

# TOLEDO MUNICIPAL CODE CHAPTER 17 AS AMENDED BY ORDINANCE NO. 1286 AND 1307

## Chapter 17.04 General Provisions.

### 17.04.010 Title.

This title shall be known as the "Toledo Zoning Ordinance."

### 17.04.020 Definitions.

- A. As used in this ordinance any gender reference refers to all genders and the singular includes the plural and the plural includes the singular.
- B. The following words and phrases, unless the context otherwise requires, shall mean:
- Abut: Contiguous to or immediately joining. For example, two lots with a common property line are considered to be abutting.
- Access: The way or means by which pedestrians and vehicles enter and leave property.
- Accessory dwelling unit: A dwelling unit incidental and subordinate to the main dwelling unit. Examples include a studio apartment located over a garage or a 1 bedroom cottage located in the backyard.
- Accessory structure or use: A structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use, including a home occupation. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
- Alley: A public way of not over twenty (20) feet wide providing a secondary means of access to private property.
- Alter: Any change, addition, or modification in the construction of a building or structure.
- Apartment house: See dwelling, multi-family.
- Auto body shop: An establishment primarily engaged in the repair of automotive tops, bodies and interiors, or automotive painting and refinishing.
- Auto 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 motor vehicles unable to be moved under the power of the vehicle.
- Automobile service station: A building or portion thereof and land used for dispensing automobile

fuel, oil, accessories, and minor vehicle repairs. When the dispensing sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

- Babysitting:** The provision of child care to a child in the child's own home during the temporary absence of the child's parents.
- Bed & breakfast facility:** A single-family dwelling or part thereof occupied by the proprietor with no more than five guest rooms and where traveler's accommodation and meals are provided for a fee on a daily or weekly room rental basis, not to exceed 30 consecutive days.
- Boarding, lodging, or rooming house:** A building where lodging with or without meals is provided for compensation for not less than 5 nor more than 10 guests.
- Building:** A structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
- Child:** A human being under thirteen (13) years of age.
- Child day care center:** A facility which provides child care and/or educational services prior to the first grade level for 13 or more children, or for 12 or fewer children in a facility other than the single-family residence of the provider and complies with the rules and regulations established by the State of Oregon Children and Families Services Division.
- Child day care home:** A facility which provides child care and/or educational services prior to the first grade level for 12 or fewer children in the single-family residence of the provider. If the Child Day Care Home provides service in compliance with the Oregon Children and Families Services Division, child care ratios such that no employees are required, and the facility is located in a residential zone, the Child Day Care Home shall be regulated as a Home Occupation. Child Day Care Homes of all sizes shall comply with the rules and regulations established by the State of Oregon Children and Families Services Division.
- City:** The City of Toledo, Oregon.
- City Manager:** The City Manager of the City or designee(s).
- City street:** A public right-of-way which has been dedicated to the public and accepted by the City and created to provide ingress or egress to one or more lots, parcels, areas, or tracts of land, including the terms "street," "highway," "lane," "avenue," "road," or similar designations. For the purpose of Title 17, the term "City Street" includes improved public roadways dedicated to the public and accepted by either Lincoln County or the Oregon Department of Transportation. They may or may not be maintained.
- Clear vision area:** A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner

intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no plantings, walls, structures, or temporary or permanent obstructions exceeding 2.5 feet in height measured from the top of the curb.

- Commission: The city Planning Commission of the City of Toledo, Oregon.
- Comprehensive Land Use Plan: The plan adopted by the City to serve as a guide to the orderly growth, development, and improvement of the City, including any adopted written text with goals and policies, a diagrammatic map of desired land use allocations, and any amendments to such text and map.
- Conditional use: A use that is generally in line with the purpose of the zone but which could, if not reviewed, have a significant adverse impact on other properties or uses within the zone beyond that of the uses permitted outright.
- Condominium: A form of ownership where buildings are subdivided into individual units such that each owner owns only the individual unit and the air space occupied by it. The portion of land upon which the building is situated, the surrounding grounds, party walls, corridors, and services other than those within independent units (such as electrical, water, gas, sewer, etc.) become joint responsibilities of all the owners as tenants in common.
- Custom manufacturing: Manufacturing of individual, or in small lots, items made according to personal order.
- Development: Any human-induced change to improved or unimproved real estate, including, but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation, and drilling operations. Also includes any action or use on or applied to real property.
- Drive-in use: An establishment that by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles. Restaurant, take-out, or drive-in is separately defined.
- Dwelling, multi-family: A building containing two or more dwelling units excluding accessory dwelling units.
- Dwelling, single-family: A detached building containing one dwelling unit.
- Dwelling unit: One or more rooms designed for occupancy by one family only and not having more than one cooking facility, but not including recreational vehicles, hotels, motels, boarding houses, etc.
- Duplex: A detached building containing two dwelling units.
  - Triplex: A detached building containing three dwelling units.

- Fourplex: A detached building containing four dwelling units.
- Multi-plex: A building containing more than four dwelling units.

Easement:	The grant of a right-of-way use for a specific purpose, such as an easement for utility purposes across a parcel of land.
Eating or drinking establishments:	Retail establishments selling food and drink for consumption on the premise, including lunch counters and refreshment stands selling prepared foods and drinks for immediate on-site consumption. This term includes restaurants where food and drink are prepared, served, and consumed primarily within the principal building. It also includes a retail food establishment which is any fixed facility in which food or drink is offered or prepared primarily for retail trade.
Employees:	All persons, including proprietors, working on the premises.
Family:	Two or more persons related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit. A family is also a group of not more than five persons who need not be related by blood, marriage, adoption, or legal guardianship, living in a dwelling unit. A single person living alone shall be recognized as a family.
Floor area:	The area included in surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.
Garage, parking:	A structure, or part of a structure, used to store cars primarily on a short term basis, with or without a fee.
Garage, private:	An accessory building or portion of a main building, including a carport, which is used for the parking or storage of privately owned vehicles, boats, and trailers of the person resident upon the premises and in which no business, service, or industry related to motor vehicles is carried on.
Garage, public:	A public or commercial garage is a building or part of a building or space used for business or commercial purposes used principally for the repair, equipping, and care of motor vehicles and where such vehicles may be parked or stored.
Grade (ground level):	The average of the finished ground level at the center of all walls of the building. In case walls are parallel to and within five feet of a sidewalk, the aboveground level should be measured at the sidewalk.
Height of building:	The vertical distance from the grade to the highest point of the roof.
Historical resources:	A district, site, structure, or artifact which has a significant relationship to events or conditions of the human past.
Home occupation:	An occupation carried on within a dwelling by members of the family occupying the dwelling with no servant, employee, or other persons being engaged at the home occupation site, 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 or manifest any characteristic of a business in the ordinary meaning of the term unless specifically authorized by the zoning code or infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes. A City of Toledo Business License is required for all home occupations.

- Hospital:** An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis.
- Hostel:** A single building containing a single dwelling unit where four unrelated individuals but not more than 20 unrelated individuals may live for not more than 30 continuous days. A hostel may be occupied and managed by a family in addition to the 4 to 20 persons renting facilities.
- Hotel/motel:** A building in which lodging is provided to the public for compensation, with or without common entrances, with or without cooking facilities, and where more than 75% of the lodging rooms are for rent to transient guests for a continuous period of less than 30 days.
- Impact:** The consequences of a course of action; the effect of a goal, guideline, plan, or decision.
- Kennel:** A lot or building used for a business or residence in which four or more dogs, cats, or other domestic animals at least four months of age are kept and where such animals are kept commercially for board, propagation, training, or sale. A kennel does not include an agricultural use such as cattle grazing on land in the Natural Resource zone.
- 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 the preservation and protection of existing vegetation. Bark, wood chips, rock or other similar material surrounding plants can also be considered a part of the landscaping.
- Loading space:** An off-street space within a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or material.
- Lot:** A unit of land that is created by a partition or a subdivision of land defined by the Toledo Land Division Ordinance.
- Lot area:** The total horizontal area within the lot lines of a lot.
- Lot, corner:** A lot abutting on two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than 135 degrees.
- Lot, frontage:** The portion of the lot nearest the street and from which access is obtained.

Lot, interior:	A lot other than a corner lot.
Lot line:	The property line bounding a lot.
Lot line, front:	In the case of an interior lot, the lot line separating the lot from the street other than an alley, and in the case of a corner lot, the owner shall choose the lot line, approved by staff, which is along a street other than an alley.
Lot line, rear:	A lot line which is opposite and most distant from the front lot line and, in the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.
Lot line, side:	Any lot line not a front or rear lot line.
Lowest floor:	The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of applicable non-elevation design requirements of this ordinance.
Manufactured dwelling:	<p>A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. For general classification purposes, manufactured dwellings also include:</p> <ol style="list-style-type: none"> <li>1. Residential trailers constructed before January 1, 1962.</li> <li>2. Mobile homes constructed between January 1, 1962, and June 15, 1976, which met Oregon construction standards then in effect; and</li> <li>3. Manufactured homes constructed to federal standards.</li> </ol>
Manufactured home park:	Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space for manufactured homes for a charge or fee paid or to be paid for the rental, lease or use of the facilities, or to offer free space in connection with securing the trade or patronage of such uses.
Medical clinic:	A building or structure whose primary purpose is housing practitioners for the medical and dental treatment of persons.
Mini-storage:	Buildings or other structures with multiple, self-contained units which are intended to be rented or leased to individual parties for the purpose of small-scale storage or sheltering of personal goods, household items, vehicles, and similar items of personal property.
Nonconforming structure or use:	A lawful structure or use at the time this code or any amendment to it

becomes effective and which does not conform to the requirements of the zone in which it is located. A nonconforming structure and a nonconforming use may be present simultaneously on one piece of real property.

