



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

February 21, 2007

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Creswell Plan Amendment  
DLCD File Number 001-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 9, 2007**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Marguerite Nabeta, DLCD Regional Representative  
Steve Oulman, DLCD Transportation Planner  
Amanda Punton, DLCD Natural Resource Specialist  
Denise Walters, City of Creswell

<paa> ya/

# Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person  electronic  mailed

DEPT OF

FEB 16 2007

LAND CONSERVATION  
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Creswell**

Local file number: **Ord. 442**

Date of Adoption: **2/12/2007**

Date Mailed: **2/15/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **8/25/2006**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

A new land development ordinance (Ordinance No. 442) based on DLCD small city model code and incorporating principles of smart development was adopted. The old development code ordinance Nos. 390 and 411 were repealed.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                            | <b>4</b>                            | <b>5</b>                            | <b>6</b>                            | <b>7</b>                            | <b>8</b>                            | <b>9</b>                            | <b>10</b>                           | <b>11</b>                           | <b>12</b>                           | <b>13</b>                           | <b>14</b>                           | <b>15</b>                           | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

001-06 (15504)

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

U.S. Army Corps of Engineers, Oregon Department of State Lands, Oregon Department of Environmental Quality, Oregon Department of Transportation, Lane County, South Lane Fire District, Creswell School District, Lane Library District

---

Local Contact: **Denise Walters**

Phone: **(541) 682-4341** Extension:

Address: **99 East Broadway, Suite 400**

Fax Number: **541-682-2635**

City: **Eugene**

Zip: **97401**

E-mail Address: **dwalters@lcog.org**

---

## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO Complete Copies** (documents and maps) of the Adopted Amendment to:  

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

## ORDINANCE NO. 442

### AN ORDINANCE ADOPTING A NEW LAND DEVELOPMENT ORDINANCE FOR THE CITY OF CRESWELL, REPEALING ORDINANCE NOS. 390 & 411, AND DECLARING AN EMERGENCY

WHEREAS, adoption of a revised land development ordinance for the City of Creswell will simplify the process for applications for approval of proposed land developments and assure compliance with the Creswell Comprehensive Plan and the Creswell Transportation System Plan, state laws, and the statewide planning goals.

WHEREAS, the City of Creswell has properly notified the Department of Land Conservation and Development of the hearing considering adoption of the Creswell Land Development Ordinance, in compliance with ORS 197.610; and

WHEREAS, on January 18, 2007, the Creswell Planning Commission conducted and properly advertised a public hearing on the proposed Land Development Ordinance;

WHEREAS, within 40 days after the public hearing, the Planning Commission recommended that the City Council adopt the Land Development Ordinance; and

WHEREAS, on February 12, 2007 the City Council conducted and properly advertised a public hearing on the proposed Land Development Ordinance

WHEREAS, based upon the City staff reports and testimony at public hearings referenced above:

THE CITY OF CRESWELL ORDAINS AS FOLLOWS:

**Section 1. Findings.** Findings of Fact as attached in Exhibit A and incorporated herein are hereby adopted as a basis for the adoption of a new Creswell Development Code attached in Exhibit B.

**Section 2. Code Adoption.** The Creswell Development Code, as set forth in the attached Exhibit B and incorporated herein by reference, is adopted as the land development code for the City of Creswell.

**Section 3. Repeal.** Ordinance No. 390 and the portion of any ordinance that makes any amendment to Ordinance No. 390 including Ordinance No. 411, are hereby repealed.

**Section 4. Resolutions.** Any and all resolutions adopted under the authority of Ordinance No. 390 or under the authority of any ordinance amending Ordinance No. 390, including Ordinance No. 411 will hereafter continue and remain in full force and effect under the authority of this Ordinance No. 442 unless and until specifically repealed.

**Section 5. Correction of Errors.** The City may correct ministerial errors within the Creswell Development Code upon discovery, without following formal ordinance amendment procedures. Such ministerial corrections include but are not limited to: scrivener's errors, incorrect cross references, improper references, and typographical errors.



**Section 6. Emergency Clause.** Whereas it is necessary to maintain the peace, health, and safety of the citizens of Creswell, an emergency is hereby declared to exist. This ordinance therefore, shall become effectively immediately and put into full force upon its passage by the Council and approval by the Mayor.

READ BY TITLE ONLY for a first time this 12<sup>th</sup> day of February, 2007, no council member present at the meeting having requested to have the new Land Development Ordinance read in full.

READ BY TITLE ONLY for a second time and for final enactment this 12<sup>th</sup> day of February, 2007 no council member present at the meeting having requested to have the new Land Development Ordinance read in full.

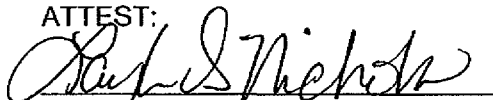
PASSED BY A VOTE OF \_\_ for and \_\_ against on the 12<sup>th</sup> day of February, 2007.

PASSED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 12<sup>TH</sup> DAY OF FEBRUARY, 2007



Ron Petitti  
Mayor

ATTEST:

  
Layli A. Nichols  
City Recorder

**Exhibit A**  
**DRAFT FINDINGS IN SUPPORT OF A NEW**  
**CITY OF CRESWELL LAND DEVELOPMENT ORDINANCE**  
**Ordinance No. 442**

The new Land Development Ordinance incorporates concepts and language from the *Smart Development Code Handbook*, *Model Development Code and User's Guide for Small Cities*, *Commercial and Mixed-Use Development Code Handbook*, and *Infill and Redevelopment Code Handbook* published by the Oregon Transportation and Growth Management Program as well as concepts developed from previous work completed by the City.

The new City of Creswell Land Development Ordinance (Ordinance No. 442) is based on conformance with the following Statewide Planning Goals and Comprehensive Plan Policies:

**STATEWIDE PLANNING GOALS**

***Goal 1: Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process***

The new land development ordinance is the result of a two-phase process of code review funded by the Oregon Department of Transportation and the Department of Land Conservation and Development through their joint Transportation and Growth Management Program-Smart Development Code Assistance. Phase 1 consisted of an audit of the existing code and included an Advisory Committee made up of 8-12 people including: Planning Commissioners; City Councilors; developers; business owners; Creswell residents; and other stakeholders with interest in the project. All committee meetings were published and open to the public. Phase 2 focused on the development of new code based on model codes and City goals and again involved the Advisory Committee whose meetings were published and open to the public. Work completed by the Advisory Committee was incorporated into the new land development ordinance. Following is a summary of the City's public involvement efforts relating to the proposed Land Development Ordinance No. 442:

1. The Advisory Committee conducted open meetings March 17, 2005; April 21, 2005; May 5, 2005; May 19, 2005, February 6, 2006; March 20, 2006 and held a work session open to the public on June 5, 2006.
2. The Department of Land Conservation and Development (DLCD) was notified of the proposed new Creswell Land Development Ordinance on August 25, 2006 with follow up notice regarding changes to hearing dates sent October 9, 2006 and December 18, 2006.
3. On December 21, 2006 the City mailed the required Measure 56 notice, notifying all property owners inside the Urban Growth Boundary of the new proposed Land Development Ordinance No. 442 and the public hearing dates.
4. The Planning Commission held a public hearing on January 18, 2006 on Land Development Ordinance No. 442.
5. On January 25, 2007 notice was published in the Creswell Chronicle for the February 12, 2007 City Council hearing on the adoption of Ordinance No. 442.

6. The Creswell City Council held a public hearing on February 12, 2007 on the adoption of the new proposed Land Development Ordinance No. 442.

***Goal 2: Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions.***

Land Development Ordinance No. 442 is consistent with Goal 2 because Article 4-Administration of Land Use and Development establishes land use planning process and reflects the intent, vision, policies, and objectives of the Comprehensive Plan.

***Goal 3: Agricultural Lands: To preserve and maintain agricultural lands.***

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Creswell does not have any agricultural zoning districts.

***Goal 4: Forest Lands: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest trees species as the leading use on forestland consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.***

This goal does not apply within adopted, acknowledged urban growth boundaries. The City of Creswell does not have any forest zoning districts.

***Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources: To protect natural resources and conserve scenic and historic areas and open spaces.***

Land Development Ordinance No. 442 is consistent with Goal 5 because the City utilized the Safe Harbor approach as defined in OAR 660-023-0020(2) and safe harbor criteria including but not limited to those set forth in OAR 660-023-0090(5), (8), 660-023-100(4)(b), and 660-023-110(4) to protect natural resources and conserve scenic and open spaces. Ordinance No. 442 adds Chapter 2.10 Riparian and Wetland Protection Overlay, Section 3.2.200 Landscape Conservation, and augmented standards for Landscaping as set forth in Section 3.2.300.

Historic areas and buildings are provided further protection through review criteria added to the Site Design Review process including but not limited to Chapter 4.2 requiring new development utilizing the performance option and demonstrate *historic appropriateness* with the area. Other areas of the Code relating to Goal 5 were not changed and remain consistent.

***Goal 6: Air, Water and Land Resources Quality: To maintain and improve the quality of the air, water, and land resources of the state.***

Land Development Ordinance No. 442 is consistent with Goal 6 because: Chapter 2.7 Flood Plain Overlay has been augmented to clarify requirements and receive better information with which to evaluate proposals in the flood plain; Chapter 2.10 Riparian Protection Overlay has been added to establish buffers for riparian areas and wetlands based on water quality; Section 3.2.200 Landscape Conservation has been added to incorporate significant native vegetation into the landscapes of development and to protect vegetation in sensitive natural areas; Landscaping standards augmented in Section 3.2.300 requiring a percentage of site to be landscaped; Chapter 3.4 Public Facilities has been

augmented to provide options allowing narrower paved widths; Article 2 refines zoning districts by adding more sub-districts to ensure compatibility of uses and maintenance of land quality. The previously listed components contribute to maintaining and improving air, water, and land quality by maintaining and increasing vegetation, requiring development to be set back from riparian areas and surface water, minimizing impervious surfaces, and locating development in areas appropriate for the proposed use.

***Goal 7 - Areas Subject to Natural Disasters and Hazards: To protect life and property from natural disasters and hazards.***

Land Development Ordinance No. 442 is consistent with Goal 7 because Chapter 2.7 Flood Plain Overlay limits or prohibits development in the flood plain, requires information on the 10-year and 50-year flood elevations in addition to the 100-year flood to better prevent damages to life and property, special; Chapter 2.10 Riparian Protection and Wetland (RPW) Overlay requires development to be set back from top of stream banks; and specific requirements and standards for slopes greater than 20% are established.

***Goal 8 - Recreational Needs: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.***

Land Development Ordinance 442 is consistent with Goal 8 because the uses within the Park, Recreation or Open Space (PRO-S) District have been augmented to better meet the recreational needs of the community. The purpose of the Resort Commercial (R/C) Overlay zone has been modified to clarify single-family residential uses in the overlay.

***Goal 9 - Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens.***

Land Development Ordinance 442 is consistent with Goal 9 because:

- additional uses have been added to the Commercial and Industrial districts;
- addition of Industrial Commercial zone to provide more flexibility to accommodate businesses that cross-over between industrial and commercial activities;
- addition of Residential Commercial zone to provide more flexibility to accommodate businesses;
- design standards for commercial and industrial development are established to ensure quality development that is compatible with Creswell's character;
- the Resort/Commercial Overlay provides areas suitable for large-scale recreationally oriented uses

to provide for a variety of economic activities vital to the health, welfare and prosperity of Creswell residents.

***Goal 10 - Housing: To provide for the housing needs of citizens of the state.***

Land Development Ordinance 442 is consistent with Goal 10 because:

- residential zoning has been refined by establishing three residential zones: Low Density Residential (RL), Medium Density Residential (RM), and Residential Commercial (RC) to provide for a variety of housing options at appropriate densities while maintaining a small town feeling;
- accessory dwelling units and cottage clustering on single-family residential lots are permitted or conditionally permitted; and
- clear and objective design standards for single family and multi-family developments are established.

