria apply when an applicant submits an application for approval of a planned unit development.

**4.6.120 Review and Approvals Process.**

- A. **Review Steps.** There are three (3) required steps to planned unit development approval:
  - 1. The approval of a planned unit development concept plan;
  - 2. The approval of a detailed development plan; and
  - 3. The approval of a land division, development review and/or site plan review application(s).
- B. **Approval Process.**
  - 1. The planned unit development concept plan shall be reviewed using the Type III procedure in section 4.2.140, the application requirements in section 4.6.160, and the approval criteria in section 4.6.170.
  - 2. The detailed development plan shall be reviewed using the Type III procedure in section 4.2.140, the application requirements in section 4.6.190, and the approval criteria in section 4.6.200.
  - 3. Land division and development review or site plan review for approved planned unit developments shall be reviewed using applicable procedures, as governed by this code.
  - 4. Steps 1-3, in subsection A. above, may be combined in any manner, so long as the decision-making sequence follows that in subsection A. Notification and hearings may be combined.

**4.6.130 Allowed Uses.**

- A. **In the Residential Zoning Districts.** In the residential zones, the following uses are allowed outright when they are included in an approved planned unit development:
  - 1. All uses allowed outright in the underlying zoning district (chapter 2);
  - 2. Single-family detached and attached residential units;



- 3. Duplex and triplex residential units;
- 4. Multi-family residential units;
- 5. Manufactured homes;
- 6. Commercial uses (not exceeding five thousand (5,000) square feet in a residential zone);
- 7. Public and industrial uses;
- 8. Indoor recreation facility; athletic club, fitness center, racquetball court, swimming pool, tennis court or similar use;
- 9. Outdoor recreation facility, golf course, golf driving range, swimming pool, tennis court, trails, pathways, or similar use;
- 10. Recreational vehicle storage area; and
- 11. Conditional uses not otherwise permitted under subsections 1-10, above, shall require a conditional use permit.

- B. In the Commercial Zoning Districts.** In the C-1 and C-3 districts, all of the uses permitted outright in the district are allowed within a planned unit development.
- C. In the Light Industrial and Heavy Industrial Zoning Districts.** In M-1 and M-2 districts, a planned unit development shall contain only those uses allowed outright in the underlying district.

**4.6.140 Applicability of the Zoning District Standards.**

- A. Zoning District Standards.** Planned unit developments shall conform to the provisions of the underlying zoning district, as follows:
  - 1. Land use and residential density standards of the zone shall not be modified through the planned unit development procedure;
  - 2. The floor area, lot coverage, building size, building height, lot area and dimensional standards of the district may be modified through the planned unit development procedure without a variance, except:
    - a. Front yard and rear yard setbacks for structures on the perimeter of the project shall be the same as that required by the underlying district, unless increased through the master plan review;
    - b. All structures shall meet building and fire code requirements;
    - c. A minimum front yard setback of twenty (20) feet is required for any garage structure which opens facing a public or private street; and
    - d. Increases to building height shall be limited to twenty-five (25) percent over the standard height, and shall in no event exceed sixty (60) feet.
- B. Other Provisions of the District.** All other provisions of the zoning district shall apply, except as modified by this section.

**4.6.150 Applicability of Design Standards (Chapter 3).**

The design standards of chapter 3 apply to all planned unit developments.

#### 4.6.160 Concept Plan Submission.

- A. General Submission Requirements.** The applicant shall submit an application containing all of the general information required for a Type III procedure, as governed by Section 4.2.140. In addition, the applicant shall submit the following:
1. A statement of planning objectives to be achieved by the planned unit development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
  2. A development schedule indicating the approximate dates when construction of the planned unit development and its various phases are expected to be initiated and completed.
  3. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned unit development.
  4. A narrative report or letter documenting compliance with the applicable approval criteria contained in section 4.6.170.
  5. Special studies prepared by qualified professionals may be required by the planning director, planning commission or city council to determine potential traffic, geologic, noise, environmental, natural resource and other impacts, and required mitigation.
- B. Additional information.** In addition to the general information described in subsection A. above, the concept plan, data, and narrative shall include the following exhibits and information:
1. A site analysis map, as described in section 4.3.140, Site Plan Review Application Requirements;
  2. A conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
  3. A grading plan concept (for hillside or sloping properties, or where extensive grading is anticipated);
  4. A landscape concept (e.g., shows retention of existing vegetation and general planting types and areas);
  5. An architectural concept (e.g., information sufficient to describe architectural styles, building heights, and general materials);
  6. A sign concept (e.g., locations, general size, style and materials of signs); and
  7. A copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