- Parcel: A tax lot created by the division of land.
- Parking lot, public: An open, off-street area used for the temporary parking of more than three automobiles and available for public use, with or without charge, or as accommodation for clients and customers.
- Persons: Every natural person, firm, partnership, association, or corporation.
- Planned development: The development of an area of land as a single entity for a number of dwelling units or a number of uses, according to a plan which allows flexibility in lot size, bulk or type of dwelling, density, lot coverage, or required open space to the regulations otherwise required by the City of Toledo Zoning Ordinance. It is intended to encourage variety in the development pattern of the city and to encourage creative approaches to land development. It is further intended to provide for the general well-being of future inhabitants and the surrounding neighborhood by planning around geologic hazards, providing a safe and efficient transportation network, assuring privacy and open space, maintaining health and safety and enhancing the overall livability of the area.
- Porch/deck, unenclosed: An unenclosed porch/deck does not contain additional walls excluding the house wall and is characterized by open railing or enclosed railing not to exceed 45 inches in height.
- Public right-of-way: An easement for access dedicated to the public, the City, or other governmental entity and accepted as such which may or may not be developed and maintained by the City of Toledo.
- Public safety services: A safety service such as fire suppression, police protection, or emergency medical response, intended as a service to the public that may be operated by a governmental body/agency or a private corporation.
- Recreational vehicle: A vehicular-type living unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. Type of recreational vehicles include, but are not limited to, travel trailer, camping trailer, camper, camping van, and motor home.
- Recreational vehicle park: A plot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles as temporary living quarters for recreation or vacation purposes (not more than 30 days out of any 60 day period).
- Religious use/institution: A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses commonly associated

with a religious use or use of a building such as concerts, holiday related sales, bake sales, rummage sales, meetings, religious instruction, community related events, and other such uses.

**Residential care facility:** A facility licensed under the authority of the Department of Human Resources (DHR) under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for 6 to 15 individuals who need not be related. Staff required to meet DHR licensing requirements shall not be counted in the number of facility residents, and need not be related to each other.

**Residential care home:** A residence, licensed under the authority of the Department of Human Resources (DHR) under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for 6 to 15 individuals who need not be related. Staff required to meet DHR licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

**Residency hotel:** A building or group of buildings in which lodging, with or without cooking facilities, is available to owners or transient guests for rent, trade, exchange, or other compensation for a period of less than 30 days. Tenancy will be less than from month-to-month. More than 25% of the lodging rooms or units may be used or are available for residential use or rental for residential purposes on a month-to-month tenancy or a lease or rental agreement for periods of 30 days or more.

**Restaurant, take-out or drive-in:** An establishment where food and/or beverages are sold in a form ready for consumption which takes place or is designed to take place outside the confines of the restaurant building or site, and where ordering and pickup of food takes place from a vehicle.

**Right-of-way:** A strip of land within which there is located a passageway conveyed for a specific purpose.

**Salvage/junk yard:** Any property used by a business that deals in buying and selling old motor vehicles, old motor vehicle parts, machinery or parts thereof, appliances, or parts thereof, scrap metal, or other discarded material.

**Scrap metal and transfer facility:** A place/structure where metal goods and materials which are used, worn out, cast out, or discarded are stored on a short-term basis for the purpose of reclamation and/or recycling of the metal before transfer to another facility.

**School:** Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

**Security dwelling:** A single-family dwelling or a dwelling unit as part of a building which is an accessory use to the main use of the property and which is either located on the same lot with the main use or as part of the main building



to provide housing for security personnel, caretakers, employees, and/or owners.

- Setback** The minimum allowable horizontal distance from a given line of reference (usually a property line) to the nearest foundation line or vertical wall, whichever is closer, of a structure. An architectural feature of the structure shall not project more than two feet into the required setback. Where architectural features project more than two feet into the allowable setback area, the distance shall be measured from the reference line to the architectural feature.
- Sign:** A presentation or representation, other than a house number, by words, letters, figures, designs, pictures, or colors, publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of advertising. This includes the board, metal, or surface upon which the sign is painted, included, or attached.
- Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement, cellar, or garage is more than six feet above grade, such basement, cellar, or garage shall be considered a story.
- Street:** The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities. Street shall include the terms "road," "highway," "lane," "place," "avenue," "court," "way," or other similar designations.
- Structure:** A building of any kind or any piece of work artificially built up or composed of parts joined together in some manner and which requires location on the ground or which is attached to something having a location on the ground.
- Structural alteration:** Any change to the supporting members of a building including foundations, bearing walls or partitions, columns, beams, or girders, or roof.
- Tower:** A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications.
- Trailer, house:** A building or single-wide vehicle originally designed or presently constructed to be used as a dwelling or lodging place for recreational uses and to be movable from place to place over streets.
- Trailer park:** A plot of ground upon which one or more house trailers occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for such accommodations.

Truck and car repair and service - minor:	The general repair and servicing of automobiles and passenger trucks (of 11,000 lbs. gvwt or less) excluding industrial vehicles.
Truck and car repair and service - major:	The general repair and servicing of automobiles and trucks including industrial vehicles.
Use:	The purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained.
Visual screening:	A barrier, natural or man-made, that blocks the view into a property.
Water-dependent development:	Development activity that can only be carried out on, in, or adjacent to the water because the use requires access to the water body for transportation, recreation, energy production or source of water.
Water-related development:	A use which derives a cost savings advantage, not associated with land costs or rent, from a location on or near the water or a use whose location on or near the water is essential to the functioning of adjacent water-dependent uses.
Yard:	An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this ordinance. FRONT: A yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the building. REAR: A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the main building. SIDE: A yard between a building and the side lot lines measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the building.

**17.04.030 Compliance with ordinance (Title) provisions and maintenance of minimum requirements.**

- A. No building, structure, or premise shall hereafter be used or occupied and no building or part thereof shall be erected, moved, reconstructed, extended, enlarged, or altered contrary to the provisions of this ordinance.
- B. Each use permitted either outright or conditionally in any of the zones in this ordinance includes the accessory uses which attach to that main use, and both the main use and all accessory uses shall be considered in any application or proceeding under this ordinance.
- C. No lot area, yard, or other open space, or required off-street parking or loading area existing on or after the effective date of this ordinance shall be reduced in area, dimension, or size below the minimum required by this ordinance, or shall any lot area, yard, or other open space or off-street parking or loading area which is required by this ordinance for one use be used as the lot area, yard, or other open space or off-street parking or loading area requirement for any other use.

**17.04.040 Classification of zones.**

For the purposes of this ordinance the city is divided into zones designated as follows:

<u>Zone</u>	<u>Abbreviated Designation</u>
Single-Family Residential	R-S
General Residential	R-G
Commercial	C
Light Industrial	L-I
Industrial	I
Natural Resource	N-R
Water-Dependent	W-D
Public Lands	P-L

**17.04.050 Zoning map, boundaries, designation after annexation and planned developments.**

- A. The location and boundaries of the zones designated in Section 17.04.040 are established as shown on the map entitled "Comprehensive Plan and Zoning Map of the City of Toledo" dated with the date of adoption and signed by the Mayor and City Recorder and hereafter referred to as the "zoning map."
- B. The signed copy of the zoning map shall be maintained on file in the office of the City Manager and is hereby made a part of this ordinance.
- C. Unless otherwise specified, zone boundaries are lot lines or the center line of streets, alleys, railroad right-of-way, or such lines extended. Where a zone boundary divides a land parcel under a single ownership into two zones, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of less than 20 feet. If the adjustment involves a distance of more than 20 feet, the procedure for a zone change shall be followed.
- D. Territory annexed to the city shall be given a zone designation in compliance with the Comprehensive Land Use Plan designation of the property. Such change may be entirely or partially carried out as a part of the annexation proceedings. The zone designation under the zoning ordinance of Lincoln County shall apply until changed by the city. If the City Council finds it is important to the protection or implementation of city policies, with notice and opportunity to be heard, interim regulations may be applied in the annexed area until more permanent action can be taken.
- E. Planned developments shall be allowed outright without requiring an overlay zone for all Single-Family Residential and General Residential zoned properties.

**17.04.060 Land use application/permit procedures under the Zoning Ordinance.**

The land use application/permit procedures referenced in this zoning ordinance (Title 17) are to be followed according to the criteria set forth by ordinance in Title 19 of the Municipal Code by the City Council.

**Chapter 17.08 Single-Family Residential Zone (R-S).**

**17.08.010 Purpose.**

The purpose of the R-S zone is to preserve areas within the city for single-family residences and the facilities and services which go along with those residences. The facilities and services and other conditional uses should be compatible with low- density residential living and should not result in heavy traffic, loud noise, or any other disturbing activity.

**17.08.020 Uses permitted outright.**

- A. Single-family dwellings\* and their accessory uses.
- B. Home occupations which comply with Chapter 17.46
- C. Manufactured dwellings.\*
- D. Accessory use structures.\*
- E. Accessory dwelling units.\*

**17.08.030 Conditional uses permitted.**

- A. Religious use.
- B. Governmental structure or land use including but not limited to a public park, playground, fire station, library, or museum.
- C. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, group care center, residential care facility, residential care home, or medical clinic.
- D. School: nursery, primary, elementary, junior high, or senior high.
- E. Pumping station and utility substation.
- F. Manufactured dwellings that do not meet the minimum standards set in Sections 17.08.090 (A) - (B).
- G. Boarding house, bed and breakfast facility, hostel, or residency hotel.
- H. Multi-family dwelling units.
- I. Commercial uses in conjunction with a planned development under the Toledo Land Division Ordinance.
- J. Child day care center.\*

**17.08.040 Signs. The following signs are permitted in the R-S zone:**

- A. One temporary sign, not illuminated and not to exceed 9 square feet in area, advertising the sale, lease, or rental of the property.
- B. Temporary political signs, not illuminated and not to exceed 6 square feet, to be removed within seven days after the pertinent election date.
- C. One non-illuminated sign not to exceed 6 square feet in area in conjunction with a home occupation.