***Goal 11 - Public Facilities and Services: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.***

Urban facilities and services include the appropriate types and levels of police protection; sanitary facilities; storm drainage facilities; planning, zoning and subdivision control; health services; recreation facilities and services; energy and communication services; and community governmental services. Land Development Ordinance 442 is consistent with Goal 11 because Chapter 3.4 addresses standards for public facilities required for new development and re-development.

The regulations encourage the efficient use of public facilities by accommodating more housing units in less space, by requiring minimum densities, allowing smaller lot sizes and allowing a greater variety of housing types.

***Goal 12 – Transportation: To provide and encourage a safe, convenient and economic transportation system.***

Land Development Ordinance 442 is consistent with Goal 12 because Section 3.4.100 establishes transportation standards. An array of street design options is provided including boulevards and avenues, and ranges for right-of-way width required. Standards for pedestrian and bicycle pathways are also established. The standards established provide and encourage safe transport through the accommodation of the needs of emergency service providers; convenient transport through requiring connectivity and accommodation of multiple modes of transport; and is economic in providing for more direct routes, multiple modes of transport, and consistency with the community vision.

***Goal 13 - Energy Conservation: To conserve energy.***

Land Development Ordinance 442 is consistent with Goal 13 because land use process, zones, and development standards provide for increasing density gradients along high capacity transportation corridors to achieve greater energy efficiency. Additionally, standards for lot size, lot dimension, siting controls, coverage, and building height limitations contribute to energy conservation.

***Goal 14: Urbanization: To provide for an orderly and efficient transition from rural to urban use.***

Land Development Ordinance 442 is consistent with Goal 14 because it establishes the land use process, zones, and development standards provide for the orderly and efficient transition from rural to urban use once lands have been annexed into the City limits.

***Goal 15 - Willamette River Greenway: To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.***

No areas of the Willamette River Greenway are located inside the Creswell City limits.

***Goal 16: Estuarine Resources; Goal 17: Coastal Shorelands; Goal 18: Beaches and Dunes; and Goal 19: Ocean Resources***

Goals 16, 17, 18, and 19 do not apply to the City of Creswell.

## COMPREHENSIVE PLAN POLICIES

### Section III. C. Program Policies

#### 1. Citizen Involvement and Plan Amendment Policies

*(b) The City shall conduct public hearing for plan adoption as provided for in the Oregon Revised Statutes and applicable City ordinance.*

Based on the actions outlined above, Land Development Ordinance No. 442 is consistent with the Comprehensive Plan.

#### 2. Land Use Planning Policies

##### Residential

*To provide for, encourage, promote and protect the character of community residential areas having a suitable environment for a range of housing choices in support of small city urban and suburban family life. This area and density options therein, is intended for application only to those areas having facilities available to support the expected density and to carry out the above stated purposes.*

Land Development Ordinance No. 442 is consistent with the purpose of this designation because land use processes, zoning, and development standards established in the code provide residential areas offering a range of housing choices in support of Creswell's character. Residential zoning includes: Low Density Residential (RL), Medium Density Residential (RM), and Residential Commercial (RC). Residential uses are also allowed or conditionally allowed in the Downtown Commercial and General Commercial zones as well as in the Industrial Commercial zone. Additionally, residential uses are allowed, conditionally allowed, and/or have variance provisions in overlay zones under specific circumstances as set forth in each of the overlay zones; Floor Plain, Airport, Resort Commercial, and Riparian and Wetland Protection.

##### Commercial

*To create and protect areas suitable for commercial uses and services of community residents, visitors and tourists. These areas shall be adequately served by freeway access and/or accessible to outlying areas of the community.*

Land Development Ordinance No. 442 is consistent with the purpose of this designation because land use processes, zoning, and development standards established in the code provide for the creation and protection of areas suitable for commercial uses and services. Commercial zoning includes; Downtown Commercial, General Commercial, Industrial Commercial and the Resort Commercial Overlay. Additionally, commercial uses are allowed, conditionally allowed, and/or have variance provisions in overlay zones under specific circumstances as set forth in each of the overlay zones; Floor Plain and Airport.

##### Industrial

*To provide areas having a suitable environment for a range of industrial uses. This area will normally be established to be reasonably accessible and convenient to major transportation service.*

Land Development Ordinance No. 442 is consistent with the purpose of this designation because land use processes, zoning, and development standards established in the code provide for areas having

suitable environment for a range of industrial uses. Industrial zoning includes General Industrial and Industrial Commercial. Additionally, industrial uses are allowed, conditionally allowed, and/or have variance provisions in overlay zones under specific circumstances as set forth in each of the overlay zones; Floor Plain and Airport.

**Resort Commercial**

*To provide areas having a suitable environment for accommodation large-scale recreationally oriented commercial uses. Compatibility of development within this category with adjacent recreational and agricultural resources shall be ensured through the application of planned unit development procedures.*

Land Development Ordinance No. 442 is consistent with the purpose of this designation because land use processes, zoning, and development standards established in the code provide for areas having a suitable environment for accommodation large-scale recreationally oriented commercial uses. Resort Commercial is an overlay zone of the development code. The Master Plan approach is a substitute for the Planned Unit Development process because it meets the same intent, purpose, and objectives while providing a streamlined process for review.

**Park, Recreation and Open Space**

*To preserve and protect park, recreation and open space lands that contribute to the general welfare and safety, the full enjoyment, or the economic well-being of persons who reside, work or travel in, near, or around them.*

Land Development Ordinance No. 442 is consistent with the purpose of this designation because land use processes, zoning, and development standards established in the code provide for the preservation and protection of parks, recreation and open space lands especially through the establishment of the Park, Recreation or Open Space District.

**Public Lands**

*To reserve areas for the accommodation of public facilities and associated support facilities. These include schools, municipal buildings and public works facilities.*

Land Development Ordinance No. 442 is consistent with the purpose of this designation because land use processes, zoning, and development standards established in the code provide for areas accommodating public facilities and associated support facilities specifically through the establishment of the Public Facilities District.

*(a) The City shall provide residential zoning for lands designated as residential in the Comprehensive Plan.*

*(b) The City shall encourage multi-family expansion under provisions of the zoning ordinance on large available and/or redeveloped lots in proximity to the*

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan because the zoning districts are consistent with Plan designations.

**3. Scenic, Historic Areas, and Natural Resources**

*(b) The City shall, through the review of building permits under site review procedures encourage the preservation, maintenance and operation of the sites and structures which have been identified as historically significant.*



- (h) The City shall encourage the maintenance of riparian vegetation along the Willamette River as habitat for animal and bird life.*
- (i) The City shall assess the significance of fish and wildlife habitats in and near Hill Creek following the development of appropriate inventories, by the Oregon Department of Fish and Wildlife. The need for protective policies and regulations, consistent with Statewide Planning Goal #5, shall be addressed immediately subsequent to the development of this inventory.*

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives to protect open spaces, scenic and historic areas and natural resources because Ordinance No. 442 has site review procedures encouraging the preservation, maintenance and operation of the sites and structures which have been identified as historically significant; zoning and development standards encouraging the maintenance of riparian vegetation along the Willamette River, and provided for the protection of fish and wildlife habitats through the Riparian and Wetland Protection Overlay zone.

#### *4. Air, Water and Land Resource Quality Policies*

- (c) The City shall encourage the improvement and upgrading of city streets and parking areas to urban standards to improve air quality.*
- (d) The City shall support and coordinate, with Lane County, the implementation of the DEQ approved 208 Water Quality Management Plan for Lane County.*

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives to protect air, water and land resource quality because the improvement and upgrading of streets and parking areas is a development standard in the new code; and a number of standards including but not limited to landscaping requirements, setback requirements, and erosion control requirements support the implementation of the DEQ approved 208 Water Quality Management Plan for Lane County.

#### *5. Areas Subject to Natural Disasters and Hazards Policies*

- (a) The City shall prohibit intensive development in close proximity to tributary streams and low areas and maintain such areas in open space.*
- (b) The City shall permit improvements in the floodplain subject to appropriate city, county and federal ordinances and regulations.*
- (c) The City shall ensure adequate provision is made or is available for accessibility of emergency vehicles and services during potential future flooding.*
- (d) All development within the flood hazard area, as identified in the Creswell Flood Hazard Map, shall be subject to the flood plain subzone and the conditional use permit process. Additionally, as designated on the Comprehensive Plan Diagram, some lands within the flood hazard are subject to the resort commercial subzone and the planned unit development process.*
- (e) Development in close proximity to tributary streams and low areas shall be protected by the application of the flood plain subzone and will be maintained as open space.*

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives to address areas subject to natural disasters and hazards because:

- Chapter 2.7-Flood Plain (FP) Overlay is established to permit improvements in the floodplain subject to appropriate city, county and federal ordinances and regulations; to ensure adequate provision is made or is available for accessibility of emergency vehicles and services during potential future flooding; to provide for development within the flood hazard area, as identified in the Creswell Flood Hazard Map, to be subject to the flood plain subzone and specific land use processes identified in the parent zone. Conditional use permit process is required for all development in flood hazard areas. The Master Plan process has been substituted for the Planned Unit Development process and meets the same intent, purpose, and objectives while providing a streamlined review process.
- Chapter 2.10-Riparian Protection and Wetland (RPW) Overlay is established to prohibit intensive development from close proximity to tributary streams and low areas.

#### **6. Parks, Recreation and Open Space Policies**

***(h) The City shall support the intensification of use of that undeveloped portion of the golf course land area between the existing fairways and Dale Kuni Road as-recreational commercial, recreational residential and golf course support services, and the land west of Dale Kuni Road across from the golf course as Recreation Resort Use.***

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives for parks, recreation and open space because land use process and zones are established to provide for the intensification of use of that undeveloped portion of the golf course land area between the existing fairways and Dale Kuni Road as recreational commercial, recreational residential and golf course support services, and the land west of Dale Kuni Road across from the golf course as Recreation Resort Use.

#### **7. Economic**

***(b) The City shall encourage expansion of freeway oriented services to capitalize on through and tourist traffic.***

***(i) The City shall encourage tourist-freeway commercial development in opportunity areas provided by the eastern quadrants of the Interstate 5-Cloverdale Highway Interchange.***

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives for economic development because land use process and zones are established to encourage expansion of freeway oriented services to capitalize on through and tourist traffic and to encourage tourist-freeway commercial development in opportunity areas provided by the eastern quadrants of the Interstate 5-Cloverdale Highway Interchange.

#### **8. Housing**

***(b) Under the provisions of the Residential Zone of the Creswell Zoning Ordinance, the City shall encourage the development and/or redevelopment of residential lands in proximity to the commercial service area; for high density residential to provide housing choices in multi-family and rental categories.***

***(c) The City shall continue to integrate mobile home and/or factory housing into the local housing inventory through development guidance and zoning administration.***

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives for housing because land use process and zones are established to encourage the development and/or redevelopment of residential lands in proximity to the commercial service area and to provide housing choices in multi-family and rental categories.

#### **9. Public Facilities and Services**

- (o) The City shall require dedication of necessary rights-of-way and the provisions of required street improvements adjacent to property in conjunction with its development or redevelopment.**

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives for public facilities and services because dedication of necessary rights-of-way and street improvements adjacent to property in conjunction with its development or redevelopment are established design and review standards and requirements.

#### **10. Transportation**

- (g) The City shall monitor access problems of new development along arterial highway through plan review processes.**
- (j) The City shall require a 60 foot minimum right-of-way for new arterial streets.**
- (k) For urban industrial streets, the City shall require curbs and gutters, storm drainage and sidewalks with bicycle/handicapped ramps at intersections, bicycle paths and street lighting.**
- (n) The City shall require a 50-60 foot right-of-way on new collector streets.**
- (o) For urban collector streets, the City shall require curbs and gutters, storm drainage and sidewalks with bicycle/handicapped ramps at intersections, bicycle paths and street lighting.**
- (q) The City shall require a minimum 50 foot right-of-way except for cul-de-sacs.**
- (r) For urban local streets, the City shall require curbs and gutters, storm drainage and sidewalks with bicycle/handicapped ramps at intersections, bicycle paths and street lighting.**
- (s) The City shall encourage upgrading of existing city streets to urban standards.**
- (t) The City shall require necessary minimum rights-of-ways at the time of parcel development**
- (y) The City shall coordinate protection of the airport from incompatible land uses.**
- (z) The City shall coordinate the protection of the clear and approach zones through the application of an overlay zone establishing necessary height restrictions.**
- (hh) The City shall encourage pedestrian movement in commercial areas.**

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives for transportation because:

- Minimum right-of-way requirements for all street classifications are established;
- Street development standards include curbs and gutters, storm drainage and sidewalks with bicycle/handicapped ramps at intersections, bicycle paths and street lighting;
- New development or redevelopment requires streets to be brought to urban standards;
- Chapter 2.8-Airport (A) Overlay protects airport needs and interests; and
- Commercial areas are subject to site design review including standards for pedestrian circulation.