**4.6.170 Concept Plan Approval Criteria.** The planning commission shall make findings addressing the following criteria when considering a concept plan:

- A. Consistency with the Purpose.** The plan is consistent with the purposes of the planned unit development code, as provided under section 4.6.100, and it provides superior design and amenities as compared to a typical development built under the standard code requirements;
- B. Comprehensive Plan.** The plan is consistent with the policies contained in the city’s comprehensive plan;
- C. Land Division Section.** All of the requirements for proposed land divisions, as applicable, are met (section 4.4);
- D. Open Space Requirement.** Planned unit developments in residential districts shall contain at least forty (40) percent open space. Where common open space is designated, the following standards apply:
  - 1. The open space area shall be shown on the final plan and recorded with the final plat or separate instrument; and
  - 2. The open space shall be conveyed in accordance with one of the following methods:
    - a. By dedication to the city as publicly-owned and maintained open space. Open space proposed for dedication to the city must be acceptable to the city with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities;
    - b. By leasing or conveying title (including beneficial ownership) to a corporation, home owners association or other legal entity, with the city retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, enforcement, property tax payment, etc.) suitable to the city; or
    - c. Homeowners Association bylaws and CC&Rs shall specifically recognize that the city has open space maintenance, enforcement, and assessment capabilities.

**4.6.180 Administrative Procedures.**

- A. Time Limit on Filing of Detailed Development Plan.** Within one (1) year after the date of approval of the concept plan, the applicant or his or her successor shall prepare and file with the city a detailed development plan, in conformance with Section 4.6.190. The detailed development plan may be for one (1) or more phases of the project.
- B. Extension.** The planning director shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one (1) year provided that:
  - 1. No changes have been made on the original conceptual development plan as approved;

2. The applicant has submitted a written intent to apply for detailed development plan review within the one (1) year extension period;
3. There have been no changes to the applicable comprehensive plan policies or code provisions on which the approval was based; and
4. The extension request is made before expiration of the original approval period.

**4.6.190 Detailed Development Plan Application Requirements.** The contents of the detailed development plan shall be determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes and other features.

**4.6.200 Detailed Development Plan Approval Criteria.** The planning commission shall approve the detailed development plan upon finding that the final plan conforms with the concept plan and required conditions of approval. Minor changes to the approved concept plan may be approved with the detailed plan, so long as the proposed modification does not:

- A. Increase residential density;
- B. Reduce the amount of open space or landscaping by more than ten (10) percent;
- C. Increase lot coverage (by buildings or changes in the amount of parking) by more than ten (10) percent.
- D. Change the proposed land use;
- E. Place development within environmentally sensitive areas or areas subject to a potential hazard;
- F. Change the location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements proposed on the concept plan, or modified through conditions of approval by more than sixty (60) feet.

Other modifications to the approved conceptual development plan shall require approval of either a minor modification or major modification, in conformance with section 4.7.

**4.6.210 Land Division, Development Review, Site Plan Review and Building Permit Approvals.** Upon receiving detailed development plan approval, the applicant may apply for applicable land division, development review or site plan review approval. Building permits shall not be issued until all required development permits have been issued and appeal periods have ended.

## Section 4.7

### MODIFICATIONS TO APPROVED PLANS AND CONDITIONS OF APPROVAL

**4.7.100 Purpose.** The purpose of this section is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve city resources.

**4.7.110 Applicability.**

- A This section applies to modification of the following development approvals:
  - 1. Site plan review approvals;
  - 2. Subdivisions, partitions, and lot line adjustments;
  - 3. Conditional use permits;
  - 4. Planned unit developments; and
  - 5. Conditions of approval on any of the above application types.
- B This section does not apply to zoning district changes, text amendments, temporary use permits, or other permits.