**17.08.050 Lot size.**

The minimum lot area shall be 7,000 square feet for an interior lot and 7,500 square feet for a corner lot.

**17.08.060 Setback requirement.**

In an R-S zone the yards shall be as follows:

- A. The front yard shall be a minimum of 15 feet.
- B. The side yard shall be a minimum of 6 feet on one side and 9 feet on the other side except that on corner lots the setback for all buildings shall be a minimum of 10 feet on the side abutting a street.
- C. The rear yard shall be a minimum of 15 feet.
- D. The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least 20 feet from the access street.

**17.08.070 Height of building.**

In an R-S zone no principal building shall exceed a height of 35 feet or two and one-half stories, whichever is less, and no accessory building shall exceed a height of two stories or 22 feet, whichever is less.

**17.08.080 Lot coverage.**

In an R-S zone buildings shall not occupy more than an accumulative 55% of the lot area. No lot shall have more than one principal building constructed thereon.

**17.08.090 Special standards for certain uses (marked with an asterisk (\*) in Sections 17.08.020 and 17.08.030).**

A. Design features for single-family dwellings in a Single-Family Residential Zone.

1. All single-family dwellings shall enclose an area of not less than 1,000 square feet.
2. All single-family dwellings located within a Single-Family Residential zone, except for manufactured dwellings located within a mobile home or manufactured home park, shall utilize at least three of the following design features, or other design features as approved by the Planning Commission:
  - a. Dormers;
  - b. Recessed entries;
  - c. Cupolas;
  - d. Bay or bow windows;
  - e. Window shutters;
  - f. Off-set on building face or roof (minimum 12 inches);
  - g. Gables;
  - h. Covered porch entry or enclosed deck;
  - i. Pillars or posts;
  - j. Tile, wood shake, 3-tab composite material, or wood shingle roof;
  - k. Horizontal lap siding or shakes;
  - l. Perimeter foundation of surfaced concrete or masonry;
  - m. Window trim (minimum 4 inches wide);
  - n. Balconies/decks;
  - o. Decorative pattern on exterior finish (eg. scales/shingles, wainscoting, ornamentation, and similar features);
  - p. An alternative feature providing visual relief similar to above options;
  - q. Six inch minimum eaves plus gutters and downspouts.
3. All single-family dwellings will meet the minimum requirements for energy efficiency, as set by the Uniform Building Codes as adopted by the City, excepting manufactured dwellings which shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards previously stated. Evidence demonstrating that the manufacture dwelling meets "Super Good Cents" energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturers certification shall not be required.
4. Single-family dwellings shall have an attached or detached garage or carport. The structure shall be sided and roofed to match the dwelling. All driveways shall have an all-weather surface as approved by the Public Works Department.
5. Erosion control plans must be submitted prior to issuance of a building permit.
6. Single-family dwellings and other improvements shall be developed in compliance with all other applicable provisions set forth in the City Zoning Ordinance and the Uniform Building Codes.

B. Manufactured dwellings. In addition to compliance with the provisions set forth above in Section 17.08.090(A), a manufactured dwelling shall be permitted outright subject to the following standards:

1. The manufactured dwelling shall be multi-sectional, double-wide or larger. A manufactured dwelling shall not be considered multi-sectional by virtue of having a tip-out section. The

manufactured dwelling must show compliance with Department of Housing and Urban Development Standards.

2. The manufactured dwelling shall minimally be placed on an excavated and back-filled foundation, with continuous footing foundation that is six inches nominal thickness by eighteen inches wide with two continuous #4 rebar lapped twelve inches and centered in each footing. The perimeter shall be enclosed with skirting of concrete or concrete block such that no more than twelve inches of the enclosing material is exposed above grade. Where the building site has a sloped grade, no more than twelve inches of the enclosing material shall be exposed on the uphill side of the home. If the manufactured dwelling is placed on a basement or in a floodplain, the twelve inch limitation shall not apply.
3. The manufactured dwelling shall have a pitched roof with a minimum nominal slope of three feet in height for each 12 feet in width (3:12).

C. Accessory use structures. Structures that are incidental and subordinate to the main structure on the property which are located in conjunction with the main uses are allowed:

1. If the accessory structure is 10 feet or less high and less than or equal to 120 square feet, it can be located in the rear setback area, but no closer than 5 feet from the property lines.
2. All of the side and front yard setback must be met.
3. Accessory structures may be of any size provided no other portion of the zoning code such as the sections on lot coverage standards or the building height standards are violated.

D. Accessory dwelling units. One accessory dwelling unit may be allowed in conjunction with a single-family dwelling by conversion of existing space, by means of an addition, or as an accessory structure on the same lot with an existing dwelling, provided the following conditions can be met:

1. The owner(s) of the primary dwelling shall occupy at least one of the units.
2. Any additions shall not increase the gross floor area of the original dwelling by more than 35%. Gross floor area of the accessory unit shall not exceed 35% of the primary dwelling's total floor area, or 650 square feet, whichever is the lesser.
3. One additional off-street parking space shall be provided in addition to the required parking for the primary dwelling.
4. Accessory dwelling shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material of the primary dwelling.
5. Units shall comply with fire and life-safety codes.
6. Any accessory use and/or dwelling associated with a conditional use shall be allowed only after approval has been granted through the conditional use procedure. A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions for a code interpretation.

E. Child day care centers shall meet the following requirements:

1. A fence installed at least 4 feet in height around any play yard areas which cannot be breached by children.
2. Vehicular traffic and pedestrian facilities located and designed to prevent cars from backing into the street or crossing the pedestrian paths of children entering or leaving the building(s) or play area(s).
3. Off-street parking provided at one and a quarter (1.25) spaces per staff person for the shift with the highest number of staff persons. Any fraction of a space requires an additional space (e.g. 1.25 to 1.75 spaces would require 2 full spaces).
4. Located in a manner and with sufficient barriers to minimize disturbance to the surrounding properties and to prevent or minimize environmental/safety hazards for the children in the center.

5. Must be registered or certified through the State Department of Children and Family Services.

## **Chapter 17.12 General Residential Zone (R-G)**

### **17.12.010 Purpose.**

The purpose of the R-G zone is to encourage economical, higher-density housing in these designated areas. Additional traffic pressure and resulting noise and activity should be confined to the areas zoned R-G.

### **17.12.020 Uses permitted outright.**

- A. Single-family dwellings and their accessory uses
- B. Multi-family dwelling units.
- C. Manufactured dwellings.\*
- D. Accessory dwelling units.\*
- E. Home occupations which comply with Chapter 17.46
- F. Accessory Use Structures
- G. Registered and licensed residential care facility and residential care homes

### **17.12.030 Conditional uses permitted.**

- A. Religious use.
- B. Governmental structure or land use including but not limited to a public park, playground, fire station, library, or museum.
- C. Hospital, sanitarium, rest home, home for the aged, nursing home, convalescent home, group care center, or medical clinic.
- D. School: nursery, primary, elementary, junior high, or senior high.
- E. Pumping station and utility substation.
- F. Boarding house, bed and breakfast facility, hostel, or residency hotel.
- G. Child day care center.\*
- H. Manufactured dwellings that do not meet the minimum standards in Section 17.12.040 (B).
- I. Professional office use, bakery/catering, art gallery/studio, eating establishment, or other similar type of commercial use in conjunction with the residential use of the property that exceeds the standards for a home occupation.

### **17.12.040 Special standards for certain uses (marked with an asterisk (\*) in Sections 17.12.020 and 17.12.030).**

- A. Accessory dwelling units. One accessory dwelling unit may be allowed in conjunction with a single-family dwelling by conversion of existing space, by means of an addition, or as an accessory structure on the same lot with an existing dwelling, provided the following conditions can be met:
  1. The owner(s) of the primary dwelling shall occupy at least one of the units.
  2. Any additions shall not increase the gross floor area of the original dwelling by more than 35%. Gross floor area of the accessory unit shall not exceed 35% of the primary dwelling's total floor area, or 650 square feet, whichever is the lesser.
  3. One additional off-street parking space shall be provided in addition to the required parking for the primary dwelling.
  4. Accessory dwellings shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material of the primary dwelling.
  5. Units shall comply with fire and life-safety codes.
  6. Any accessory use and/or dwelling associated with a conditional use shall be allowed only after

approval has been granted through the conditional use procedure. A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions for code interpretation.

**B. Manufactured dwellings shall:**

1. Be double-wide or wider;
2. Have a minimum of 850 square feet;
3. Have skirting that matches the dwelling or perimeter foundation of surfaced concrete or masonry;
4. Have a pitched roof with a minimum nominal slope of two feet in height for each 12 feet in width (2:12); and
5. Comply with Department of Housing and Urban Development Standards.

**C. Child day care centers shall meet the following requirements:**

1. A fence installed at least 4 feet in height around any play yard areas which cannot be breached by children.
2. Vehicular traffic and pedestrian facilities located and designed to prevent cars from backing into the street or crossing the pedestrian paths of children entering or leaving the building(s) or play area(s).
3. Off-street parking provided at one and a quarter (1.25) spaces per staff person for the shift with the highest number of staff persons. Any fraction of a space requires an additional space (e.g. 1.25 to 1.75 spaces would require 2 full spaces).
4. Located in a manner and with sufficient barriers to minimize disturbance to the surrounding properties and to prevent or minimize environmental/safety hazards for the children in the center.
5. Must be registered or certified through the State Department of Children and Family Services.

**17.12.050 Signs.**

The following signs are permitted in the R-G zone:

- A. One temporary sign, not illuminated and not to exceed 9 square feet in area, advertising the sale, lease, or rental of the property.
- B. Temporary political signs, not illuminated and not to exceed 6 square feet, to be removed within seven days after the pertinent election date.
- C. One non-illuminated sign not to exceed 6 square feet in area in conjunction with a home occupation.