#### 11. Energy Conservation

- (e) The City shall, through provisions of the Residential District of the Creswell Zoning Ordinance, provide for increased or maximum residential unit densities adjacent to Commercial Districts and appropriate high-capacity arterial transportation corridors.*

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives for energy conservation because land use process, zones, and development standards providing for increased or maximum residential unit densities adjacent to Commercial Districts and appropriate high-capacity arterial transportation corridors are established.

#### 12. Urbanization

- (h) That area within the Urban Growth Boundary, east of Interstate 5 designated as commercial shall have specific planned unit development requirements incorporated as provisions of Contract Annexation. See Annexation Policy below and Planned Unit Development under Land Use Planning and Program Strategy.*

Land Development Ordinance No. 442 is consistent with the Comprehensive Plan intent, vision, policies, and objectives for urbanization because a Master Plan/Planned Unit Development process is established.

### RESPONSE TO COMMENTS SUBMITTED

#### Resort Commercial

Hutchinson, Cox, Coons, DuPriest, Orr & Sherlock P.C. submitted comment on behalf of Carl Sorenson on January 18, 2007. Comment is in *italics* followed by City response.

1. **COMMENT:** *...the stated purpose in the Plan's Land Use Policy for Resort Commercial designated lands is to:*

*"[P]rovide areas having suitable environment for accommodating large-scale **recreationally oriented commercial uses**. Compatibility of development within this category with adjacent recreational and agricultural resources shall be ensured through the application of planned unit development procedures."* (Emphasis added).

*Nothing in this policy suggests that the R/C overlay zone would allow residential housing that does not directly support the underlying commercial/recreational use.*

**RESPONSE:** The Comprehensive Plan calls for the *provision* of areas having suitable environment for accommodating large-scale recreationally oriented commercial uses. The Resort Commercial (R/C) Overlay in the new Land Development Ordinance No. 442 establishes a zone where such uses are allowed.

2. **COMMENT:** *...under the existing development code at CDC 13.1.0 it clearly states that in order to implement the foregoing Plan policy for Resort Commercial land:*

**“Traditional residential and commercial uses shall not permitted within this subzone except when shown as necessary to support the primary recreationally-oriented uses. The burden of proof is on the application to show that *all* aspects of the development are clearly related to the recreational resource.”** (Emphasis added).

*As recently affirmed by the Court of Appeals, LUBA correctly found that this language, coupled with the requirement under CDC 13.2.0 means that all residential uses in the R/C zone be marketed primarily as time shares, affirming the commercial nature of any residential use.*

**RESPONSE:** The LUBA decision is relevant to the application of the existing development code as applied to a specific proposal. Comprehensive Plan policy was not evaluated as part of the LUBA case. The new Land Development Ordinance No. 442 is found to be consistent with the Comprehensive Plan because the R/C Overlay continues to *provide* zoning that allows large-scale recreationally oriented commercial uses.

Prior to the LUBA decision, the City consistently allowed residential uses in the RC zone under CDC Sections 13.2.0 and 13.2.0.B. The City is responding to the LUBA decision by clarifying the uses allowed in development code which are consistent with the Comprehensive Plan as discussed in further detail in following sections of these findings.

3. **COMMENT:** *...when revising CDC, the City must ensure compliance with Goal 9’s economic development standards. By undermining the purpose of the R/C zone the City has failed to assure that its comprehensive plans and land use regulations provide adequate opportunities for a variety of economic activities throughout the UGB. Specifically, ORS 197.712(c) mandates that:*

**“Comprehensive plans and land use regulations shall provide for at least an adequate supply of sites of suitable sizes, types, locations and service levels for industrial and commercial uses consistent with plan policies.”**

**RESPONSE:** The new Land Development Ordinance No. 442 *provides* areas having suitable environment for accommodating large-scale recreationally oriented commercial uses. The Resort Commercial (R/C) Overlay in the new Land Development Ordinance No. 442 establishes a zone where such uses are allowed. Land Development Ordinance No. 442 is consistent with Statewide Planning Goal 9 as discussed in the preceding findings.

## GENERAL RESPONSE TO COMMENTS

Mr. Sherlock argues that the language of the Resort Commercial zone may not be amended without also amending the language of the comprehensive plan. This is another way of saying that the proposed changes to the Resort Commercial language in the code is not in compliance with some policy in the comprehensive plan. Code changes do need to be in compliance with the comprehensive plan. The Sherlock letter cites the language from page 81 of the plan that says the Resort Commercial plan designation is intended to provide a suitable environment for large-scale recreationally oriented commercial uses. The Resort Commercial zone does this; such uses are allowed in the zone. The plan does not say that only such uses are allowed in this zone. The zone is in fact acknowledged as a Goal 10 zone, too. It unquestionably allows residential development in a time-share arrangement. Single-family dwellings are another form of Goal 10 residential development. Clarifying that another form of residential development, in addition to the time-share form, does not change the nature of the zone. It does not trigger noncompliance with the plan language supporting resort commercial development.

Mr. Sherlock argues that the "Purpose" language of the Resort Commercial zone, CDC 13.1.0, prohibits the amendment being made here because it limits the residential uses to time shares. The Purpose language does not limit what uses the city may put in the list of permitted uses. The purpose language is not a standard for amending the code. It may be useful in interpreting the code language adopted by the City. LUBA used it in this fashion, citing the purpose language as one element of the text and context of the code that it could use in interpreting what the list of permitted uses means. LUBA did not say that the Purpose language is a standard for amending the code.

It is worth pointing out both Mr. Sherlock's client argued before LUBA that the time-share housing allowed in this zone could be Goal 10 housing. LUBA agreed with this view in its decision. Hence, both Mr. Sherlock and LUBA agree with the position taken by the City in the Concerned Homeowners matter – that the Resort Commercial zone is a zone that was acknowledged by the LCDC to allow Goal 10 housing land. The limitation that LUBA found, however, is that the housing type allowed under the former code was limited to the time-share form. What the City is doing in these amendments is clarifying that the type of Goal 10 housing allowed includes more than just the time-share form.

Mr. Sherlock argues that these amendments would render meaningless the residential land inventories and dilute the significance of the actual residential zones. He argues that the change would allow vast acreages to be developed with single family residences. He argues that Goal 10 is violated.

The argument being made here is unclear. The clarifying that an addition housing type, in addition to time-share residential, is allowed in this zone does not change the amount of acreage that is zoned for housing development. It only changes the form of ownership that is allowed for housing that is already allowed to be constructed in the Resort Commercial zone. The change is neutral in terms of the amount of housing acreage and the potential number of housing units in the City. The change is also neutral in terms of the mix of single-family and multiple-family units in the City. Changing a time-share unit to a single owner unit does not affect the character

of the unit as single-family or multiple-family. These terms are defined in the code, and the definition has nothing to do with time-share versus another form of ownership. See definitions 46 through 49.

Mr. Sherlock argues that the proposed amendment violates Statewide Planning Goal 9 because it will turn the entire zone into a residential suburbia, thus not leaving enough acreage for actual resort commercial uses. There are several responses to this argument. The most simple response is that the change is neutral in terms of impact on land available for resort commercial versus residential uses. As noted above, Mr. Sherlock and LUBA agree that the Resort Commercial zone already allows residential development, if it is in the time-share form. This amendment does not change what land can be developed with residences. It only clarifies the types of ownership of units that is allowed. It is, therefore, neutral in terms of Goal 9 and Goal 10 impacts.

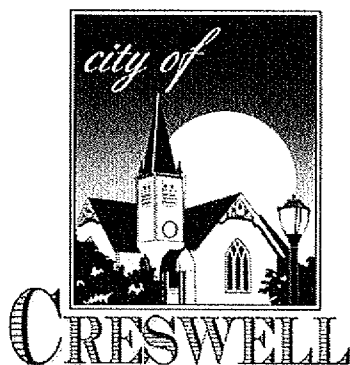
Furthermore, several additional points about the character of the Resort Commercial zone should be emphasized here. The first is that the Resort Commercial zone was initially acknowledged in 1982 as being a zone that contains land that is in the Goal 10 inventory as allowing single-family owner occupied land. The 1982 LCDC acknowledgment order stated, in part:

"Creswell has designated 266 vacant buildable acres to meet residential land use needs. Of 289 vacant acres designated "Residential," 256 acres are located outside the floodway and so are suitable for development. *Ten additional acres of the land designated for Resort Commercial use east of I-5 are intended to accommodate 70 owner-occupied housing units.*" [Emphasis added]

Second, subsequent amendments to the comprehensive plan have reinforced the character of the Resort Commercial zone as being, in part, a zone with land in the Goal 10 buildable lands inventory. For example, the *Creswell Economic Opportunities Analysis, by ECONorthwest (March 2005) ("CEOA")*, explains that of all the buildable land in the Resort Commercial zone, it is assumed that 83% will be developed with residential uses. See report at page 6-2, Table 6-1, footnote.

Third, even if Mr. Sherlock's assumption is correct – that the proposed amendment would debit the Goal 9 land inventories in favor of Goal 10 housing, the total impacts would not put the City out of compliance with Goal 9. This is because of the magnitude of the existing surplus of commercial lands. The CEOA study discussed above documents this. There is currently (2004) a surplus of 57.9 acres of "buildable" commercial land in the UGB. See Table 6-1 on page 6-2. The total acreage of vacant and partially vacant land in the UGB with a Commercial Resort plan designation (in 2004) is 22.6 acres. See Table 2-4 on page 2-6.

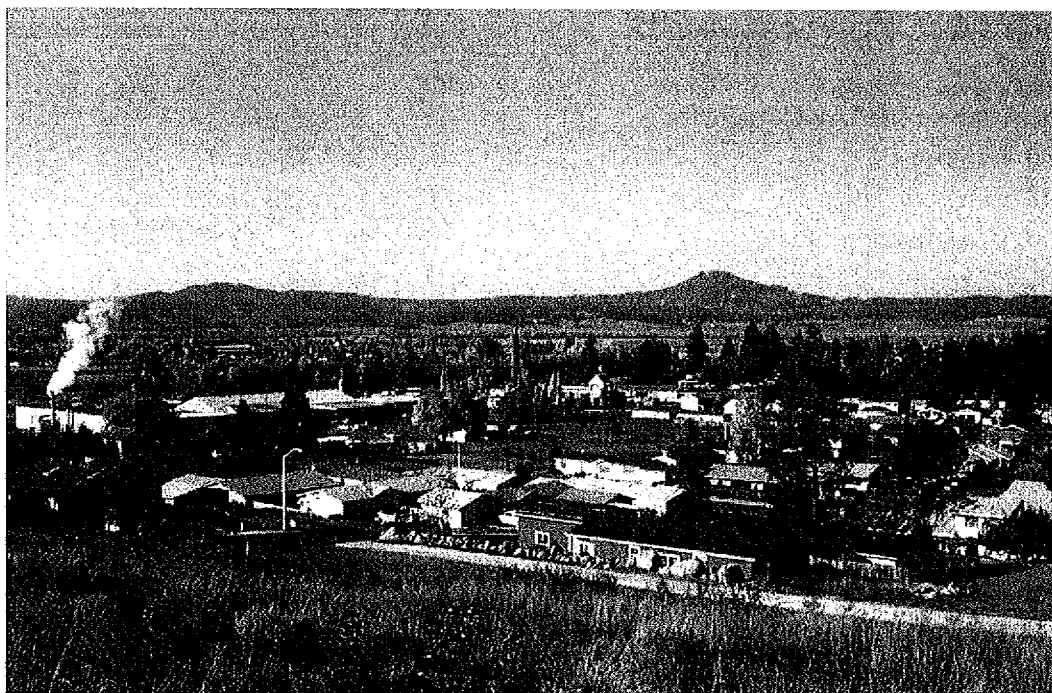




# ***City of Creswell***

# ***Development***

# ***Code***



Ordinance No. 442  
February 2007

## **Article 1.0 — Introduction**

### **Chapter 1.1 — How to Use the Development Code**

### **Chapter 1.2 — General Administration**

Sections:

- 1.2.100 Severability
- 1.2.200 Compliance and Scope
- 1.2.300 Consistency with Plan and Laws
- 1.2.400 Use of a Development
- 1.2.500 Pre-Existing Approvals
- 1.2.600 Building Permit and Certificate of Occupancy
- 1.2.700 Official Action

### **Chapter 1.3 — Definitions**

Sections:

- 1.3.100 Purpose
- 1.3.200 Applicability
- 1.3.300 Definitions

### **Chapter 1.4 — Use Categories**

Sections:

#### **Introduction to the Use Categories**

- 1.4.100 Purpose
- 1.4.200 Category Titles
- 1.4.300 Classification of Uses

#### **Residential Use Categories**

- 1.4.100 Group Living
- 1.4.110 Household Living

#### **Commercial Use Categories**

- 1.4.200 Commercial Outdoor Recreation
- 1.4.210 Commercial Parking
- 1.4.220 Quick Vehicle Servicing
- 1.4.230 Major Event Entertainment
- 1.4.235 Educational Services, Commercial
- 1.4.240 Office
- 1.4.250 Retail Sales and Service
- 1.4.260 Self-Service Storage

1.4.270 Vehicle Repair

**Industrial Use Categories**

1.4.300 Industrial Service

1.4.310 Manufacturing and Production

1.4.320 Warehouse, Freight Movement, and Distribution

1.4.330 Waste-Related

1.4.340 Wholesale Sales

**Institutional Use Categories**

1.4.400 Basic Utilities

1.4.410 Colleges

1.4.420 Community Service

1.4.430 Daycare

1.4.450 Medical Centers

1.4.460 Parks and Open Areas

1.4.470 Religious Institutions and Places of Worship

1.4.480 Schools

**Other Use Categories**

1.4.500 Agriculture

1.4.510 Mining

1.4.520 Radio Frequency Transmission Facilities

1.4.530 Rail Lines and Utility Corridors

**Enforcement**

1.5.100 Provisions of this Code Declared to be Minimum Requirements

1.5.200 Violation of Code Prohibited

1.5.300 Penalty

1.5.400 Complaints Regarding Violations

1.5.500 Inspection and Right of Entry

1.5.600 Abatement of Violations

1.5.700 Stop Order Hearing

1.5.800 Revocation of Conditional Use Permits

1.5.900 Administrative Civil Penalties

**Article 2 - Land Use Districts**

Chapter 2.1 - Organization of Land Use Districts

Sections:

2.1.100 Classification of Land Use Districts

- 2.1.200 Land Use District Map
- 2.1.300 Determination of Land Use District Boundaries

## Chapter 2.2 - Residential Land Use Districts

### Sections:

- 2.2.100 Residential Districts – Purpose and Applicability of Districts
- 2.2.110 Residential Districts – Allowed Land Uses
- 2.2.120 Residential Districts – Development Standards
- 2.2.130 Residential Districts – Setback Yards and Build-To Line: Exceptions, Reverse Frontage Lots, Flag Lots
- 2.2.140 Residential Districts – Infill Standards
- 2.2.150 Residential Districts – Housing Density
- 2.2.160 Residential Districts – Lot Coverage and Impervious Surfaces
- 2.2.170 Residential Districts – Building Height: Measurement, Exceptions, RL Step-Down Requirement
- 2.2.180 Residential Districts – Building Orientation
- 2.2.190 Residential Districts – Architectural Design Standards
- 2.2.200 Residential Districts – Special Use Standards

## Chapter 2.3 — Commercial Districts

### Sections:

- 2.3.100 Commercial Districts – Purpose
- 2.3.110 Commercial Districts – Allowed Land Uses
- 2.3.120 Commercial Districts – Development Standards
- 2.3.130 Commercial Districts – Zero Setbacks and Build-To Line
- 2.3.140 Commercial Districts – Lot Coverage
- 2.3.150 Commercial Districts – Building Orientation and Commercial Block Layout
- 2.3.160 Commercial Districts – Building and Structure Height; Bonus for Mixed-Use
- 2.3.170 Commercial Districts – Architectural Design Standards
- 2.3.180 Commercial Districts – Pedestrian and Transit Amenities
- 2.3.190 Commercial Districts – Special Use Standards

## Chapter 2.4 — Industrial (I) Districts

### Sections:

- 2.4.100 Industrial Districts – Purpose
- 2.4.110 Industrial Districts – Allowed Uses
- 2.4.120 Industrial Districts – Setback Yards and Buffering
- 2.4.130 Industrial Districts – Lot Coverage
- 2.4.140 Industrial Districts – Site Layout and Design
- 2.4.150 Industrial Districts – Building and Structure Height

## Chapter 2.5 — Park, Recreation, or Open Space (PRO-S) District

### Sections:

- 2.5.100 Purpose
- 2.5.200 Permitted Uses
- 2.5.300 Conditional Uses
- 2.5.400 Development Standards and Requirements

## Chapter 2.6 — Public Facilities (PF) District

### Sections:

- 2.6.100 Purpose
- 2.6.200 Allowed Land Uses
- 2.6.300 Development Standards
- 2.6.400 Vision Clearance
- 2.6.500 Parking
- 2.6.600 Solar Access
- 2.6.700 Signs
- 2.6.800 Landscaping
- 2.6.900 Loading Standards

## Chapter 2.7 — Flood Plain (FP) Overlay

### Sections:

- 2.7.100 Purpose
- 2.7.200 Designation of Special Flood Hazard Areas
- 2.7.300 Designation of the Administrator
- 2.7.400 Provisions for Flood Hazard Reduction
- 2.7.500 Review of all Proposed Construction Required
- 2.7.600 Criteria and Standards
- 2.7.700 Site Investigation Report
- 2.7.800 General Requirements
- 2.7.900 Grading, Excavating and Filling- General Requirements
- 2.7.910 Variances
- 2.7.920 Fees

## Chapter 2.8 — Airport (A) Overlay

### Sections:

- 2.8.100 Purpose
- 2.8.200 Use Restrictions
- 2.8.300 Height Restrictions
- 2.8.400 General Uses
- 2.8.500 Uses Permitted Outright by Zones
- 2.8.600 Uses Permitted Conditionally by Zones
- 2.8.700 Conditional Use Criteria

- 2.8.800 Nonconforming Uses
- 2.8.900 Variances
- 2.8.910 Obstruction Marking

## Chapter 2.9 — Resort Commercial (R/C) Overlay

### Sections:

- 2.9.100 Purpose
- 2.9.200 Permitted Uses
- 2.9.300 Height Restrictions
- 2.9.400 Master Planned Development Procedures Required

## Chapter 2.10 — Riparian Protection and Wetland Overlay

### Sections:

- 2.10.100 Purpose
- 2.10.200 Establishment of the Riparian Corridor or Overlay Boundary
- 2.10.300 Limitations on Use
- 2.10.400 Procedures
- 2.10.500 Hardship Variances
- 2.10.600 Restoration and Enhancement Exceptions
- 2.10.700 Appeals
- 2.10.800 Enforcement

## **Article 3 — Community Design Standards**

### Chapter 3.0 — Design Standards Administration

#### Sections:

- 3.0.100 Design Standards - Purpose
- 3.0.200 Design Standards - Applicability

### Chapter 3.1 — Access and Circulation

#### Sections:

- 3.1.100 Purpose
- 3.1.200 Vehicular Access and Circulation
- 3.1.300 Pedestrian Access and Circulation

### Chapter 3.2 — Landscaping, Street Trees, Fences and Walls

#### Sections:

- 3.2.100 Purpose
- 3.2.200 Landscape Conservation
- 3.2.300 Landscaping
- 3.2.400 Street Trees

- 3.2.500 Removal of Trees
- 3.2.600 Fences and Walls

### Chapter 3.3 — Parking and Loading

Sections:

- 3.3.100 Purpose
- 3.3.200 Applicability
- 3.3.300 Automobile Parking Standards
- 3.3.400 Bicycle Parking Standards
- 3.3.500 Loading

### Chapter 3.4 — Public Facilities

Sections:

- 3.4.010 Purpose and Applicability
- 3.4.100 Transportation Standards
- 3.4.200 Public Use Areas
- 3.4.300 Sanitary Sewer and Water Service Improvements
- 3.4.400 Storm Drainage Improvements
- 3.4.500 Utilities
- 3.4.600 Easements
- 3.4.700 Construction Plan Approval and Assurances
- 3.4.800 Installation

### Chapter 3.5 — Other Standards

Sections:

- 3.5.100 Telecommunication Facilities
- [3.5.200 Reserved]

## **Article 4 – Administration of Land Use and Development**

### Chapter 4.1 — Types of Review Procedures

Sections:

- 4.1.100 Purpose and Applicability of Review Procedures
- 4.1.200 Type I Procedure (Ministerial)
- 4.1.300 Type II Procedure (Administrative)
- 4.1.400 Type III Procedure (Quasi-Judicial)
- 4.1.500 Type IV Procedure (Legislative)
- 4.1.600 General Provisions Applicable to All Reviews
- 4.1.700 Special Procedures – Expedited Land Divisions



- 4.1.800 Neighborhood Meetings
- 4.1.900 Traffic Impact Studies

## Chapter 4.2 — Land Use Review and Site Design Review

### Sections:

- 4.2.100 Purpose
- 4.2.200 Applicability
- 4.2.300 Land Use Review Procedure and Approval Criteria
- 4.2.400 Site Design Review - Application Review Procedure
- 4.2.500 Site Design Review - Application Submission Requirements
- 4.2.510 Site Design Review - Performance Option
- 4.2.600 Site Design Review Approval Criteria
- 4.2.700 Bonding and Assurances
- 4.2.800 Development in Accordance With Permit Approval; Modifications; Permit Expiration

## Chapter 4.3 — Land Divisions and Property Line Adjustments

### Sections:

- 4.3.100 Purpose
- 4.3.110 General Requirements
- 4.3.112 Pre-planning for Large Sites
- 4.3.115 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes
- 4.3.120 Approval Process
- 4.3.130 Preliminary Plat Submission Requirements
- 4.3.140 Approval Criteria: Preliminary Plat
- 4.3.150 Variances Authorized
- 4.3.160 Final Plat Submission Requirements and Approval Criteria
- 4.3.170 Public Improvements
- 4.3.180 Performance Guarantee
- 4.3.190 Filing and Recording
- 4.3.200 Re-platting and Vacation of Plats
- 4.3.210 Property Line Adjustments

## Chapter 4.4 — Conditional Use Permits

### Sections:

- 4.4.100 Purpose
- 4.4.200 Approvals Process
- 4.4.300 Application Submission Requirements
- 4.4.400 Criteria, Standards and Conditions of Approval
- 4.4.500 Additional Development Standards

## Chapter 4.5 — Master Planned Developments

### Sections:

- 4.5.100 Purpose
- 4.5.110 Applicability
- 4.5.120 Review and Approvals Process
- 4.5.130 Modification of District Standards (Article 2) and Design Standards (Article 3)
- 4.5.140 Overlay Zone and Concept Plan Submission
- 4.5.150 Overlay Zone and Concept Plan Approval Criteria
- 4.5.160 Administrative Procedures
- 4.5.170 Detailed Development Plan Submission Requirements
- 4.5.180 Detailed Development Plan Approval Criteria
- 4.5.190 Land Use Review, Site Design Review, Final Plat, and Building Permit Approvals