**4.7.120 Major Modifications.**

- A. **Major Modification Defined.** A major modification(s) to a land use decision or approved development plan is required if one or more of the changes listed below are proposed:
  - 1. A change in land use;
  - 2. An increase in the number of dwelling units;
  - 3. A change in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
  - 4. An increase in the floor area proposed for non-residential use by more than ten (10) percent where previously specified;
  - 5. A reduction of more than ten (10) percent of the area reserved for common open space and/or usable open space;
  - 6. A reduction to specified setback requirements by more than ten (10) percent, or to a degree that the minimum setback standards of the zoning district cannot be met; or
  - 7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.
- B. **Major Modification Approval Procedures.** An application for approval of a major modification shall be subject to the same review procedure (Type I, II, or III) and approval criteria applicable to the type of development at issue, however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site plan review only for the proposed parking lot and any changes to associated pathways, lighting and landscaping. If that parking lot was part of a planned unit development, modification would be considered through planned unit development, but only as to the proposed parking lot and any changes to associated pathways, lighting and landscaping.

**4.7.130 Minor Modifications.**

- A. **Minor Modification Defined.** Any modification to a land use decision or approved development plan which is not within the description of a major modification as provided in section 4.7.120, above, shall be considered a minor modification.

- B. **Minor Modification Approval Procedures.** An application for approval of a minor modification is reviewed using Type I procedures if the minor modification would modify a development to which Type I procedures would apply. All other minor modifications shall be reviewed using Type II procedures. A minor modification shall be approved, approved with conditions, or denied by the planning director based on written findings on the following criteria:
  1. The proposed development is in compliance with all applicable requirements of the development code; and
  2. The modification is not a major modification as defined in section 4.7.120, above.

Section 4.8

ZONING DISTRICT MAP AMENDMENTS

**4.8.100 Purpose.** The purpose of this section is to provide standards and procedures for legislative and quasi-judicial amendments to the zoning district map. These will be referred to as “zoning map amendments.” Map amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

**4.8.110 Approval Procedures.**

- A. **Review.** Review of an owner-initiated or city-initiated zoning map amendment. Quasi-judicial amendments are those that involve the shall follow the Type III procedure (section 4.2.140). The application shall meet the criteria of approval in subsection C, below.
- B. **Application.** An application for a zoning map amendment shall address the application requirements in section 4.2.140.
- C. **Criteria for Amendment.** The planning commission shall approve, approve with conditions or deny an application for a quasi-zoning map amendment based on all of the following criteria:
  1. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;
  2. Demonstration that the most intense uses and density that would be allowed, outright in the proposed zone, considering the sites characteristics, can be served through the orderly extension of urban facilities and services, including a demonstration of consistency with OAR 660-012-0060; and
  3. Evidence of change in the neighborhood or community, or a mistake or inconsistency between the comprehensive plan or zoning district map regarding the subject property which warrants the amendment.

## Section 4.9

### CODE INTERPRETATION

**4.9.100 Purpose.** Some terms or phrases within the development code may have two (2) or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text or for determining whether a proposed use not specifically listed in a use table in chapter 2, Zoning Districts is similar to a use on such a list and, therefore, in a zone.

#### **4.9.110 Code Interpretation Procedure.**

- A. Review.** Review of a request for code interpretation shall follow the Type II procedure (section 4.2.130).
- B. Application.** In lieu of the Type II requirements for a preapplication conference and the application requirements in section 4.2.130, an application for code interpretation shall:
  - 1. Identify the section of the development code to be interpreted; and
  - 2. Include a narrative identifying the perceived ambiguity in the code section.
- C. Notice.** In cases where the interpretation is not a quasi-judicial land use decision, in lieu of the Type II notice requirements at Section 4.2.130.C. and E., the planning director shall mail notice to any person who has requested notice of planning director's interpretation or who submitted comments for the planning director's consideration.
- D. Planning Director Decision.** The planning director's interpretation shall be based on consideration of the text, context and intent of the code section.

## Section 4.10

### MISCELLANEOUS PERMITS

**4.10.100 Temporary Use Permits.** Temporary uses are characterized by their short term or seasonal nature.

- A. Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using the Type II procedure under section 4.2.130, the planning director shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:
  - 1. The use does not violate any conditions of approval for the property (e.g., prior development permit approval);
  - 2. The applicant has proof of the property-owner's permission to place the use on his/her property;

3. No parking will be utilized by customers and employees of the temporary use which is needed by the property owner to meet their minimum parking requirement under section 3.4, Parking;
4. The use provides adequate vision clearance, as required by section 3.2.110, and shall not obstruct pedestrian access on public streets;
5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by section 3.2.110 Vehicular Access and Circulation;
6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use; and
7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)

**B. Temporary Sales Office or Model Home.** Using a Type II procedure under section 4.2.130, the City may approve, approve with conditions or deny an application for the use of any real property within the city as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the city, but for no other purpose, based on the following criteria:

1. Temporary sales office:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
- b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.