**17.12.060 Lot size.**

The minimum lot area shall be 6,000 square feet for a single-family dwelling plus 1,800 square feet for each additional dwelling unit. Density in the R-G zone shall not exceed 21 units per acre.

**17.12.070 Setback requirements.**

In an R-G zone the yards shall be as follows:

- A. The front yard shall be a minimum of 15 feet.
- B. The side yard shall be a minimum of 5 feet on both sides except that on corner lots the setback for all buildings shall be a minimum of 10 feet on the side abutting a street.
- C. The rear yard shall be a minimum of 5 feet.
- D. The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least 20 feet from the access street.



### **17.12.080 Height of buildings.**

In an R-G zone no principal building shall exceed a height of 35 feet or two and one-half stories, whichever is less. No accessory building shall exceed a height of two stories or 22 feet, whichever is less.

### **17.12.090 Lot coverage.**

In an R-G zone buildings shall not occupy more than an accumulative 66% of the lot area. No lot shall have more than one principal building constructed thereon.

## **Chapter 17.16 Commercial Zone (C)**

### **17.16.010 Purpose.**

The purpose of the C zone is to provide for retail and service commercial uses. It is also intended that these uses will supply personal services or goods to the average person and that a majority of the floor space will be devoted to that purpose. Compatible uses including public, civic, and institutional uses are also allowed. Residential use above the commercial main floor or located as not to prevent the main commercial use are allowed and encouraged especially in the Main Street District area.

### **17.16.020 Uses permitted outright.**

- A. Retail trade or commercial services, except drive-in uses.
- B. Entertainment (e.g., theaters, clubs, amusement uses).
- C. Hotel, motels, bed and breakfast facility, hostel, or residency hotels.
- D. Personal and professional services (e.g., child care center, catering/food services, restaurants, taverns, laundromats and dry cleaners, barber shops and salons, banks and financial institutions, or similar uses).
- E. Medical and dental offices, clinics or laboratories.
- F. Office uses (i.e., those not otherwise listed).
- G. Public and institutional uses such as religious uses, clubs, lodges, government offices and facilities, public safety services, libraries, museums, community centers, public parking lots, parks, schools, or other similar uses.
- H. Custom manufacturing of goods for retail and/or wholesale sale on the premises such as small-scale crafts, electronic equipment, bakery, furniture, art, sculpture, pottery, or other similar types of goods.
- I. Truck and car repair and service - minor.\*
- J. Automobile service stations.
- K. One accessory dwelling unit in conjunction with a commercial use and that meets applicable code requirements.
- L. Temporary vendors/seasonal commercial uses not to exceed three months.

### **17.16.030 Conditional uses permitted.**

- A. Animal hospitals or kennels.
- B. Drive-in use for uses which are permitted outright or as conditional uses in the C zone.
- C. Restaurants (take-out or drive-in).
- D. Machine shops.
- E. Mini-storage.
- F. Multi-family dwelling units.
- G. Overnight trailer park or recreational vehicle parks.
- H. Pumping station or utility substations.
- I. Truck and car repair and service - major.

- J. Uses which are similar to those permitted outright or conditionally in the C zone and which conform to the purpose of the zone.

#### **17.16.040 Setback requirements.**

Except for allowed uses within the Main Street District area as defined in Section 17.40.010, the front yard in a C zone shall be a minimum of 25 feet.

#### **17.16.050 Special standards for certain uses (marked with an asterisk(\*) in Section 17.16.020).**

- A. Truck and car repair and service - minor:
  - 1. All repair shall be conducted entirely within an enclosed building.
  - 2. Non-operating vehicles shall be stored overnight only within the building and outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to one space for the first four repair bays with .25 storage spaces per each additional repair bay. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.
  - 3. Operating vehicles shall be parked overnight only in designated parking areas or within the building

### **Chapter 17.20 Light Industrial Zone (L-I).**

#### **17.20.010 Purpose.**

The intent of the L-I zone is to provide areas for lighter industrial development around the areas of heavy industry for manufacturing, related establishments, and certain commercial uses which have a limited impact on surrounding properties.

#### **17.20.020 Uses permitted outright.**

- A. Assembly plants.
- B. Custom manufacturing of goods for retail and/or wholesale sale on the premises, including art, sculpture, pottery, etc.
- C. Contractor's warehouse and shop.
- D. Crane business and related operations.
- E. Log or equipment storage.
- F. Machine shop.
- G. Mini-storage.
- H. Parking in conjunction with uses permitted in the L-I and I zones.
- I. Governmental and utility uses appropriate in a L-I zone such as a pumping station, utility service yard, utility substation, public works shop, public safety services, or similar facilities.
- J. Separate office building and/or retail sales associated with the light-industrial use.
- K. Wholesale distributing or warehousing.
- L. Auto body shop.\*
- M. Truck and car repair and service-minor.\*
- N. Boat building and/or boat repair and related launch facility.
- O. Automobile service stations.
- P. One security dwelling as a separate structure\* or one security dwelling as part of a building for light-industrial use that complies with applicable codes for mixed use occupation.
- Q. Temporary street vendors/seasonal commercial uses not to exceed three months.
- R. Uses permitted outright in the Commercial zone, but only on parcels with frontage on Business

Highway 20.

**17.20.030 Conditional uses permitted.**

- A. Bulk storage of flammable liquids and gases.
- B. Drive-in use for uses which are permitted outright or as conditional uses in the L-I zone.
- C. Eating or drinking establishments.
- D. Industrial museum.
- E. Processing and manufacturing operations.
- F. Shipping facilities.
- G. Structural shoreline stabilization.
- H. Truck and car repair and service - major.
- I. Waste transfer, recycling facility, or scrap metal facility.
- J. Uses which are similar to those permitted outright or conditionally in the L-I zone and which conform with the purpose of the zone.

**17.20.040 Special standards for certain uses (marked with an asterisk (\*) in Section 17.20.020).**

- A. Auto body shop.
  - 1. Non-operating vehicles shall be stored overnight only within the building and outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to 2 spaces per paint booth. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.
  - 2. Operating vehicles shall be parked overnight only in designated parking areas or within the building.
- B. Truck and car repair and service-minor.
  - 1. Non-operating vehicles shall be stored overnight only within the building and outdoors in designated storage spaces. The maximum number of non-operating vehicle, outdoor, storage spaces shall be limited to 1 space for the first 2 repair bays and .50 storage spaces per each additional repair bay. Required customer/employee parking spaces shall not be used for overnight storage of non-operating vehicles.
  - 2. Operating vehicles can be parked overnight only in designated parking areas or within the building.
- C. A security dwelling as a separate structure. The dwelling must comply with the following standards:
  - 1. It must be a site built single-family structure which meets the Uniform Building Code or a manufactured home that meets the following criteria:
    - a. Be a single wide or wider.
    - b. Show compliance with Department of Housing and Urban Development standards.
    - c. Have skirting that matches the dwelling or perimeter foundation of surfaced concrete or masonry.
    - d. The manufactured dwelling shall have a pitched roof with a minimum nominal slope of two feet in height for each 12 feet in width (2:12), and shall be of 3-tab, shake, or other roofing material as approved by the Planning Commission.
  - 2. The structure is limited to size to between 240 to 850 square feet and is limited in size to a one-bedroom unit.
  - 3. Parking must be provided for the structure at the ratio of one (1) space per unit and it must be adjacent to the dwelling.

4. The dwelling may be located within the industrial building or if it is in a separate structure:
  - a. A fenced, landscaped yard will be provided with setbacks as are required in the R-S zone from any of the industrial uses on the site and from the adjacent properties and roadways.
  - b. There shall not be any outdoor storage in the front yard or in any of the setback areas of the dwelling.
5. Security dwellings are to be located so as to minimize the number of dwellings in an industrial area/park, i.e., near the entry to the complex.

## **Chapter 17.24 Industrial Zone (I)**

### **17.24.010 Purpose.**

The purpose of the I zone is to provide sufficient, desirable land in the city for the expansion of existing industrial sites and for the construction and development of new industry. At the same time, the undesirable results of industrial development (noise, air, and water discharges) should be kept, as much as is possible, from adversely affecting the commercial and residential areas of the city.

### **17.24.020 Uses permitted outright.**

- A. Assembly plants.
- B. Crane business and related operations.
- C. Machine shop.
- D. Parking in conjunction with uses permitted in the I zone.
- E. Processing and manufacturing operations.
- F. Pumping station and utility substation.
- G. Railroad line and associated uses.
- H. Shipping facilities.
- I. Storage in conjunction with above permitted uses.
- J. Wholesale distributing and warehousing, including the bulk storage of flammable liquids and gases.
- K. Wholesale sales.
- L. Contractor's warehouse and shop.
- M. Governmental and utility uses appropriate in an industrial area such as a pumping station, utility service yard, utility substation, public works shop, public safety services, or similar facilities.
- N. Waste transfer, recycling facility, or scrap metal facility.
- O. Retail and/or office space associated with the industrial use.
- P. Separate office buildings in conjunction with above permitted uses.
- Q. One security dwelling as separate structure\* or one security dwelling as part of a building for industrial use that complies with applicable codes for mixed use occupation.

### **17.24.030 Conditional uses permitted.**

- A. Drive-in uses for uses which are permitted outright or as conditional uses in the I zone.
- B. Eating or drinking establishments.
- C. Eating or drinking establishment, take-out or drive-in.
- D. Industrial museum.
- E. Structural shoreline stabilization.
- F. Uses which are similar to those permitted outright or conditionally in the I zone and which conform with the purpose of the zone.