## Chapter 4.6 — Modifications to Approved Plans and Conditions of Approval

### Sections:

- 4.6.100 Purpose
- 4.6.200 Applicability
- 4.6.300 Major Modifications
- 4.6.400 Minor Modifications

## Chapter 4.7 — Land Use District Map and Text Amendments

### Sections:

- 4.7.100 Amendments - Purpose
- 4.7.200 Legislative Amendments
- 4.7.300 Quasi-Judicial Amendments
- 4.7.400 Conditions of Approval on Quasi-Judicial Amendments
- 4.7.500 Record of Amendments
- 4.7.600 Transportation Planning Rule Compliance

## Chapter 4.8 — Code Interpretations

### Sections:

- 4.8.100 Purpose
- 4.8.200 Code Interpretation Procedure

## Chapter 4.9 — Miscellaneous Permits

### Sections:

- 4.9.100 Temporary Use Permits
- 4.9.200 Home Occupation Permits

## **Article 5 — Exceptions to Code Standards**

### **Chapter 5.1 — Variances**

#### Sections:

- 5.1.100 Purpose
- 5.1.200 Applicability
- 5.1.300 Class A Variances
- 5.1.400 Class B Variances
- 5.1.500 Class C Variances
- 5.1.600 Variance of Appeal Decisions

### **Chapter 5.2 — Non-Conforming Uses and Developments**

#### Sections:

- 5.2.100 Purpose
- 5.2.200 Non-conforming Uses
- 5.2.300 Non-conforming Development

### **Chapter 5.3 — Lots of Record**

#### Sections:

- 5.3.100 Purpose
- 5.3.200 Applicability
- 5.3.300 Procedure

# Article 1.0 — Introduction

## Chapters:

1. 1. How to Use the Development Code
1. 2. General Administration
1. 3. Definitions
1. 4. Use Categories
1. 5. Enforcement

## Chapter 1.1 — How to Use the Development Code

Welcome to the City of Creswell Development Code (“Code”). This is a comprehensive land use and development code that governs all of the land within the incorporated limits of City of Creswell. The five Articles of the Code are used together to review land use applications. They are organized as follows:

**Article 1.** In addition to this brief introduction, Article 1 provides definitions for selected terms, land use classifications and categories, and information on the legal construct of the Code. It also explains the city authority to enforce its Code.

**Article 2.** Every parcel, lot, and tract of land within the City’s incorporated boundaries is also within a “land use district”. (Land use districts are shown on the City’s official zoning map.) Chapter 2 identifies the land uses that are permitted within each district, and the standards that apply to each type of land use (e. g., lot standards, setbacks, and use-specific design standards). As required by state law, the zones or “land use districts” conform to the City of Creswell Comprehensive Plan. The districts reserve land for planned land uses, provide compatibility between different uses, and implement planned housing densities.

**Article 3.** The design standards contained in Article 3 apply throughout the City. They are used in preparing development plans, and reviewing applications, to ensure compliance with city standards for access and circulation, landscaping, parking, public facilities, surface water management, housing densities, and sensitive lands.

**Article 4.** Article 4 provides all of the application requirements and procedures for obtaining permits required by this Code. Four types of permit procedures are covered: Type I (non-discretionary, “ministerial” decision); Type II (discretionary, “administrative” decision); Type III (“quasi-judicial” decision with public hearing); and Type IV (“legislative” decisions).

**Article 5.** Article 5 provides standards and procedures for variances and non-conforming situations (i.e., existing uses or development that do not comply with the Code). This Code cannot provide standards to fit every potential development situation. The City’s varied geography, and complexities of land development, require flexibility. Article 5 provides that flexibility, while maintaining the purposes and intent of the Code.

## Chapter 1. 2 — General Administration

### Sections:

- 1.2.100 Severability
- 1.2.200 Compliance and Scope
- 1.2.300 Consistency with Plan and Laws
- 1.2.400 Use of a Development
- 1.2.500 Pre-Existing Approvals
- 1.2.600 Building Permit and Certificate of Occupancy
- 1.2.700 Official Action

#### 1.2.100 Severability

The provisions of this Development Code (“Code”) are severable. If any section, sentence, clause or phrase of the Code is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Code.

#### 1.2.200 Compliance and Scope

- A. Compliance with the provisions in the Development Code.** Land and structures may be used or developed only as this Code or any amendment thereto permits. No plat shall be recorded or no building permit shall be issued without compliance with the provisions of this Code.
- B. Obligation by successor.** The requirements of this Code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons’ successors in interest.
- C. Most restrictive regulations apply.** Where this Code imposes greater restrictions than those imposed or required by other rules or regulations, the most restrictive or that imposing the higher standard shall govern.
- D. Variances.** Variances shall be governed by the provisions of Chapter 5.1.
- E. Transfer of development standards prohibited.** No lot area, yard, landscaping, or open space that is required by this Code for one use shall be a required lot area, yard, landscaping, or open space for another use, except as otherwise specifically allowed by this Code.

#### 1.2.300 Consistency with Plan and Laws

This Code is designed to implement the City of Creswell Comprehensive Plan. All provisions of this Code shall be construed in conformity with the adopted comprehensive plan and applicable State and Federal laws.

**1.2.400 Use of a Development**

A development shall be used only for a lawful use. A lawful use of a development is one that is permitted by this Code (including non-conforming uses, subject to Chapter 5.2), and is not prohibited by law.

**1.2.500 Pre-existing Applications and Approvals**

- A. Pre-existing Approvals.** Approvals granted for development and uses prior to the effective date of this Code may proceed under the pre-existing Code; except that modifications to those approvals shall comply with Chapter 4.1, Modifications to Approved Plans and Conditions of Approval.
- B. Pre-existing Applications.** Approval or denial of applications submitted prior to the effective date of this Code that were made complete within 180 days of the date of original submittal shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- C. Subsequent Development Applications.** All applications for development and uses submitted on or after the effective date of this Code shall conform to the provisions of this Code and approval or denial of that application shall be based upon the standards and criteria of this Code.”

**1.2.600 Building Permit and Certificate of Occupancy**

- A. Building permit.** A building permit shall not be issued until the City Administrator or designee has issued a Land Use Review or Site Design Review approval in accordance with the provisions of Chapter 4.2, or has otherwise found that such review is not required.
- B. Certificate of occupancy required.** To ensure completion of a development or use in the manner approved, a building shall not be occupied and a use shall not begin until the Building Official has issued a certificate of occupancy following completion of the work in substantial conformance to the applicable approvals and permits.
- C. Prior to final completion.** Prior to the final completion of all work, the Building Official, at his or her discretion, may issue a certificate of occupancy for a portion of the structure conditioned upon further work being completed by a date certain.

**1.2.700 Official Action**

- A. Official Action.** The City Administrator and his or her designees are vested with authority to issue permits or grant approvals in conformance with this Code, and shall issue no permit or grant approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.
- B. Invalid Approvals.** Any permit or approval issued or granted in conflict with the provisions

of this Code shall be void, unless it is modified to conform to the Code. The Planning Director shall determine when an approval is void and he or she may modify the approval, or refer it back to the original decision making body for modification, to make it conform to the Code.

- C. Notice.** The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to notice.



## Chapter 1.3 — Definitions

### Sections:

- 1.3.100 Purpose**  
**1.3.200 Applicability**  
**1.3.300 Definitions**

#### 1.3.100 Purpose

The purpose of Chapter 1.3 is to define terms that are used frequently in the City of Creswell Development Code (“Code”), to assist decision makers in interpreting and applying the Code. Some of the terms that are defined here may have different meanings in other communities.

#### 1.3.200 Applicability

- A. Definitions.** The definitions in Chapter 1.3 apply to all actions and interpretations under the Code. The meanings given terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control. Where a term used in this Code is already defined in another part of the City of Creswell Code (e.g., the Uniform Building Code, etc.) the term is not redefined herein for purposes of that other code. Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. Webster’s Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.
- B. Land Use Categories.** Chapter 1.4 provides descriptions of the land use categories used in Article 2.

#### 1.3.300 Definitions

The following definitions are organized alphabetically and some related terms are also grouped together and cross-referenced under group headings (e.g., Transportation-Related, Environment-Related, etc.). See also, Chapter 1.4 for descriptions of the land use categories used in Article 2.

### **A**

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

**Access.** See Transportation-Related terms.

**Accessory.** Secondary or incidental to a primary use or structure.

**Accessory dwelling.** See Residential Structure Types.

**Accessory parking facility.** A parking facility that provides parking for a specific use or uses. The facility may be located on or off the site of the use or uses to which it is accessory. A fee may or may not be charged. An accessory parking facility need not be in the same ownership as the specific uses to which it is accessory. See also Commercial Parking in Chapter 1.4, Descriptions of Use Categories.

**Accessory structure.** A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure. Accessory structures are detached from the primary structure. Examples of accessory structures include but are not limited to: garages, decks, fences, arbors, gazebos, heat pumps, and other structures. See also Primary Structure.

**Accessory use.** A use or activity that is a subordinate part of a primary use and that is clearly incidental to a primary use on a site. See also Primary Structure.

**Adjacent.** Abutting or located directly across a street right-of-way.

**Adjustment.** A discretionary approval that modifies or waives a specific development standard, as expressly allowed under this Code (e.g., Section 4.2.510, Site Design Review Performance Option).

**Administrative.** A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

**Adult foster care.** A family home or facility in which residential care is provided for five or fewer adults who are not related to the provider by blood or marriage. "Provider" means any person operating an adult foster care home. See also, "Group Home/Facility."

**Adverse impact or effect.** Negative effect that can be measured (e.g., noise, air pollution, vibration, dust, property values, etc.).

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

**Agriculture.** See use category under Chapter 1.4, and ORS 215.203(2)(a).

#### **Airport-Related Definitions**

- **Airport.** The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.
- **Airport Elevation.** The highest point of an airport's usable runway, measured in feet above mean sea level.

- Airport Imaginary Surfaces. Imaginary areas in space and on the ground that are established in relation to the airport and its runways. Imaginary areas are defined by the primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface.
- Airport Noise Impact Boundary. Boundary located 1,500 feet from the end and edge of the airport runway.
- Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.
- Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
  - 1,250 feet for a utility runway; or
  - 1,500 feet for a runway other than a utility runway.

The approach surface extends for a horizontal distance of 5,000 feet at a slope of 20 feet outward for each foot upward. The outer width of an approach surface will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

- Average Day-Night Sound Level (Ldn or DNL). Average day-night sound level is the FAA standard measure for determining the cumulative exposure of individuals to noise. Ldn is the equivalent of noise levels produced by aircraft operations during a 24-hour period, with a ten-decibel penalty applied to the level measured during nighttime hours (10:00 p.m. to 7:00 am).
- Conical Surface. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.
- FAA. The Federal Aviation Administration.
- FAA's Technical Representative. As used in this ordinance, the federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDA-APHIS-Wildlife Services.
- Horizontal Surface. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the

adjacent arcs by lines tangent to those arcs. The radius of each arc is 5000 feet.

- Ldn. See Average Day-Night Sound Level.
- Obstruction. Any structure or tree, plant or other object of natural growth that penetrates an imaginary surface.
- Other than Utility Runway. A runway that is constructed for and intended to be used by turbine-driven aircraft or by propeller-driven aircraft exceeding 12,500 pounds gross weight.
- Primary Surface. A surface longitudinally centered on a runway. When a runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. When a runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is:
  - 250 feet for utility runways.
  - 500 feet for other than utility runways.
- Public Assembly Facility. A permanent or temporary structure or facility, place or activity where concentrations of people gather in reasonably close quarters for purposes such as deliberation, education, worship, shopping, employment, entertainment, recreation, sporting events, or similar activities. Public assembly facilities include, but are not limited to, schools, churches, conference or convention facilities, employment and shopping centers, arenas, athletic fields, stadiums, clubhouses, museums, and similar facilities and places, but do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.
- Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- Runway Protection Zone (RPZ). An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is currently located outside of Creswell's urban growth boundary. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The inner width of the RPZ is the same as the width of the primary surface. The outer width of the RPZ is a function of the type of aircraft and specified approach visibility minimum associated with the runway end. The RPZ extends from each end of the primary surface for a horizontal distance of: 1,000 feet.
- Significant Bird Strike Hazards. As it relates to bird strike hazards, "significant" means a level of increased flight activity by birds across an approach surface or runway that is

more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.