2. Model house:

- a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
- b. The model house shall be designed as a permanent structure that meets all relevant requirements of this code.

**C. Temporary Building.** Using a Type II procedure, as governed by section 4.2.130, the city may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the city as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by section 3.2.110, Vehicular Access and Circulation;



4. There is adequate parking for the customers or users of the temporary use as required by section 3.4, Vehicle and Bicycle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed six (6) months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

**4.10.110 Temporary Manufactured Dwelling Medical Hardship Permit.**

- A. **Purpose.** These regulations are intended to ensure adequate provisions exist to accommodate small scale temporary housing on individual lots in residential areas to allow for the care of a family member.
- B. **Review.** Review of an application for a temporary manufactured dwelling medical hardship permit shall follow the Type II procedure (section 4.2.130).
- C. **Approval Criteria.** A temporary manufactured dwelling medical hardship permit shall be granted if all of the following are met:
  1. The person(s) residing in the additional dwelling shall be member(s) of the immediate family of the resident(s) of the permanent residence.
  2. There shall be no compensation involved in the hardship case.
  3. The manufactured home shall:
    - a. Meet the requirements of and be approved by the building department;
    - b. Be connected to the public sewer and water systems as directed by the public works director and shall pay fees for such connections as required by city ordinance;
    - c. Have a permanent electrical installation;
    - d. Meet all setbacks and coverage requirements pertaining to the zone and shall be a minimum of six feet from the main building and all other buildings;
    - e. Be manufactured after June 15, 1976, and exhibit the "Oregon Department of Commerce Insignia of Compliance;"
    - f. Not be structurally connected to the principal residence; and
    - g. Meet all requirements for manufactured home standards in section 2.6.160 except where they conflict with this section. The

requirement that a garage or carport be attached to the manufactured home may be waived.

4. The manufactured home and accessory building foundations, pads, and support blocking shall be of sufficient strength to support the required live-loads and actual dead-loads imposed by the manufactured home and any attached or supported structure based on accepted engineering design standards. Foundations, tie-downs or other supports shall be provided to withstand the specified horizontal, u-lift, and overturning and wind forces on the manufactured home and any attached or supported structures based on accepted engineering design standards.

**D. Expiration and Reapplication:**

1. The temporary permit shall expire upon termination of the hardship or one (1) year from the date of issuance, whichever comes first. Renewals of the permit will require reapplication two months prior to the expiration date.
2. The permits are not transferable. If ownership of the property is transferred or the occupant changes, the permit is void. If the person who is the subject of the hardship relocates, the permit is void and a new application must be submitted for any new hardship or any new location.
3. The manufactured home must be removed within thirty (30) days of the date that the hardship ceases or of the date the permit expires, whichever occurs first.

- E. Permit to Be a Deed Restriction.** The requirements of this article and any conditions imposed by the hearings body shall be recorded with the county clerk and made a deed restriction. This shall be required prior to installation of the additional dwelling.

**4.10.120 Home Occupations.** Home occupations are permitted by right in all residential zones, subject to the provisions in section 2.6.150.

## Section 4.11

### AMENDMENTS TO THE SUTHERLIN DEVELOPMENT CODE AND LAND USE PLANS

**4.11.100 Purpose and Applicability.** These regulations provide the procedures and criteria the city will follow when it considers making an amendment to the city's development code or a land use plan, including amendments to the comprehensive plan text or map, annexations and amendments to the urban growth boundary.

**4.11.110 Approval Procedures.**

- A. Review Process.** Review of a request for an amendment to the city's development code or a land use plan shall follow the Type IV procedure (4.2.150).