### **17.24.040 Special standards for certain uses (marked with an asterisk (\*) in Section 17.24.020).**

- A. A security dwelling as a separate structure. The dwelling must comply with the following standards:

1. It must be a site built single-family structure which meets the Uniform Building Code or a manufactured home that meets the following criteria:
  - a. Be a single wide or wider.
  - b. Show compliance with Department of Housing and Urban Development standards.
  - c. Have skirting that matches the dwelling or perimeter foundation of surfaced concrete or masonry.
  - d. The manufactured dwelling shall have a pitched roof with a minimum nominal slope of two feet in height for each 12 feet in width (2:12), and shall be of 3-tab, shake, or other roofing material as approved by the Planning Commission.
2. The structure is limited in size to between 240 to 850 square feet and is limited in size to a one-bedroom unit.
3. Parking must be provided for the structure at the ratio of one (1) space per unit and it must be adjacent to the dwelling.
4. The dwelling may be located within the industrial building or if it is in a separate structure:
  - a. A fenced, landscaped yard will be provided with setbacks as are required in the R-S zone from any of the industrial uses on the site and from the adjacent properties and roadways.
  - b. There shall not be any outdoor storage in the front yard or in any of the setback areas of the dwelling.
5. Security dwellings are to be located so as to minimize the number of dwellings in an industrial area/park, i.e., near the entry to the complex.

## **Chapter 17.28 Natural Resource Zone (N-R)**

### **17.28.010 Purpose.**

The purpose of the N-R zone is to protect land and water important as habitat for plant, animal, or marine life for future generations, to ensure open spaces, to promote a healthy and visually attractive environment, and to provide for human development and enrichment by providing recreational areas, facilities, and opportunities.

### **17.28.020 Uses permitted outright.**

- A. Planting, cultivation and harvesting of timber or agricultural crops.
- B. Pasture.
- C. One residence per tax lot existing on the effective date of this ordinance, provided the residence is occupied in conjunction with an agricultural use.
- D. Accessory out-buildings.
- E. Yaquina Estuary Management Unit #33 shall be governed by the permitted uses established through the Yaquina Bay Task Force.
- F. Public park facilities.

### **17.28.030 Conditional uses permitted.**

- A. Pumping station and utility substation.
- B. Structural shoreline stabilization.

## **Chapter 17.32 Water-Dependent Zone (W-D)**

### **17.32.010 Purpose.**

The purpose of the W-D zone is to provide for water-dependent uses which need contact with or use of the water for water-borne transportation, recreation, energy production, or water supply.

**17.32.020 Uses permitted outright.**

- A. Marine terminal or transfer facility for fish, timber, or other water-borne commerce.
- B. Industrial processing plant which requires access to water body during processing operation.
- C. Log storage which requires access to water.
- D. Boat building or boat repair and launch facility.
- E. Seafood processing.
- F. Marine fuel sales.
- G. Charter boat operation.
- H. Marine ways and boat ramp.
- I. Commercial marina or moorage.
- J. One security dwelling as part of a building for water-dependent use that complies with applicable codes for mixed use occupation.
- K. Any shoreland use or activity necessary in relation to a use allowed under Section 17.32.020.
- L. Any other use which conforms with the definition of water-dependent development in Section 17.04.020.

**17.32.030 Conditional uses permitted.**

- A. Boat sales.
- B. Bait and tackle shop.
- C. Warehouse and storage area for marine equipment.
- D. Seafood processing plant, smoking or canning establishment or retail outlet that does not require access to water.
- E. Restaurant in conjunction with a water-dependent use which provides a waterfront viewing experience, specializes in seafood and provides public waterfront access with a waterfront walkway or pavilion or is located on a second floor above a water-dependent use.
- F. Public accommodation in conjunction with a water-dependent use that provides marina facility or public waterfront walkway or pavilion.
- G. Parking.
- H. Marine equipment or supply sales.
- I. Other water-related development in conjunction with a water-dependent use.
- J. A non-water-dependent or non-water-related use, provided no structures or alterations are involved which would prevent future use of the site for water-dependent use.
- K. Structural shoreline stabilization.

**17.32.040 Other uses permitted.**

The water surface within the Yaquina Estuary has been inventoried through the Yaquina Bay Task Force and permitted uses identified via a matrix and policy system. Those matrices for Management Unit Numbers 12, 25, 30, 31, 32, and 33 shall apply.

**Chapter 17.36 Public Lands Zone (P-L).**

**17.36.010 Purpose.**

The purpose of the P-L zone is to indicate lands owned by public agencies, recognizing that such lands may be put to varied uses.

**17.36.020 Uses permitted outright.**

- A. Uses existing at the time of passage of this ordinance and the expansion of those uses are permitted

outright.

**17.36.030 Conditional uses permitted.**

- A. Any other use necessary for the public agency to perform its mission.

**Chapter 17.40 Main Street District Overlay.**

**17.40.010 Purpose and definition.**

The purpose of the Main Street District Overlay is to recognize the unique attributes and development pattern of the Toledo Main Street area. For the purpose of this ordinance the Main Street District is defined as the commercially zoned real property fronting the following streets:

- A. Main Street from Highway 20 south to Butler Bridge Road;
- B. Main Street from Highway 20 north to NE 4<sup>th</sup> Street;
- C. 2nd Street North from the Southern Pacific Railroad tracks east to Highway 20;
- D. 1st Street North from the Southern Pacific Railroad tracks east to Highway 20;
- E. Graham Street from the Southern Pacific Railroad tracks east to Alder Street;
- F. Alder Street from Business Highway 20 south to Graham Street; and
- G. The south side of Highway 20 from Main Street southeast to Alder Street.

**17.40.020 Requirements from which Main Street District uses are exempt.**

The Main Street District is exempt from the following sections of the code to the extent that the requirements are not included as a condition of approval of a land use permit.

- A. Setback requirements of the Commercial Zone of Section 17.16.040.
- B. Parking requirements of Section 17.44.030.
- C. Landscaping requirements of Section 17.52.020.

**Chapter 17.44 Off-Street Parking and Loading.**

**17.44.010 Purpose.**

The purpose of this chapter is to provide basic and flexible standards for development of vehicle 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 resulting in the paving of extensive areas of land that could be put to better use. This chapter recognizes that each development has unique parking needs by providing a flexible approach for determining parking space requirements.

**17.44.020 Applicability.**

All developments subject to development review (Chapter 17.60), including development of parking facilities, shall comply with the provisions of this Section. At the time of erection of a new building or at the time of enlargement or change in use of an existing building within any zone in the city except the Main Street District area as defined by Section 17.40.010, off-street parking spaces shall be provided for the increased parking requirements as indicated in this section unless greater requirements are otherwise established.

**17.44.030 Vehicle parking standards.**

The minimum 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 area. Credit shall be allowed for “on-street parking”, as provided in Section 17.44.040.

A. Residential uses:

1. Single-family detached housing. 2 parking spaces shall be provided for each detached single-family dwelling or manufactured home on an individual lot.
2. Two- and three-family housing. 1.5 parking spaces per dwelling unit.
3. Multi-family and single-family attached housing.
  - a. Studio units or 1-bedroom units less than 500 sq. ft. – 1 space/unit.
  - b. 1-bedroom units 500 sq. ft. or larger – 1.50 spaces/unit.
  - c. 2-bedroom units – 1.75 spaces/unit.
  - d. 3-bedroom units – 2.00 spaces/unit.
  - e. Retirement complexes for seniors 55-years or greater – 1 space/unit.
4. Rooming and boarding houses, dormitories. 2 spaces for each 3 guest rooms, or 1 space per 3 beds, whichever is more.
5. Senior housing. Same as for retirement complexes.
6. Manufactured home parks. Same as for single-family detached housing.
7. Accessory dwelling. One parking space required.

B. Commercial uses:

1. 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 1 space per 5,000 square feet for the excess over 10,000 square feet of gross land area; and 1 space per 2 employees.
2. Business, general retail, personal services.
  - a. General - 1 space per 350 square feet of gross floor area.
  - b. Furniture and appliances – 1 space per 750 square feet of gross floor area.
3. Chapels and mortuaries. 1 space per 4 fixed seats in the main chapel.
4. Hotels and motels. 1 space for each guest room, plus 1 space for the manager.
5. Offices.
  - a. Medical and Dental Offices – 1 space per 350 square feet of gross floor area.
  - b. General Offices – 1 space per 450 square feet of gross floor area.
6. Restaurants, bars, ice cream parlors and similar uses. 1 space per 4 seats or 1 space per 100 square feet of gross leasable floor area, whichever is less.
7. Theaters, auditoriums, stadiums, gymnasiums, similar uses. 1 space per 4 seats.

C. Industrial uses:

1. 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.
2. 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.
3. 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 2 spaces is required.

D. Public and institutional uses:



1. Child care centers having 13 or more children. 1 space per 2 employees; a minimum of 2 spaces is required except as otherwise defined in an individual zone.
2. Religious uses and places of worship. 1 space per 4 seats.
3. Golf courses, except miniature. 4 spaces per hole, plus additional spaces for auxiliary uses set forth in this section. Miniature golf courses – .5 space per hole.
4. Hospitals. 2 spaces per patient bed.
5. Nursing and convalescent homes. 1 space per 3 patient beds.
6. Rest homes, homes for the aged, or assisted living. 1 space per 2 patient beds or 1 space per apartment unit.
7. Schools, elementary and middle school. 1.5 spaces per classroom, or the requirements for public assembly areas as set forth herein, whichever is greater.
8. High schools. 1.5 spaces per classroom, plus 1 space per 10 students the school is designed to accommodate, or 1 space per 4 public assembly seats as set forth herein, whichever is greater.
9. Colleges, universities and trade schools. 1.5 spaces per classroom, plus 1 space per 5 students the school is designed to accommodate, plus requirements for on-campus housing.

E. Unspecified uses:

Where a use is not specifically listed in this table, parking requirements shall be determined by finding that a use is similar to those listed in terms of parking needs.