- **Transitional Surface.** Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.
- **Utility Runway.** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.
- **Water Impoundment.** Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of this ordinance.

**Alley.** See Transportation-Related definitions.

**Alteration.** See Development-Related definitions.

**Ambient.** Normal or background environmental condition, as in the level of light, dust or noise.

**Antenna, Wireless Telecommunications.** The physical device used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**Applicant.** A person who applies for a land use review or building permit. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.

**Arborist.** A professional listed as a certified arborist or a registered consulting arborist.

**Arterial.** See Transportation-Related definitions.

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

**Attached house (townhouse or rowhouse).** See Residential Structure Types.

**Attached structure.** See Development-Related definitions.

**Automobile-dependent/oriented development.** See Development-Related definitions.

**Automobile-oriented use.** Automobiles and/or other motor vehicles are an integral part of the use, such as drive-through restaurants and banks.

## B

**Backhaul network.** The lines that connect a provider's tower/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**Bed and breakfast inn.** Any establishment located in a structure designed for a single-family residence and structures appurtenant thereto, regardless of whether the owner or operator of the establishment resides in any of the structures, that:

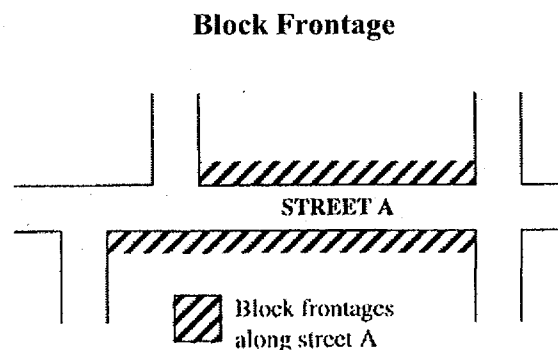
- (a) Has at least one room and no more than four for rent on a daily basis to the public; and
- (b) Offers a breakfast meal as part of the cost of the room.

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

**Bicycle Facility.** See Transportation-Related definitions.

**Block.** All of the property bounded by streets, rights-of-way, and water features, but is not divided or separated in any way by streets or water features.

**Block frontage.** All of the property fronting on one side of a street that is between intersecting or intercepting streets, or that is between a street and a water feature, or end of a dead end street. An intercepting street determines the boundary of the block frontage only on the side of the street that it intercepts. See Figure.



**Bollard.** A permanent or removable post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles); may contain sidewalk or pathway lighting.

**Boulevard.** See Transportation-Related definitions.

**Building.** See Development-Related definitions.

**Building Official.** The person authorized by the City Administrator to carry out and enforce the Uniform Building Code (UBC) and regulations for the City, and other ordinances and regulations as assigned, or the building official's designee.

**Build-to Line.** A maximum front or street yard setback that is typically required along commercial street frontages to promote a storefront character and pedestrian-oriented design.

## C

**Canopy.** A permanent roofed structure that may be free-standing or be partially attached to a building, for the purpose of providing shelter to patrons on foot and/or in motor vehicles; does not include a completely enclosed structure. See also, Tree Canopy, under Environment-Related definitions.

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

**Carport.** A stationary structure consisting of a roof, its supports, not more than one wall or storage cabinets substituting for a wall, used to shelter motor vehicles, recreational vehicles, or boats.

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

**Certificate of Occupancy.** A certificate of occupancy or a certificate of inspection issued by the City at the completion of a building permit or change of occupancy.

**Change of Use.** Change in the primary type of use on a site.

**Child care center, family child care.** Care or supervision of three or more persons by a paid caregiver who is not the parent, guardian, or related by blood or marriage to the person being served. Day care does not include boarding of temporary care or other support services for adult transitory persons." See ORS 657A for certification requirements.

**City.** The City of Creswell, Oregon.

**City Administrator.** An administrator appointed by the city council to manage the affairs of the municipality. For the purposes of this Code, the City Administrator also includes his or her designee.

**Clear and objective.** Decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

**Clearing.** See Development-Related Definitions.

**Collocation.** The use of a wireless telecommunication facility by more than one wireless telecommunications provider.

**Collector.** See Transportation-Related definitions.

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

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

**Comprehensive Plan.** The current adopted Comprehensive Plan of the City of Creswell.

**Conditional use.** A use that requires a Conditional Use Permit. See Chapter 4.4.

**Condominium.** Ownership of a single unit in a multi-unit structure that includes common areas and facilities.

**Conservation easement.** See Environment-Related definitions.

**Corner Lot.** See Lot, Corner Lot.

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

**Cottage.** See Residential Structure types.

**Council.** The City Council of Creswell, Oregon.

**Creswell Butte Protection Area.** The area defined as south of a line drawn from the intersection of Kings Row and Holbrook Lane, west down the middle of Kings Row to the Urban Growth Boundary and east from the intersection of Kings Row and Holbrook Lane to Park Drive.

**Courtyard.** See Development-Related definitions.

**Crown cover.** See Environment-Related definitions.

## **D**

**Days.** Calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding holidays.

**Dead-End Street.** See Transportation-Related Definitions.

**Decibel (dB).** A unit for describing the intensity or level of sound, equal to 20 times the



logarithm to the base 10 of the ratio of the pressure of the sound measured to a standard reference pressure.

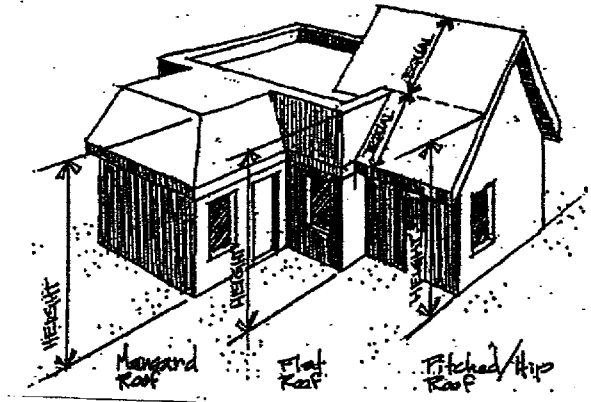
**Dedication.** The designation of land by its owner for any public use as shown on a subdivision plat or deed. The term may also be used for dedications to a private homeowners' association.

**Density(ies).** A measurement of the number of dwelling units in relationship to a specified amount of land. As used in this Code, density is determined based on the *gross* parcel or lot area, which includes land that will be dedicated as right-of-way through the development process. It does not include land previously dedicated as right-of-way. Density is a measurement used generally for residential uses.

### Development-Related Definitions

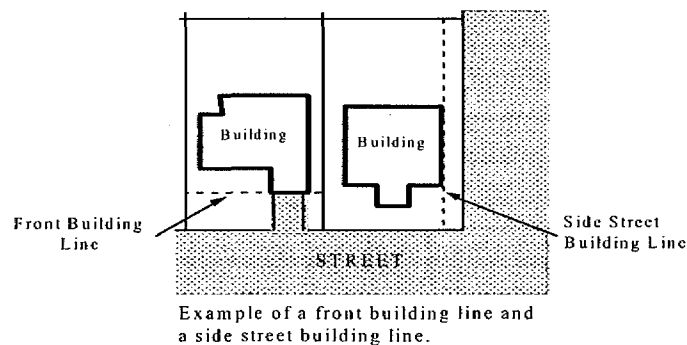
- **Alteration.** A physical change to a structure or site. Alteration does not include normal maintenance and repair or total demolition. (See also, Interior/Exterior Alteration.)  
Alteration does include the following:
  - Changes to the exterior of a building;
  - Changes to the interior of a building;
  - Increases or decreases in floor area of a building;
  - Changes to other structures on the site, or the development of new structures;
  - Changes to exterior improvements;
  - Changes to landscaping; and
  - Changes in the topography of the site.
- **Arcade.** An arched or covered passageway, e.g., along building fronts or between streets.
- **Attached structure.** Any structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. For example, decks or stairways are attached structures when they are connected to another structure. A garage may be attached to another structure by sharing a wall or by a breezeway. Structures connected by an "I" beam or similar connections are not considered attached.
- **Automobile-dependent development.** Primary or accessory uses servicing motor vehicles, or patrons in motor vehicles, such as motor vehicle repair, gas station, car wash, auto and truck sales, drive-up windows, kiosks, and similar uses.
- **Automobile-oriented development.** Development in which the site layout and design gives preference to automobiles as the primary mode of transportation; generally discouraged in all residential areas and most commercial and light industrial areas.
- **Building.** A structure that has a roof and is enclosed on at least 50 percent of the area of its sides.

- **Building area.** The total area of a building, both above and below ground, measured from the exterior faces of a building or structure. Gross building area does not include the following:
  - Roof area;
  - Roof top mechanical equipment; and
  - Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter.
- **Building coverage.** The area that is covered by buildings, and decks, stairways and entry bridges that are more than 30 inches above grade. Eaves are not included in building coverage. Building coverage is included within Lot Coverage. See also, Lot Coverage.
- **Building footprint.** The outline of a building, as measured around its foundation, or Building Coverage, whichever is greater.
- **Building height.** The vertical distance above a reference datum measured to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the midpoint of the highest gable on a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. The reference datum shall be either 1 or 2, whichever yields a greater height:



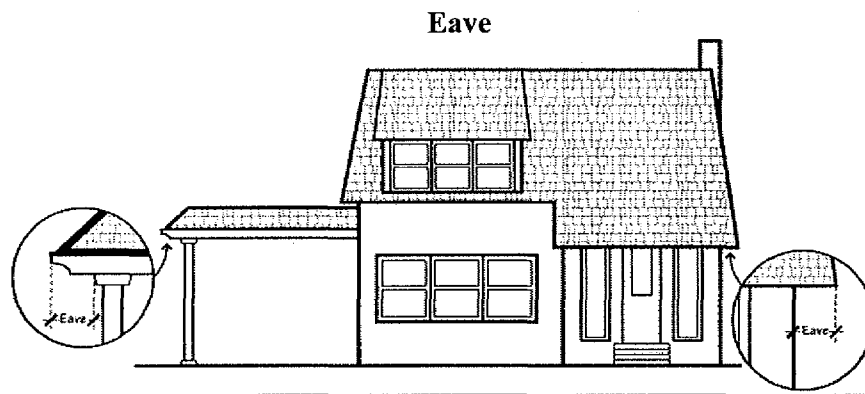
1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade;
  2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection 'a' is more than 10 feet above the lowest grade.
- **Building height step-down.** A development standard that requires a transition in allowable building height, whereby the buildings in a specific land use district must “step-down” in elevation where they abut a lower-intensity land use district.
  - **Building line.** A line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building on the site. See Figure.

### Building Lines



- **Building mass.** The aggregate size of a building, or the total height, width, and depth of all its parts.
- **Building pad.** A relatively flat site, having a grade of 5% or less, which is designed to be occupied by buildings and is prepared by artificial means, including grading, excavating, filling or any combination thereof.
- **Building scale.** The dimensional relationship of a building and its component parts to other buildings.
- **Build-to line.** A maximum distance, or range within which, a building must be setback from a street right-of-way for pedestrian-orientation and human-scale design.
- **Clearing.** Any activity that removes existing vegetation or strips surface material from any portion of the site.
- **Cornice.** The projecting horizontal element that tops a wall or flat roof.
- **Courtyard.** A court or enclosure adjacent to a building, which usually provides amenities such as gardens, planters, seating, or art.
- **Develop.** To construct or alter a structure or to make a physical change to the land including excavations and fills.
- **Development.** Fill, grading, and all improvements on a site, including heavy equipment crossings, buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land. See also Exterior Improvements.
- **Driveway.** There are two types of driveways:

- The area that provides vehicular access to a site from a street. A driveway is the same width as the curb cut excluding any aprons or extensions of the curb cut. This type of driveway begins at the street and extends into the site. A driveway does not include parking, maneuvering, or circulation areas in parking areas, such as aisles; and
- The area that provides vehicular circulation between two or more noncontiguous parking areas. A driveway does not include maneuvering or circulation areas within the interior of a parking area. Where required by Code for fire safety, a driveway must be used exclusively for circulation, with no abutting parking spaces.
- **Driveway apron/approach.** The edge of a driveway where it abuts a public way; usually constructed of concrete.
- **Eave.** Projecting overhang at the lower border of a roof and extending from a primary wall or support. See Figure.