- B. Application Requirements.** A quasi-judicial proposal requesting to change the comprehensive plan map designation of a site under common ownership or to annex or bring into the urban growth boundary such a site may be initiated by the owner(s) of the subject site. Only the city can initiate the other amendments regulated by section 4.11. An owner-initiated application shall include the information required for a Type IV procedure under section 4.2.150.
- C. Approval Criteria.** The planning commission's recommendation and the city council's decision shall be based on the following approval criteria.
1. For a proposed amendment to the city's development code, the proposed amendment is consistent with applicable provisions of the comprehensive plan, including inventory documents and facility plans incorporated therein.
  2. For a proposed amendment to a land use plan's text or map:
    - a. The proposed amendment is consistent with applicable statewide planning goals as adopted by the Land Conservation and Development Commission; and
    - b. The proposed amendment is consistent with the remainder of the comprehensive plan, including inventory documents and facility plans incorporated therein.

Chapter 5.0

EXCEPTIONS TO CODE STANDARDS

**Sections:**

**5.1 Introduction**

**5.2 Variances**

- 5.2.100 Purpose.
- 5.2.110 Class A Variance.
- 5.2.120 Class B Variance.
- 5.2.130 Class C Variance.
- 5.2.140 Variance Application and Appeals.

**5.3 Non-Conforming Uses and Development**

- 5.3.100 Non-conforming Uses.
- 5.3.110 Non-conforming Development.
- 5.3.100 Non-conforming Uses.

## Section 5.1

## INTRODUCTION

This chapter provides standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the code). This code cannot provide standards to fit every potential development situation. The city's varied geography, and complexities of land development, require flexibility. Chapter 5 provides that flexibility, while maintaining the purposes and intent of the code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The standards for non-conforming uses and development are intended to provide some relief from code requirements for older developments that do not comply.

## Section 5.2

## VARIANCES

**5.1.100 Purpose.** The purpose of this section is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The city encourages variances which result in public benefits, such as enhancements or development of planned open space or bike paths, or preservation of significant trees and natural water courses. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. Because some variances are granted using "clear and objective standards," they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or III procedure because they involve discretionary decision-making.

**5.2.110 Class A Variances.**

- A. Class A Variances.** The following variances are reviewed using a Type II procedure, as governed by section 4.2, using the approval criteria in subsection B, below:
1. Front yard setbacks. Up to a fifty (50) ten (10) percent change to the front yard setback standard in the zoning district.
  2. Interior setbacks. Up to a fifty (50) ten (10) percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
  3. Lot coverage. Up to fifty (50) ten (10) percent increase of the maximum lot coverage required in the base zone.
  4. Landscape area. Up to twenty (20) ten (10) percent reduction in landscape area (overall area or interior parking lot landscape area).
  5. Sign surface area or height. Up to ten (10) percent increase in area or height.

- B. Class A Variance Approval Criteria.** A Class A variance shall be granted if the applicant demonstrates compliance with all of the following criteria:
1. The variance requested is required due to the lot configuration, or other conditions of the site (such as avoidance of natural water courses);
  2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area; and
  3. The variance will not result in violation(s) of chapter 3, or other design standards.

#### 5.2.120 Class B Variances.

- A. Class B variances.** Due to their discretionary nature, the following types of variances shall be reviewed using a Type II or Type III procedure, in accordance with section 4.2:
1. Variance to Minimum Housing Density Standard (Chapter 2). The city may approve a variance after finding that the minimum housing density provided in chapter 2 cannot be achieved due to physical constraints that limit the division of land or site development. “Physical constraint” means steep topography, wetland and floodplain, unusual parcel configuration, or a similar constraint. The variances approved shall be the minimum variance necessary to address the specific physical constraint on the development.
  2. Variance to Vehicular Access and Circulation Standards (Section 3.2). Where vehicular access and circulation cannot be reasonably designed to conform to code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the city may grant a variance to the access requirements after finding the following:
    - a. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
    - b. There are no other alternative access points on the street in question or from another street;
    - c. The access separation requirements cannot be met;
    - d. The request is the minimum adjustment required to provide adequate access;
    - e. The approved access or access approved with conditions will result in a safe access; and
    - f. The visual clearance requirements of section 3.2 will be met.
  3. Variances to Street Tree Requirements (Section 3.3). The city may approve, approve with conditions, or deny a request for a variance to the street tree requirements in section 3.3, after finding the following:
    - a. Installation of the tree would interfere with existing utility lines;
    - b. The tree would cause vision clearance problems; or