**17.44.040 On-street parking credit.**

The amount of off-street parking required shall be reduced by one 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 for some streets, where permitted by City of Toledo, ODOT and/or Lincoln County standards. The following constitutes an on-street parking space:

- A. Parallel parking, each 24 feet of uninterrupted curb;
- B. Diagonal parking per standard, each with 18 (30 degree) to 10 feet of curb (60 degree);
- C. Perpendicular (90 degree) parking, each with 9 feet of curb;
- D. Curb space must be connected to the lot which contains the use;
- E. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and
- F. 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 by the property owner.

**17.44.050 Parking location and shared parking.**

- A. Location. Vehicle parking for new uses 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.
- B. 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 a reasonable walking distance or 500 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.
- C. Mixed uses. If more than one type of land use occupies a single structure or parcel of land, the total

requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (i.e., the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly.

- D. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use.
- E. 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, customer and/or employees, as applicable.

## **Chapter 17.46 Home Occupation Permits**

### **17.46.010 Purpose.**

The purpose of this chapter is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are permitted in all residential units (dwellings), subject to the following standards.

### **17.46.020 Appearance of Residence.**

- A. 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.
- B. 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.
- C. The home occupation shall not violate any conditions of development approval.
- D. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

### **17.46.030 Storage.**

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

### **17.46.040 Employees.**

- A. Other than family members residing within the dwelling located on the home occupation site, there shall be no employees at the home occupation site at any given time.
- B. 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.

- C. The home occupation site shall not be routinely used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.
- D. Authorization for up to one full-time equivalent (40 hours per week) may be granted but requires one additional off-street parking space. The requirement will be evaluated as a Class A Variance in Section 17.68.030(C).

**17.46.050 Advertising and Signs.**

- A. In no case shall a sign exceed 6 square feet.

**17.46.060 Vehicles, Parking, and Traffic.**

- A. 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.
- B. There shall be no more than three commercial vehicle deliveries to or from the home occupation site daily.
- C. 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.

**17.46.070 Business Hours.**

- A. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 8:00 am to 8 pm only.

**17.46.080 Prohibited Home Occupation Uses.**

- A. 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.
- B. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowable. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or craft instructors, computer software from computer consultants, and similar incidental items for sale by home businesses are allowed.
- C. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke, or vibration, such as, but not limited to:
  - 1. Ambulance service;
  - 2. Animal hospital, on-site veterinary services, kennels, or animal boarding;
  - 3. Auto or other vehicle repair, including auto painting;
  - 4. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes, or large equipment on-site;

**17.46.090 Exceptions**

The following exceptions to the home occupation chapter shall apply for certain home occupations as listed:

A. Day Care Home

1. Vehicle round trips may be increased to 16.
2. Hours of operation may be expanded to 6 am - 8 pm.

**17.46.100 Enforcement.**

The Community Development Director may visit and inspect the site of home occupations in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. A City of Toledo Business License is required for all Home Occupations.

**Chapter 17.48 Access and Clear Vision Requirements.**

**17.48.010 Purpose.**

The purpose of this chapter is to ensure that developments provide safe and efficient access and circulation while recognizing the role that topography plays in development in Toledo.

**17.48.020 Applicability.**

This Chapter shall apply to all public streets within the City and to all properties that abut these streets.

**17.48.030 Access permit required.**

Access to a public street requires an Access Permit (a Type I permit) in accordance with the following procedures:

- A. Permits for access to City streets shall be subject to review and approval by the City Manager based on the standards contained in this Chapter, the Toledo Public Improvements Requirements and Design Standards, and/or the Uniform Fire Code as applicable. An access permit may be in the form of a letter to the applicant, attached to a land use decision notice, or included as part of the development review/building permit approval.
- B. Permits for access to State highways shall be subject to review and approval by the Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the City or Lincoln County. In that case, the City or County shall determine whether access is granted based on its adopted standards.
- C. Permits for access to County roads/highways shall be subject to review and approval by Lincoln County, except where the County has delegated this responsibility to the City, in which case the City shall determine whether access is granted based on adopted City standards.

**17.48.040 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 reciprocal access easements (i.e., for shared driveways), installation of traffic control devices or traffic safety devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. The City is authorized to require greater requirements for access in accordance with the adopted city standards for permits issued by any jurisdiction within the city limits.

### **17.48.050 Access 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. These methods are “options” to the developer unless one method has been specifically required in conjunction with a land use application.

- A. 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 required.
- B. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A public access easement covering the driveway shall be recorded to assure access to the closest public street for all users of the private street/drive.
- C. 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.

### **17.48.060 Clear-vision areas.**

A clear-vision area shall be maintained on the corners of all property at the intersection of two streets, a street and alley/mid-block lane, or a street and a railroad.

- A. A clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified below in this section or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two sides.
- B. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 2.5 feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to a height 8 feet above grade.
- C. The following measurements shall establish clear-vision areas:
  - 1. In residential zones the minimum distance shall be 30 feet, or, at intersections with an alley/mid-block lane, 10 feet.
  - 2. In all other zones, the minimum distance shall be 15 feet, or at intersections with an alley, 10 feet, except that when the angle of intersection between streets, other than an alley, is less than 30 degrees, the distance shall be 25 feet.

## **Chapter 17.52 Landscape Requirements for the Commercial, Light Industrial, Industrial and Water-Dependent Zones.**

### **17.52.010 Purpose.**

The purpose of this chapter is to promote community health, safety, and welfare by setting development standards for landscaping, street trees, 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 provide climate control through shading during summer months and wind screening during winter. Walls, fences, trees and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces.

### **17.52.020 Requirement to landscape.**

Any new commercial, light industrial, industrial or water-dependent use on an existing vacant lot as of the date of passage of this ordinance or on a lot that subsequently becomes vacant for a period of more than one year are required to provide landscaping as part of the development/building permit process.

- A. The following standards are intended to serve as minimum landscaping and screening standards:
1. A minimum of 5 percent of the parcel or lot shall be landscaped. If two or more lots are utilized for the use, the 5 percent requirement shall apply for each lot though the landscaping may be placed or retained on one lot or on each of the lots.
  2. A suitable tree (minimum 6 feet in height at time of planting) shall be planted for every 20 feet (or portion of 20 feet) of lot line fronting any developed street or road. For each tree retained on the proposed development site, the tree planting requirement shall be reduced by one.
  3. In selecting trees, the following requirements shall apply:
    - a. If planted near or under power lines, trees must be selected that will grow no higher than 25 feet at maturity such as Amur Maple, Vine Maple, Flowering Cherries, and Flowering Plum.
    - b. If planted near sewer or water lines, no cedars, poplars, willows or alders shall be planted because of the potential for line damage from roots.
    - c. If not planted near or under power lines, or near sewer or water lines, then any tree species is acceptable.
  4. Trees identified for meeting the landscaping requirement shall be subject to the City of Toledo tree permit or removal requirements.
- B. On commercial, industrial, light industrial, and water-dependent property abutting a residentially zoned property, an evergreen hedge, evergreen trees or sight-obscuring fence must be placed to screen the view of storage areas and operations not enclosed in a building. Fences shall not be less than six feet nor more than eight feet in height. Evergreen hedges or trees shall not be less than six feet in height.
- C. A landscape plan shall be submitted as part of the building permit site plan or as a separate plan in conjunction with a building permit. The landscape plan shall be subject to the approval of the City Manager.
- D. An alternative landscape plan may be submitted to the Planning Commission for consideration as a substitute for the above standards.

## **Chapter 17.56 Nonconforming Uses and Structures.**

### **17.56.010 Purpose.**

This chapter acknowledges and deals with nonconforming structures and uses. The purpose of this section is to preserve those structures and uses as they exist at the time that this ordinance or its amendments become effective, to allow a minimum of further expansion or upgrading and to assure that improvement and change to such structures and uses will, as much as possible, be in accordance with the requirements of this ordinance.

### **17.56.020 Continuation of nonconforming structure and use.**

Subject to the provisions of this ordinance, a nonconforming structure and a nonconforming use may be continued.

### **17.56.030 Change of a nonconforming use.**

If a nonconforming use is changed, it shall be changed to a use conforming to the zoning regulations and, after change, shall not be changed back to the original nonconforming use.

**17.56.040 Discontinuance of a nonconforming use.**

If a nonconforming use is discontinued from active use for a period of one year, further use of the property shall be for a use conforming with this ordinance.

**17.56.050 Change of a nonconforming structure.**

A nonconforming structure may be altered, or expanded, providing the use of the structure is not changed and the resulting structure conforms with the ordinance requirements for the zone in which the use of the structure would be allowed. If more than one set of requirements is appropriate, the most restrictive set shall apply.

**17.56.060 Destruction of a nonconforming structure.**

If a nonconforming structure or use is destroyed by any cause, the structure may not be rebuilt. A Class B Variance is necessary to repair or rebuild a significantly damaged nonconforming use or structure.

**17.56.070 Completion of building.**

Nothing contained in this ordinance shall require any change in the plans, construction, alteration, or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of this ordinance, except that if the designated use will be nonconforming it shall, for the purpose of Chapter 17.56, be a discontinued use if not in operation within one year of the date of issuance of the building permit.

**Chapter 17.60 Development Review Permits.**

**17.60.010 Purpose.**

Development Review is required for all types of development requiring a building permit to ensure that the development conforms to the applicable municipal code criteria and/or conditions of approval for an approved land use permit. Development Review is a non-discretionary or “ministerial” review conducted by the City Manager without a public hearing. The Development Review permit is intended to distinguish between the review of an application by the City of Toledo for conformance with the applicable municipal code, fire codes, and other state and federal requirements and the review of the proposed structure under the Uniform Building Code and related codes. The Development Review permit is a Type I permit.