- **Exterior Alteration.** An alteration that is outside any buildings.
- **Exterior Improvements.** All improvements except buildings or other roofed structures. Exterior improvements include surface parking and loading areas, paved and graveled areas, and areas devoted to exterior display, storage, or activities. It includes improved open areas such as plazas and walkways, but does not include vegetative landscaping, natural geologic forms, or unimproved land. See also Development.
- **Facade.** The front or street-facing elevation of a structure.
- **Fire apparatus lane or fire lane.** Unobstructed area or driveway meeting Uniform Fire Code requirements; typically may not be used for parking or loading area.
- **Fire Code.** The State of Oregon 2004 Fire Code Amendments, based on the International Fire Code 2003 Edition, or as amended by South Lane County Fire & Rescue.

- **Floor area.** The total floor area of a building, both above and below ground with a clear ceiling height of at least seven (7) feet. Floor area is measured from the interior walls of a building or structure and does not include the following:
  - Roof area;
  - Roof top mechanical equipment; and
  - Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than 42 inches in height, for 50 percent or more of their perimeter.
- **Foundation plane.** The surface area defined by a structure’s foundation, including the perimeter of all footings, slabs and pads.
- **Grading.** All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development.
- **Impervious surface.** Surface area that does not allow for water infiltration or has a runoff coefficient of 0.90 or more (e. g., non-permeable pavement, solid rock, roofs, foundations, underground tanks and vaults, and similar areas). Gravel is deemed an impervious surface unless the City Engineer finds otherwise.
- **New Development.** Development of a site that was previously unimproved or that has had previously existing buildings demolished; e.g., not a remodel of an existing building.
- **Paved area.** An uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as porous concrete or pavers) that is able to withstand vehicular traffic or other heavy-impact uses. Graveled areas are not paved areas but are typically impervious.
- **Pedestrian amenity(ies).** Areas and objects that serve as places for public socializing and enjoyment and are usually closed to motorized vehicles. Examples include plazas, building frontage areas (extra-wide sidewalks), street furnishings (e. g. , benches, drinking fountains, bus waiting shelters), and pocket parks adjacent to a street, and similar areas and objects. Sidewalks designed to meet the minimum sidewalk width standards under Section 3.4.1 are not “amenities” for the purpose of this Code.
- **Pedestrian-Oriented Development.** Development that is designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than on auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades that face the street. Typically, buildings cover a large portion of the site. Although parking areas may be provided, they are generally limited in size and they are not emphasized by the design of the site.
- **Ridge line (building).** The top of a roof at its highest elevation.
- **Roof pitch.** The slope of a roof, usually described as ratio (e.g., 1 foot of rise per 2 feet of horizontal distance).

- **Shared driveway.** See also, Transportation-Related definitions. When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) must be created and recorded for this purpose.
- **Shopping street.** A driveway in a commercial development that is designed to mimic a public street with sidewalks, tree wells, pedestrian lighting, and street furnishings. A shopping street may also have on-street parking.
- **Stormwater facility.** A facility designed to improve the quality and manage the quantity of stormwater runoff. Stormwater facilities include vegetated swales and sand filters, wet or dry ponds, marshes, infiltration facilities, and structural storm sewer devices. Stormwater facilities do not include conveyance systems that are meant only for conveying the stormwater from one place to another and do not affect the quality or quantity of the stormwater.
- **Storefront character.** The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (e.g., awnings or canopies), corner building entrances or recessed entries, and similar features.
- **Street furniture/furnishings.** Benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, and similar pedestrian amenities; may be located within a street furnishings zone or building front zone of a sidewalk or in a plaza. See also, Pedestrian Amenities.
- **Structure.** Any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.
- **Structure height.** The height of a structure, and the cumulative height of a building with any appurtenant structures.
- **Swale.** A type of stormwater facility. Usually a broad, shallow depression with plants that filter and process contaminants.
- **Vehicle areas.** All of the areas on a site where vehicles may circulate or park including parking areas, driveways, drive-through lanes, and loading areas. See also, Driveway and Parking Area.

**Disabled Person.** For the purposes of this Code, a disabled person is a person who has a condition of physical or mental disability that substantially limits one or more major life activities as stated in Section 504 of the Federal Rehabilitation Act of 1973 and state law.

**Discontinued use.** A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract. See Chapter 5.2, Non-Conforming Uses and Developments. A use is considered temporarily discontinued during the first two (2) years after it ceases, after which it is considered permanently discontinued.

**Discretionary.** A permit action or decision that involves substantial judgment or discretion.

**Disturbance area.** See Environment-Related Definitions

**Drainage way.** See Environment-Related Definitions.

**Drip-line.** See Environment-Related definitions.

**Drive-through/Drive-up facility.** A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through facilities are a type of site development that is usually found in conjunction with a Quick Vehicle Servicing use or a Retail Sales and Service use where the drivers may or may not remain in their vehicles, may perform the service for themselves, or wait on the site for the service to be rendered. Drive-through facilities may serve the primary use of the site or may serve accessory uses. Examples are drive-up windows; automatic teller machines; coffee kiosks and similar vendors; menu boards; order boards or boxes; gas pump islands; car wash facilities; auto service facilities, such as air compressor, water, and windshield washing stations; quick-lube or quick-oil change facilities; and drive-in theaters.

**Driveway.** See Development-Related Definitions.

**Driveway apron/approach.** The edge of a driveway where it abuts a public way; usually constructed of concrete.

**Duplex.** See Residential Structure Types.

**Dwelling Unit.** See Residential Structure Types.

**Drought-tolerant/drought-resistant plants or xeriscaping.** As listed and described in the Sunset Western Garden Book (latest edition) or a list maintained by Lane Council of Governments for the Southern Willamette Valley.

## E

**Easement.** A grant of rights by a property owner that allows others to use the owner's land for a specific purpose, such as access, or to locate utilities. Recorded and on record at Lane County.

**Eave.** See Development-Related Definitions.

**Elevation.** Scaled drawing of the outside wall of a building or structure, from grade to roof ridgeline, typically specifying materials, color, and dimensions.

## Environment-Related Definitions

- **Bankfull stage.** The stage or elevation at which water overflows the natural banks of streams or other waters of this state and begins to inundate the upland.
- **Conservation easement.** An easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees or groves, floodplains, wildlife habitat, and similar resources, typically in perpetuity. See ORS 271.715 to 271.795.
- **Crown cover.** The area directly beneath the crown and within the drip line of a tree or shrub. The crown consists of the above ground branches, stems, and leaves.
- **Detention (stormwater).** The temporary storage of stormwater (i.e., as in a stormwater detention facility) before it is released through an engineered system that is designed to slow runoff. Detention facilities may be designed to filter or biologically process stormwater runoff, improving water quality before it is released. See also, Retention.
- **Disturbance area.** An area that contains all temporary and permanent development, exterior improvements, vehicle and equipment crossing, and staging and storage areas on the site, both existing and proposed. Vegetation planted for resource enhancement and agricultural and pasture land is not included.
- **Drainage way.** An open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water. It may be permanently or temporarily inundated.
- **Drip-line.** Imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.
- **Ecologically/Scientifically significant natural areas.** Land and water that has substantially retained its natural character, but is not necessarily completely natural or undisturbed, and that is significant for historical, scientific, paleontological, archeological, or natural features.
- **Fish and wildlife habitat areas.** Lands that contain significant food, water, or cover for native terrestrial and aquatic species of animals. Examples include forests, fields, riparian areas, wetlands, and water bodies.
- **Flood or flooding.** As designated by the National Flood Insurance Act of 1968, the general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of streams, rivers or other inland water.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudslides (i.e., mudflows).
  - d. Flooding also means the collapse or subsidence of land along a water body as a result of erosion or undermining exceeding anticipate levels or suddenly caused by an



usually high water level.

- **Flood elevation determination.** A determination by the Federal Insurance Administrator of the water surface elevations of the base flood from the best available data source.
- **Flood hazard area.** Area of floodplain or lands with Special Flood Hazard as identified and delineated on the Flood Insurance Rate Map (FIRM).
- **Flood hazard map.** The official map of Creswell is the Flood Insurance Rate Map (FIRM) for Lane County and Incorporated Communities dated June 2, 1999, and as may be amended. The FIRM delineates a Special Flood Hazard Area or floodplain where regulations apply.
- **Flood plain.** A physical geographic term describing any land area susceptible to being inundated by water from any source.
- **Flood Plain Management.** Means the operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and flood plain management regulations.
- **Floodproofing.** Any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real property, water and sanitary facilities, structures, and their contents.
- **Floodway, regulatory.** The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the waters of a base flood without cumulatively increasing the water surface elevation.
- **Identified natural features (e.g., wetlands or streams).** Natural features that are identified in the National Wetlands Inventory and/or other references used by the City or natural resource regulatory agency, as being significant and in need of protection.
- **Ordinary) High Water Mark (HWM).** The visible high water mark of any lake, stream, or other body of water where the presence and action of the water are so common and usual and so long continued in all ordinary years as to mark upon the soil of the bed of the lake, river stream, or other body of water a character distinct from that of the banks, both in vegetation and in the nature of the soil itself. Typical features may include, a natural line or "mark" impressed on the bank or shore, indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics. See Section 2.10.200.
- **Retention (stormwater).** The infiltration of stormwater (i.e., as in a stormwater retention facility) in an engineered system that is designed to contain runoff on a development site. Retention facilities are typically designed to filter or biologically process stormwater runoff, improving water quality before it is released. See also, Detention.

- **Riparian areas.** Lands adjacent to rivers, streams, lakes, ponds, and other water bodies. They are transitional between aquatic and upland zones, and as such, contain elements of both aquatic and terrestrial ecosystems. They have high water tables because of their close proximity to aquatic systems, soils that are usually made up largely of water-carried sediments, and some vegetation that requires free (unbound) water or conditions that are more moist than normal.
- **Sensitive lands.** Wetlands, significant trees, steep slopes, flood plains and other natural resource areas including but not limited to those designated for protection or conservation by the Comprehensive Plan or refinements to the Comprehensive Plan (e.g., Parks and Open Space Master Plan).
- **Stream.** An area where enough natural surface water flows to produce a stream channel, such as a river or creek that carries flowing surface water either intermittently or during most of the year. This includes:
  - The water itself, including any vegetation, aquatic life, or habitat;
  - Beds and banks below the high water level that may contain water, whether or not water is actually present;
  - The floodplain between the high water levels of connected side channels;
  - Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and
  - Stream-associated wetlands.
- **Stream channel.** An area with evidence of perennial or seasonal water passage. The depression between the banks worn by the regular and usual flow of the water. The channel need not contain water year-round. This definition does not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses.
- **Top of bank.** The first major change in the slope of the incline from the ordinary high water level of a water body. A major change is a change of ten degrees or more. If there is no major change within a distance of 50 feet from the ordinary high water level, then the top of bank will be the elevation 2 feet above the ordinary high water level.
- **Tree canopy.** The ground area that, when viewed from above the crown of one or more trees, is mostly covered by the tree(s). For deciduous trees, canopy area is based on the time of year when foliage is present.
- **Water bodies.** Permanently or temporarily flooded lands that may lie below the deepwater boundary of wetlands. Water bodies include rivers, streams, creeks, sloughs, drainage ways, lakes, and ponds.
- **Wetland.** An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, and similar areas.