- c. There is not adequate space in which to plant a street tree; and
  - d. Replacement landscaping is provided elsewhere on the site (e.g., parking lot area trees).
4. Variance to Parking Standards (Section 3.4).
- a. The city may approve variances to the minimum or maximum standards for off-street parking in section 3.4.130 upon finding the following:
    - (1) The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity;
    - (2) The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and
    - (3) All other parking design and building orientation standards are met, in conformance with the standards in chapter 2 and chapter 3.
  - b. The city may approve a reduction of required bicycle parking per section 3.4.110, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
  - c. The city may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.
- B. Variance to Maximum or Minimum Yard Setbacks to Protect Natural Features.** The city may grant a variance to the applicable setback requirements of this code for the purpose of preserving a tree or trees on the site of proposed development or avoiding wetland impacts or other nature features. Modification shall not be more than is necessary for the protection of natural features.
- C. Variances to Transportation Improvement Requirements (Section 3.5.100).** The city may approve, approve with conditions, or deny a variance to the transportation improvement standards of section 3.5.100, based on the criteria for granting variances provided in section 3.5.110. When a variance request cannot be supported by the provisions of that Section, then the request shall be reviewed as a Class C variance.

### 5.2.130 Class C Variance.

- A. Purpose.** The purpose of this section is to provide standards for variances which exceed the Class A and Class B variance criteria in sections 5.2.110 and 5.2.120. Class C variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the

applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to “permitted uses” shall be granted.

**B. Applicability.**

1. The variance standards are intended to apply to individual platted and recorded lots only.
2. An applicant who proposes to vary a specification standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure.
3. A variance shall not be approved which would vary the “permitted uses” of a zoning district (chapter 2).

**C. Approvals Process and Criteria.**

1. Class C variances shall be processed using a Type III procedure, as governed by section 4.2.140, using the approval criteria in subsection 2, below. In addition to the application requirements contained in section 4.2.140, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 2.
2. The city shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:
  - a. The proposed variance will not be materially detrimental to the purposes of this code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
  - b. A hardship to development exists which is peculiar to the lot size or shape, topography, wetland and floodplain, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same zoning district);
  - c. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
  - d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject code standard;
  - e. The hardship is not self-imposed; and
  - f. The variance requested is the minimum variance, which would alleviate the hardship.



**5.2.140 Variance Application and Appeals.** The variance application shall conform to the requirements for Type I, II, or III applications (section 4.2.120, 4.2.130, 4.2.140), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his/her request, alternatives considered, and why the subject standard cannot be met without the variance. Appeals to variance decisions shall be processed in accordance with the provisions of section 4.2.

### Section 5.3

#### NON-CONFORMING USES AND DEVELOPMENT

**5.3.100 Non-conforming Uses.** Where at the time of adoption of this code a use of land exists which would not be permitted by the regulations imposed by this code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

- A. Expansion Prohibited.** No such nonconforming use is enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land.
- B. Location.** No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this code.
- C. Discontinuation or Abandonment.** The nonconforming use of land is not discontinued for any reason for a period of more than twelve (12) months. For purposes of calculating the twelve (12) month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
  - 1. On the date when the use of land is physically vacated;
  - 2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
  - 3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
  - 4. On the date a request for final reading of water meters is made to the city.
- D. Application of Code Criteria and Standards.** If the use is discontinued or abandoned for any reason for a period of more than twelve (12) months, any subsequent use of land shall conform to the applicable standards and criteria specified by this code.

**5.3.110 Non-conforming Development.** Where a structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure; and the structure was lawful when constructed, the structure may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A.** No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be enlarged or altered in a way that satisfies the current requirements of the city's development code or will decrease its nonconformity;
- B.** Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent more than seventy-five (75) percent of its current value as assessed by the Douglas County assessor, it shall be reconstructed only in conformity with the city's development code; and
- C.** Should such structure be moved for any reason and by any distance, it shall thereafter conform to the regulations of the development code.
- D.** Special status for single family residences located within Commercial and Industrial zones shall be administered according to Section 2.3.115 and 2.5.105.