**17.60.020 Approval criteria.**

- A. The proposed land use is permitted by the underlying zone.
- B. The land use, building/yard setback, lot area, lot dimension, lot coverage, building height, access requirements, drainage requirements, wetland requirements and other applicable standards have been met.
- C. All applicable fire code standards are met.
- D. The necessary building permit information required by Lincoln County or the City of Toledo has been submitted.
- E. Any necessary variances or other land use permits have been obtained and the application meets any required conditions of approval for those permits.
- F. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within 12 months of Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

## **Chapter 17.64 Conditional Use Permits.**

### **17.64.010 Purpose.**

A use is designated as a conditional use within a given zone when it is judged to be generally in line with the purpose of the zone but which could, if not reviewed, have a negative impact on other properties or uses within the zone. The purpose of such a review is to assure adequate site design and compatibility with surrounding uses and property. A review of a conditional use is a Type III review.

### **17.64.020 Authorization to grant or deny conditional use permits.**

Uses designated in this ordinance as permitted conditional uses may be permitted by the Planning Commission in accordance with the standards and procedures specified in this ordinance. Future significant enlargements or major alterations of a conditional use shall also be reviewed by the Commission and new conditions may be imposed. Change in use, expansion or contraction of site area, or alteration of structures or uses which are classified as conditional but which existed prior to the effective date of this ordinance, shall conform to all regulations pertaining to conditional uses.

### **17.64.030 Application submission requirements for conditional use permits.**

A property owner or the owner's authorized agent may initiate a request for a conditional use by filing a completed application with the City Manager along with the appropriate fee as set by City Council resolution. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed use. The Planning Commission or City Manager may require other drawings or material necessary to an understanding of the proposed use and its relationship to surrounding properties as part of a complete application.

### **17.64.040 Action on a conditional use request.**

The Planning Commission, before approving an application for a conditional use, shall consider the location, size, design and operation characteristics of the proposed development and shall determine whether it complies with one of the following criteria. If the development does not so comply, the commission shall deny the application.

- A. The proposed use will cause no significant adverse impact of the livability, value, or appropriate development of abutting property or the surrounding area when compared to the impact of permitted development that is not classified as conditional use.
- B. The adverse 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.
- C. The development is in the public interest because it would preserve unique assets of interest to the community or provide an appropriate public facility or public non-profit service to the immediate area or the community and even though the development may cause some adverse impact, conditions imposed by the hearing body will produce a balance between the conflicting interests.

In addition to compliance with the criteria as determined by the Planning Commission, the applicant must accept those conditions listed in Section 17.64.050 that the Commission finds are appropriate to obtain compliance with the criteria.

### **17.64.050 Conditions for development.**

In permitting a conditional development, the Planning Commission may impose any of the following conditions as provided by Section 17.64.040 to mitigate a significant adverse impact or to protect the existing



character of the neighborhood:

- A. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- B. Establish a special yard or other open space or lot area or dimension.
- C. Limit the height, size or location of a building or other structure.
- D. Designate the size, number, location or nature of vehicle access points.

- E. Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.
- F. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading area.
- G. Limit or otherwise designate the number, size, location, height or lighting of signs.
- H. Limit the location and intensity of outdoor lighting or require its shielding.
- I. Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
- J. Designate the size, height, location or materials for a fence.
- K. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- L. Specify other conditions to permit development in conformity with the intent and purpose of the conditional classification of development.

**17.64.060 Standards governing conditional uses.**

A conditional use shall ordinarily comply with the standards of the applicable zone for uses permitted outright except as specifically modified by the Planning Commission in granting the conditional use permit or as otherwise provided as follows:

- A. Signs. If the zone in which the conditional use is approved specifies sign size limitations and the Planning Commission does not specify a sign size limitation as a condition of approval, then a sign shall not exceed 16 square feet in area, shall pertain to the conditional use, and may be required to be located in designated yards.
- B. Utility substation or pumping station. The minimum lot size in the applicable zone may be waived only on finding that the waiver will not result in noise or other detrimental effect on adjacent property. No equipment storage shall be permitted on the site. Such development shall be fenced and landscaped as required by the Planning Commission.

**17.64.070 Time limit on approval of a conditional use.**

- A. Except as provided in subsection B of this section, authorization of a conditional use shall be void after one year if a building permit has not been issued or development has not begun.
- B. The authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

**Chapter 17.68 Variances.**

**17.68.010 Purpose.**

The purpose of this chapter is to provide flexibility to development standards in recognition of the complexity and wide variation of site development opportunities and constraints in Toledo. 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,” and the impact, if any, on adjacent property owners is negligible, they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or Type III procedure because they involve discretionary decision-making or the potential for more substantial changes that may have some impact on the adjacent property owners.

**17.68.020 Classes of variances. Three types of variances shall be allowed under the zoning regulation:**

- A. A “Class A” variance is a variance requiring staff level approval only and is intended to apply to situations where the exercise of discretion by staff is minimal because the factual situation is relatively straightforward. A Class A variance is reviewed through a Type I procedure and a decision on the

Class A variance is the final decision of the City.

- B. A "Class B" variance is a variance requiring staff level approval and is intended to apply to situations which require a greater exercise of discretion and in which the factual situation is complex. A Class B variance is reviewed as a Type II procedure and a decision on the Class B variance may be appealed to the Planning Commission.
- C. A "Class C" variance is a variance requiring Planning Commission approval and is intended to apply to situations in which the exercise of discretion is greater and the factual situation may be complex. A Class C variance is reviewed as a Type III procedure and a decision on the Class C variance may be appealed to the City Council.

#### **17.68.030 Class A - Variances.**

After determining that the applicable conditions exist, the City Manager shall grant a request for a variance to the following ordinance requirements.

- A. Class A - Variance to front yard setback requirements. In the case of residential dwellings, the following variance to the front yard setback requirement is authorized for a lot in any zone: If there are dwellings on both abutting lots with front yards of less than the required depth for the zone, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the zone, the depth of the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth.
- B. Class A - Variance to building height limitations. A variance for the following types of structures or structural parts from the building height requirements of this ordinance are allowed as long as they do not exceed 50 feet from grade: chimneys, cupolas, tanks, church spires, belfries, domes, derricks, monuments, fire and hose towers, observation towers, transmission towers, smokestacks, flagpoles, radio and television towers, masts, aerials, cooling towers, water towers, elevator shafts, windmills, conveyors, and other similar projections.
- C. Class A - Variance for Home Occupation Employees. Home occupations do not allow for on-site employees. A variance from this provision would allow up to one full-time equivalent employee (40 hours per week). An off-street parking space must be available to the employee. There can only be one employee on-site at a time. A site plan and employee schedule must be part of the application. Full-time equivalent employee does not include contract service workers that are not specifically required for the home occupation, such as, but not limited to, contractors, house cleaning, handyman, and landscapers.
- D. Class A - Variance to front yard setback for unenclosed porches/decks. A variance for unenclosed porches/decks is allowed for intrusion into an established front yard setback of up to seven feet as long as there is no encroachment into a public utility easement.

#### **17.68.040 Class B - Variances.**

- A. Class B - Variance to setbacks. A variance to the front yard setback requirement of up to 5 feet and for any other setback up to 50% is authorized as follows:
  - 1. For residential zones, a majority of houses on an existing block have front yard setbacks of less than the required depth and the number of vacant lots does not exceed 20 % of the total lots on the block, or
  - 2. The topography of the lot, such as steep slopes or the location of a natural drainage source such as an intermittent stream, makes it difficult to build to the yard setback requirement, or
  - 3. The variance would allow the preservation of an existing tree(s) or other natural resource, and
  - 4. The variance would not create any public safety issues such as a clear-vision problem.

- B. Class B - Variance to vehicular access and circulation standards. 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:
1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement,
  2. There are no alternative access points on the street in question or from another street,
  3. The request is the minimum adjustment required to provide adequate access,
  4. The approved access or access approved with conditions will result in a safe access, and
  5. The clear-vision requirements will be met.
- C. Class B - Variance to parking requirements. Variances to the municipal parking requirements are authorized in the Commercial, Light Industrial, and Industrial zones of up to 20 percent of the required off-street parking if:
1. Topographical conditions exist on the lot such as steep slopes, location of natural drainage course, or high groundwater table, or
  2. The variance would allow the preservation of trees or other natural resource, and
  3. Adequate setbacks, clear vision, access, and compliance with the Americans with Disabilities Act requirements are assured, and
  4. The proposal comes as close to meeting ordinance requirements as conditions allow.
- D. Class B - Variance to Rebuild a Destroyed Nonconforming Structure. Section 17.56.060 allows rebuilding a partially damaged nonconforming structure as long as it is not made to be more nonconforming. It also precludes the rebuilding of a totally destroyed nonconforming structure. A variance to this section can be applied for and will be evaluated against the following criteria:
1. Public response.
  2. Livability and effects on adjacent and surrounding properties.
  3. Circumstances pertinent to the property in question that are beyond the control of the applicant.
  4. No other provisions of the Municipal Codes are violated.
  5. Effected natural resources.
  6. No public safety issues are created.
  7. The requested variance is the minimum necessary.

**17.68.050 Class C - Variances.**

- A. Class C - Variance to lot size. The Planning Commission may grant a variance to the minimum lot size requirements in the Single-Family Residential and the General Residential zones if:
1. There is a peculiarity in lot configuration for lots of record existing prior to 1982, or
  2. The variance would alleviate an existing nonconforming use or structure, and
  3. Setbacks, clear vision, access and off-street parking requirements are met, and
  4. The variance would not unduly burden city services such as streets, parks, water and sewer, and
  5. The new lot or lots are no less than 83% of the size required by the ordinance.
- B. Class C - Variance to building height. The Planning Commission may grant a variance to the building height limitation in residential zones if:
1. The lot size is increased by 20 square feet over the minimum lot size requirement for every 5 feet

- or fraction thereof of additional height,
2. The Toledo Fire Chief is satisfied that the proposed structure can be adequately protected in case of fire, considering, at least, fire flow, proximity to fire hydrants, access, and limitations of fire fighting equipment, and
3. The additional building height does not significantly increase shade to neighboring property and does not infringe upon neighborhood privacy.