## TABLE OF CONTENTS

<b>Section</b>	<b>Page</b>
<b>1.1 Sutherlin Development Code</b>	<b>1-2</b>
<b>1.2 General Administration</b>	<b>1-2</b>
1.2.100 Interpretation of Purpose Sections	
1.2.110 Most Restrictive Regulations Apply	
1.2.120 Pre-Existing Approvals	
1.2.130 Building Permit and Certificate of Occupancy	
<b>1.3 Definitions</b>	<b>1-2</b>
<b>1.4 Enforcement</b>	<b>1-19</b>
1.4.100 Minimum Requirements.	
1.4.110 Violations	
1.4.120 Penalty.	
1.4.130 Complaints Regarding Violations.	
1.4.140 Abatement of Violations.	
1.4.150 Stop-Order Hearing.	
<b>2.1 Zoning District Administration</b>	<b>2-2</b>
2.1.100 Classification of Zoning Districts.	
2.1.110 Zoning District Map.	
2.1.120 Determination of Zoning District Boundaries.	
2.1.130 Accessory Uses and Structures	
<b>2.2 Residential Districts</b>	<b>2-3</b>
2.2.100 Purpose and Applicability.	
2.2.110 Permitted Uses, Conditional Uses, and Structures.	
2.2.120 Development Standards.	
<b>2.3 Commercial Districts</b>	<b>2-6</b>
2.3.100 Purpose and Applicability.	
2.3.110 Permitted Uses, Conditional Uses, and Structures.	
2.3.130 Development Standards.	
2.3.135 Special Use Status for Single Family Residences.	
2.3.100 Purpose and Applicability.	
<b>2.4 Public / Semi- Public District</b>	<b>2-10</b>
2.4.100 Purpose and Applicability.	
2.4.110 Permitted Uses.	
2.4.120 Accessory Uses and Structures.	
2.4.130 Development Standards.	
2.4.100 Purpose and Applicability.	

<b>2.5</b>	<b>Industrial Districts</b>	<b>2-11</b>
2.5.100	Purpose and Applicability.	
2.5.110	Permitted Uses.	
2.5.120	Development Standards	
2.5.125	Special Status for Single Family Residences	
<b>2.6</b>	<b>Special Use Standards</b>	<b>2-14</b>
2.6.100	Accessory Dwellings.	
2.6.110	Accessory Uses and Structures.	
2.6.120	Bed and Breakfast.	
2.6.130	Drive-Through Facilities.	
2.6.140	Group Care Homes and Facilities.	
2.6.150	Home Occupation.	
2.6.160	Manufactured Homes on Lots.	
2.6.170	Manufactured Home Parks.	
2.6.180	Residential Sales Office, Temporary.	
2.6.190	Wireless Telecommunication Facilities.	
2.6.210	RH Zone – Hillside Development Standards and Slopes over 12%	
<b>3.1</b>	<b>Design Standards Administration</b>	<b>3-2</b>
3.1.100	Applicability.	
3.1.110	Types of Design Standards.	
<b>3.2</b>	<b>Access and Circulation</b>	<b>3-2</b>
3.2.100	Purpose.	
3.2.110	Vehicular Access and Circulation.	
3.2.120	Pedestrian Access and Circulation.	
<b>3.3</b>	<b>Landscaping, Street Trees, Fences and Walls</b>	<b>3-15</b>
3.3.100	Purpose.	
3.3.110	Parking Area Landscaping.	
3.3.120	Landscape Credit/Preservation.	
3.3.130	Street Trees.	
3.3.140	Fences and Walls.	
<b>3.4</b>	<b>Vehicle and Bicycle Parking</b>	<b>3-22</b>
3.4.100	Purpose.	
3.4.110	Applicability.	
3.4.120	Automobile Parking Standards.	
3.4.130	Bicycle Parking Standards.	
<b>3.5</b>	<b>Infrastructure Standards</b>	<b>3-29</b>
3.5.100	Purpose and Applicability.	
3.5.110	Transportation Standards.	
3.5.120	Public Use Areas.	
3.5.130	Sanitary Sewer and Water Service Improvements.	