C. Class C - Variance to Toledo Public Improvement Requirements and Design Standards. The Planning Commission may grant a variance to the street standard requirements of the Toledo Public Improvement Requirements and Design Standards if:

1. The request is in conjunction with a development other than a subdivision or planned development, and
2. The topography of the subject property or the access way to the property makes the development of the access way to the full standards impracticable because full access way development would require such things as substantial cuts in slope or the filling of a wetland area, and
3. The property is sufficient size and adequate topography to accommodate the proposed development, and
4. The width of the access way is sufficient to meet the traffic demands of the development, and
5. The improved surface is sufficient considering the traffic, necessary drainage, geological and topographical factors affecting construction, long-term maintenance and durability of the surface, and the needs of emergency and utility vehicles, and
6. The improvements required of the development are roughly proportional to the impact created by the development, and
7. The Uniform Fire Code standards and all other ordinance requirements are met, unless specifically excepted, including but not limited to parking and clear vision requirements.

D. Class C - Variance request to other standards or for variances greater than those authorized under Class A and Class B variances. The Planning Commission, before approving an application for a variance to a zoning code requirement not specified above, shall consider the location, size, design and operation characteristics of the proposed development requiring the variance and shall determine whether it complies with one of the following criteria. If the development does not so comply, the Commission shall deny the application.

1. The variance will cause no significant adverse impact of the livability, value, or appropriate development of abutting property or the surrounding area when compared to the impact of permitted development that does not require a variance.
2. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control.
3. The use proposed will be the same as permitted under the code and the requirements of the code will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.

E. In addition to compliance with the criteria as determined by the Planning Commission identified in subsections (A) - (D) above, the applicant must accept those conditions listed below that the Commission finds are appropriate to obtain compliance with the criteria.

1. Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
2. Establish a special yard or other open space or lot area or dimension.
3. Limit the height, size or location of a building or other structure.

4. Designate the size, number, location or nature of vehicle access points.
5. Increase the amount of street dedication, roadway width, or improvements within the street right-of-way.
6. Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading area.
7. Limit or otherwise designate the number, size, location, height or lighting of signs.
8. Limit the location and intensity of outdoor lighting or require its shielding.
9. Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
10. Designate the size, height, location or materials for a fence.
11. Protect existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
12. Specify other conditions to permit development in conformity with the intent and purpose of the ordinance standards.

**17.68.060 Time limit on approval of a variance.**

- A. Except as provided in subsection B of this section, authorization of a variance shall be void after one year if a building permit has not been issued or development has not begun.
- B. The authorization may be extended by the Planning Commission for an additional period of one year if the request is made in writing prior to the expiration of the original authorization.

**Chapter 17.72 Restrictive Lot Line Covenants.**

**17.72.010 Purpose.**

To recognize that historical subdivisions of land in Toledo have not been platted in relationship to the topography of the property, that some lots have been historically treated as one piece of property, and that topographical or other constraints may severely limit the use of one lot such that the use of abutting lots is a reasonable alternative. The Restrictive Lot Line Covenant is an agreement between the City and the owner of multiple lots to treat the multiple lots as one lot for the purposes of the municipal code to allow the property owner to treat the multiple lots as one lot for the placement of a home, for the placement of an accessory building, or other purposes common to residential ownership of land and the property owner agrees to convey the lots as a single ownership.

**17.72.020 Approval process.**

- A. Application. An application for a Restrictive Lot Line Covenant shall be processed as a Type II procedure. The application shall meet the requirements for submitting the application as established by the City Manager. The applicant shall bear the cost of recording with Lincoln County associated with the Restrictive Lot Line Covenant.
- B. Criteria, standards, and conditions of approval. The City shall approve, approve with conditions, or deny an application for a Restrictive Lot Line Covenant based on findings of fact for the following standards and criteria:
  1. The applicant has multiple legal lots that are under a common ownership and are abutting; and

2. The applicant desires to retain the lots as separate legal lots or a process for combining the lots into one lot is not available; and
3. Treating the multiple lots as one lot for municipal code purposes would not result in the violation of other sections of the municipal code or other applicable codes; and
4. The topography of the legal lots is such that except for the topography of the property, the proposed permitted use outright necessitating the request for a Restrictive Lot Line Covenant could be accommodated on one lot; or
5. Significant alterations of steep slopes, wetlands, natural drainage patterns, or other natural resources can be minimized by treating the abutting legal lots as one lot; or
6. The size of the legal lots is such that one or more of the lots are substandard but together the lots meet the size requirements for the applicable zone; or
7. The use proposed is an approved conditional use and the nature of the use is such that if the conditional use was located in a zone where the use was permitted outright, the interior lot lines between the abutting properties would not require setbacks; or
8. Open space, forested area, scenic views, or other similar amenity contributing to the enjoyment of the owner's use of property and/or to the livability of the community as a whole can be preserved.

### **17.72.030 Removal of Restrictive Lot Line Covenant.**

A property owner may request that the Restrictive Lot Line Covenant be removed and the City shall grant such request provided that:

- A. The lots subject to the agreement do not result in any nonconforming uses, nonconforming lots, or nonconforming structures that did not exist prior to the date of execution of the covenant; and
- B. All other municipal code and state requirements then current will be met by the lots subject to the covenant.

## **Chapter 17.80 Amendments.**

### **17.80.010 Purpose.**

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this code and the comprehensive land use map or zoning map. These will be referred to as "map and text amendments." 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.

### **17.80.020 Authorization to initiate amendments.**

An amendment to the text or the maps of this title may be initiated by the City Council, by the Planning Commission, or by application of a property owner.

### **17.80.030 Legislative amendments.**

Legislative amendments are policy decisions such as the amendment to a comprehensive land use map or the municipal code made by the City Council. They are reviewed using the Type IV land use procedure as set forth by ordinance.

### **17.80.040 Quasi-judicial amendments to maps.**

Quasi-judicial map amendments are those map amendments which require discretion in applying existing standards or criteria to a request. The approval authority for quasi-judicial amendments shall follow the Type III land use procedure as set forth by ordinance and the approval authority shall be as follows:

- A. The Planning Commission shall decide zoning map changes which do not involve comprehensive plan map amendments;
- B. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and
- C. The Planning Commission shall make a recommendation to the City Council on a zoning map application which also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

**17.80.050 Criteria for quasi-judicial map amendments.**

A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

- A. 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 for approval;
- B. Demonstration of compliance with all applicable standards and criteria of this code and other applicable implementing ordinances;
- C. Evidence of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use maps regarding the property which is the subject of the application.

**17.80.060 Conditions of approval.**

A quasi-judicial decision may be for denial, approval, or approval with conditions necessary to bring an amendment into compliance with an applicable criteria. A legislative decision may approved or denied.

**17.80.070 Record of amendments.**

The City Manager shall maintain a record of amendments to the text of this code and the land use maps in a format convenient for public use including the update of the official version of the maps on Geographic Information Systems as applicable.

**Chapter 17.84 Code Interpretations.**

**17.84.010 Purpose.**

Some terms or phrases within the Municipal Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

**17.84.020 Code interpretation procedure.**

- A. Requests. A request for a code interpretation (“interpretation”) shall be made in writing to the City Manager with or without a pending application. The City Manager may develop written guidelines for the application process and the City Council may require an application fee.
- B. Decision to Issue Interpretation. The City Manager shall have the authority to review a request for an interpretation. The City Manager shall advise the requester in writing within 14 days after the request is made, on whether or not the City will issue the requested interpretation.
- C. Declining Requests for Interpretation. The City Manager is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Municipal Code section affords only one reasonable interpretation and the interpretation does not support the request. The City Manager decision to issue or decline to issue an interpretation is final



when the decision is mailed to the party requesting the interpretation.

- D. Written Interpretation. If the City Manager decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation. The written interpretation shall be issued within 14 days after the City advises the requester that an interpretation shall be issued. The decision shall become effective 14 days later, unless an appeal is filed in accordance with Section 17.84.030.

#### **17.84.030 Appeals.**

The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council within 14 days after the interpretation was mailed or delivered to the applicant. The appeal may be initiated by filing a notice of appeal with the City Manager pursuant to the requirements set forth by ordinance.

- A. Appeal Procedure. The City Council shall hear all appeals of a City Manager interpretation as a Type III action, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.
- B. Final Decision/Effective Date. The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until it is modified by the Land Use Board of Appeals or a court of competent jurisdiction.

#### **17.84.040 Interpretations on file.**

The City Manager shall keep on file a record of all code interpretations.

### **Chapter 17.88 Legal Framework.**

#### **17.88.010 Enforcement.**

The City Manager shall have the power and duty to enforce the provisions of this ordinance.

#### **17.88.020 Interpretation.**

The provisions of this ordinance shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any provision of this ordinance are less restrictive than comparable conditions imposed by any other provisions, of this ordinance or of any other ordinance, resolution, or regulation, the provisions which are more restrictive shall govern.

#### **17.88.030 Fees.**

All fees required by this ordinance shall be in the amount set by resolution of the City Council.

#### **17.88.040 Severability.**

The provisions of this ordinance are hereby declared to be severable. If any section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

#### **17.88.050 Penalty.**

A person violating a provision of this ordinance shall be punished upon conviction by a civil penalty as a Class B infraction (a fine not to exceed \$500.00) and shall be deemed guilty of a separate offense for each day during which the violation continues. This remedy is not intended to be exclusive and the City of Toledo may pursue any other remedy available to it by law.