3.5.140	Storm Drainage Improvements.	
3.5.150	Utilities.	
3.5.160	Easements.	
3.5.170	Construction Plan Approval and Assurances.	
3.5.180	Installation.	
<b>3.6</b>	<b>Reserved</b>	
<b>3.7</b>	<b>Signs</b>	<b>3-49</b>
<b>3.8</b>	<b>Wetlands and Floodplains [reserved]</b>	
<b>4.1</b>	<b>Administration of Land Use and Development Permits</b>	<b>4-3</b>
4.1.100	Introduction	
<b>4.2</b>	<b>Types of Applications and Review Procedures</b>	<b>4-3</b>
4.2.100	Purpose.	
4.2.110	Description of Permit Procedures.	
4.2.115	Exceptions to Tables 4.2.110.	
4.2.120	Type I Procedure.	
4.2.130	Type II Procedure.	
4.2.140	Type III Procedure.	
4.2.150	Type IV Procedure.	
4.2.160	General Provisions.	
4.2.170	Special Procedures.	
<b>4.3</b>	<b>Development Review and Site Plan Review</b>	<b>4-17</b>
4.3.100	Purpose.	
4.3.110	Applicability.	
4.3.120	Development Review Approval Criteria.	
4.3.130	Site Plan Review – General Requirements.	
4.3.140	Site Plan Review – Application Submission Requirement.	
4.3.150	Site Plan Review Approval Criteria.	
4.3.160	Bonding and Assurances.	
4.3.170	Development in Accordance With Permit Approval.	
<b>4.4</b>	<b>Land Divisions and Property Line Adjustments</b>	<b>4-23</b>
4.4.100	Purpose.	
4.4.110	General Provisions.	
4.4.120	Approval Procedures.	
4.4.130	Tentative Plan Application Requirements.	
4.4.140	Approval Criteria – Tentative Plan.	
4.4.150	Variances Authorized.	
4.4.160	Final Plat Submission Requirements and Approval Criteria.	
4.4.170	Public Improvements Approval.	
4.4.180	Performance Guarantee.	
4.4.190	Filing and Recording.	

4.4.200	Replatting and Vacation of Plats.	
4.4.210	Property Line Adjustments.	
<b>4.5</b>	<b>Conditional Use Permits</b>	<b>4-33</b>
4.5.100	Purpose.	
4.5.110	Approval Procedure.	
4.5.120	Application Requirements.	
4.5.130	Criteria, Standards and Conditions of Approval.	
4.5.140	Additional Development Standards for Conditional Uses.	
<b>4.6</b>	<b>Planned Unit Developments</b>	<b>4-35</b>
4.6.100	Purpose.	
4.6.110	Applicability.	
4.6.120	Review and Approvals Process.	
4.6.130	Allowed Uses.	
4.6.140	Applicability of Zoning District Standards (Chapter 2).	
4.6.150	Applicability of Design Standards (Chapter 3).	
4.6.160	Concept Plan Application.	
4.6.170	Concept Plan Approval Criteria.	
4.6.180	Administrative Procedures.	
4.6.190	Detailed Development Plan Application Requirements.	
4.6.200	Detailed Development Plan Approval Criteria.	
4.6.210	Land Division, Development Review, Site Plan Review and Building Permit Approvals.	
<b>4.7</b>	<b>Modifications to Approved Plans and Conditions of Approval</b>	<b>4-40</b>
4.7.100	Purpose.	
4.7.110	Applicability.	
4.7.120	Major Modifications.	
4.7.130	Minor Modifications.	
<b>4.8</b>	<b>Zoning District Map Amendments</b>	<b>4-42</b>
4.8.100	Purpose.	
4.8.110	Appeal Procedures.	
4.8.120	Quasi-Judicial Amendments.	
4.8.130	Conditions of Approval.	
4.8.140	Record of Amendments.	
4.8.150	Transportation Planning Rule Compliance.	
<b>4.9</b>	<b>Code Interpretations</b>	<b>4-43</b>
4.9.100	Purpose.	
4.9.110	Code Interpretation Procedure.	
<b>4.10</b>	<b>Miscellaneous Permits</b>	<b>4-43</b>
4.10.100	Temporary Use Permits.	
4.10.110	Temporary Manufactured Dwelling Medical Hardship Permits.	

4.10.120	Home Occupations.	
<b>4.11</b>	<b>Plan Amendments</b>	<b>4-46</b>
4.11.100	Purpose and Applicability	
4.11.110	Approval procedures	
<b>5.1</b>	<b>Introduction</b>	<b>5-2</b>
<b>5.2</b>	<b>Variances</b>	<b>5-2</b>
5.2.100	Purpose.	
5.2.110	Class A Variance.	
5.2.120	Class B Variance.	
5.2.130	Class C Variance.	
5.2.140	Variance Application and Appeals.	
<b>5.3</b>	<b>Non-Conforming Uses and Development</b>	<b>5-6</b>
5.3.100	Non-conforming Uses.	
5.3.110	Non-conforming Development.	
5.3.100	Non-conforming Uses.	