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

**Excavating or filling.** The removal, placement, or replacement of earth, concrete, asphalt, and similar non-decomposable materials whether permanent or temporary in nature. Excavating or filling does not include the movement of earth or placement of gravel, asphalt, or other paving materials that is done in conjunction with road improvements. It does not include the excavation of mineral or aggregate resources. Excavating or filling includes the terms grading, preloading, surcharging, and stockpiling.

**Exterior display.** Exterior display includes the outdoor display of products, vehicles, equipment, and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products. There is variety or a distinction among the goods on display, through different products, brands, or models. The display area does not have to be visible to the street. Exterior display does not include goods that are being stored or parked outside, if there is no variety or distinction among the goods, and the goods are not examined and compared by customers. It does not include damaged or inoperable vehicles, vehicles or equipment being serviced, bulk goods and materials, and other similar products. Exterior display does not include car and boat sales and leasing when such vehicles are not accessible to customers to inspect and compare; this situation is considered exterior storage. Examples of uses that often have exterior display are car and boat sales and leasing, and plant nurseries. See also, Exterior Work Activities and Exterior Storage.

**Exterior improvements.** See Development-Related Definitions.

**Exterior storage.** Exterior storage includes the outdoor storage of goods that generally have little or no differentiation by type or model. The goods may be for sale or lease, but if so, they are the type that customers generally do not inspect and compare. Exterior storage also includes the outdoor storage of goods for sale, lease or rent that may be differentiated by type or model, but that are not accessible for customers to inspect or compare. Exterior storage includes the storage of raw or finished goods (packaged or bulk), including gases, oil, chemicals, gravel; building materials, packing materials; salvage goods; machinery, tools, and equipment; vehicles that are for sale, lease or rent, which are not accessible to the customer to inspect or compare; vehicles that have been unloaded at port facilities and are waiting transport to off-site locations; vehicles that have been towed and are being kept in an impound lot; and other similar items. The storage of recreational vehicles outdoors is also considered exterior storage. Damaged or inoperable vehicles, or vehicles that have missing parts, which are kept outside are also included as exterior storage. Examples of uses that often have exterior storage are lumber yards, wrecking yards, tool and equipment rental, bark chip and gravel sales, car dealerships or car rental establishments, and port facilities. See also, Exterior Display and Exterior Work Activities.

**Exterior work activities.** Exterior work activities include the outdoor processing, assembly, or fabrication of goods; the maintenance, repair, and salvage of vehicles and equipment; and other similar activities that generally have an industrial orientation. Exterior work activities do not include normal pick-up and deliveries to a site, parking, excavation and fills, exterior eating

areas, outdoor recreation, or outdoor markets. See Exterior Display and Exterior Storage.

## **F**

**FCC.** Federal Communications Commission.

**Facade.** See Development-Related definitions.

**Family day care.** See Child Care Center, Family Child Care.

**Farming or farm use.** As used in this Code, “agriculture” is the same as “farm use”. [See ORS 215.203(2)(a).] Includes utilization of land to raise, harvest, or sell crops; feed, breed, manage, and sell livestock, poultry, fur-bearing animals, honeybees, or their produce; dairy and sell dairy products; or any other agricultural or horticultural use, animal husbandry, timber agricultural use, or combination thereof. Farm uses include preparation or processing and storage of products raised on such land, but do not include construction or use of dwellings and other buildings customarily provided in conjunction with farm uses.

**Fence.** An accessory structure, including landscape planting, wood, vinyl, masonry, or any other material, designed and intended to serve as a barrier or as a means of enclosing a yard or other area, or other structure, or to serve as a boundary feature separating two or more properties.

**Festoon Light.** A group of two (2) or more incandescent light bulbs hung or strung overhead, not on a building or structure that is exposed to persons on a public right-of-way, or that are not shaded or hooded to prevent the direct rays of the light from being visible from the property line.

**Final plat.** The diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions and information concerning a land division.

**Fire apparatus lane or fire lane.** See Development-Related definitions.

**Flag.** A piece of cloth or other flexible material attached to a staff, cord, bracket, or structure.

**Flag Lot.** See Lot.

**Flood hazard area.** See Environment-Related definitions.

**Floor area.** See Development-Related definitions.

**Foundation plane.** See Development-Related definitions.

**Foot-candle.** A unit of illumination (light standards), equal to one lumen per square foot, or the amount of light from a source of one candel directly thrown on a square foot of surface at a distance of one foot.

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

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

**Functional classification.** The classification given to streets by the road authority (e.g., “local/collector/arterial”). See Transportation-Related definitions, and Section 3.4.100 for street standards.

**Future division plan or future development plan.** A document that shows lot, tract and right-of-way boundaries for all potential future phases of a land division. The plan is not binding on the City or the applicant. The purpose of the plan is to document that the design of the first phase of the plan does not preclude future phases from meeting City standards.

## G

**Garage.** A covered structure designed to provide shelter for vehicles, and that is accessory to a use in these structure types: houses, attached houses, duplexes, mobile homes, or houseboats. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to or detached from another structure. See also Structured Parking.

**Grade.** The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than 5 feet from the building, between the building and a line 5 feet from the building. This is the definition used in the Oregon Structural Specialty Code (the Uniform Building Code as amended by the State.)

**Grading.** See Development-Related Definitions.

**Ground cover.** Living or processed plant material (e.g., mulch, bark chips) that is used to cover bare ground. See Chapter 3.2, Landscaping, Street Trees, Fences and Walls.

**Group living structure.** See Residential Home/Facility and Residential Structure Types.

## H

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

**Hazardous Substances.** Any substance, material, or waste listed below:

- Nuclear or radioactive materials or waste;

- Chemicals Subject to Reporting Under *Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986*, published July, 1987, U.S. Environmental Protection Agency; and
- Hazardous Materials Table, in the Code of Federal Regulations (CFR), Title 49, Part 172.101.

**Height, tower or other telecommunications structure.** The distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

#### **Historic Resource-Related Definitions**

- **Conservation Landmark.** A Conservation Landmark may include buildings, a portion of a building, sites, trees, statues, signs, or other objects or spaces that the City has designated or listed for their special historic, cultural, archaeological, or architectural merit. They are primarily of local or neighborhood importance.
- **Historic context.** The significant historic environment and background related to a historic resource that describes or explains the role played by that resource in the development of the city, region, state or nation. This includes physical development, notable events, and other human activity.
- **Historic ensemble.** A geographic grouping of historic resources that collectively have historic significance that is greater than the individual significance of any one resource in the group.
- **Historic Landmark.** Historic Landmark designations may include buildings, a portion of a building, sites, trees, statues, signs, or other objects or spaces that the City or the Keeper of the National Register of Historic Places has designated or listed for their special historic, cultural, archaeological, or architectural merit.
- **Historic resource.** A structure or object that has historic significance. Historic Resources include:
  - Historic Landmarks, including those that are listed in the National Register of Historic Places;
  - Conservation Landmarks;
  - Conservation Districts;
  - Historic Districts, including those listed in the National Register of Historic Places;
  - Structures or objects that are identified as contributing to the historic significance of a Historic District or a Conservation District; and
  - Structures or objects that are included in the Historic Resources Inventory.
- **Historic Resources Inventory.** The Historic Resources Inventory is a documentation and preliminary evaluation of historic resources. Information for each resource includes a photograph, the year the resource was constructed, the builder or architect, original

owner, significant features, architectural style, and, in most cases, a ranking for significance.

- **Historic value.** A physical, aesthetic, scenic, educational, or other characteristic that is a reminder of important events or developments in the community's past.
- **Renovation plan.** A written proposal to restore the distinctive and historically authentic architectural, historical, or cultural character of a historic resource while retaining or establishing the possibility for efficient, contemporary use.

**Home occupation, home occupation site.** A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the Household Living use on the site, subject to the provisions of Chapter 2.2 (Residential Districts) and Section 4.9.200 (Home Occupation Permits).

**Hotel/Motel.** A building or portion thereof designed and used for occupancy of transient individuals lodged with or without meals. (See ORS 446.310.)

**House.** See Residential Structure Types.

**Household.** One or more persons related by blood, marriage, civil union, legal adoption or guardianship, plus not more than 5 additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than 5 additional persons, who live together in one dwelling unit.

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

## I

**Impervious surface.** Surface area that does not allow for water infiltration, or has a runoff coefficient of 0.90 or more (e.g., non-permeable pavement, solid rock roofs, foundations, underground tanks and vaults, and similar areas).

**Incidental and subordinate to.** Secondary to, and less apparent, than the primary use or other portion of the development.

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

**International Fire Code/IFC.** The Fire Code as currently adopted by the State of Oregon.

## J

**Junk yard.** (1) Any property or establishment on which one or more persons are engaged in breaking up, dismantling, sorting, storing, distributing, buying, or selling scrap or waste materials. (2) Any establishment or place of business on which two (2) or more inoperable motor vehicles or an equivalent volume of waste or refuse are maintained, stored, bought, or sold. Includes wrecking yards, automobile grave yards, garbage dumps, and scrap metal processing facilities.

## K

**Kennel.** Any location where 5 or more dogs or cats aged 6 months or older are boarded or bred. The sale of these animals may be a part of the kennel use. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels.

## L

**Land division.** The process of dividing land to create parcels or lots. See Chapter 4.3.

**Landing (stairs).** A level part of a staircase, usually at the end of a flight of stairs. See also, Transportation-Related definitions for Airport Landing.

**Landmark.** See Historic Resource-Related Definitions.

**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. Also includes irrigation systems, mulches, topsoil, and re-vegetation or the preservation, protection and replacement of trees.

**Land use.** The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses. See also, Chapter 1.4, Use Categories.

**Land use approval.** A land use decision for approval or approval with conditions. It includes any time limits or other restrictions that may apply to the land use decision.

**Land use district.** As used in this code, a land use district is the same as a zoning district.

**Land Use Review.** An application for land use approval under Section 4.2.200.A, or the review of such application.



**Lane, mid-block.** See Transportation-Related definitions.

**Living area.** The habitable floor area of a residential structure conforming to applicable building codes; typically does not include garage area, and attic and basement areas with substandard ceiling height or substandard egress.

**Legislative.** A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation). See also, Chapter 4.1.500 (Type IV Review).

**Light manufacture.** See Chapter 1.4, Use Categories.

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

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

**Loading Area.** The area for the maneuvering and standing of vehicles engaged in delivering and loading goods, freight, or other articles. See also, Chapter 3.3, Parking and Loading.

**Longest street-facing wall.** The longest wall that faces a street. If two or more street-facing walls are of equal length, then the applicant chooses which is to be the longest street-facing wall for purposes of applying regulations of the Development Code. See also, Facade, and Chapter 2.3.150, Building Orientation in Commercial Districts.

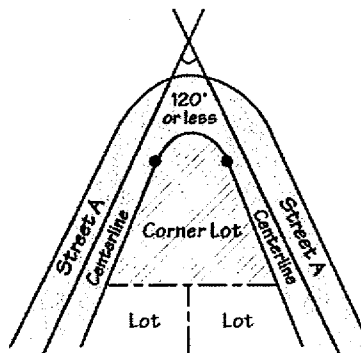
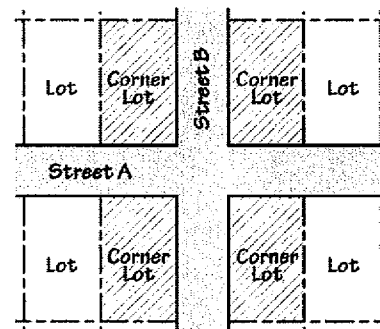
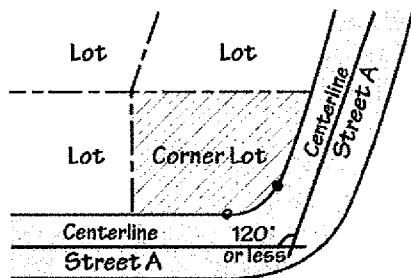
**Lot.** A lot is a legally defined piece of land other than a tract that is the result of a subdivision. The following definitions for "lot" apply to the State definition of both lot, (result of subdividing), and parcel, (result of partitioning). See also, Ownership and Site.

- **Corner lot.** A lot that has frontage on more than one intersecting street. A street that curves with angles that are 120 degrees or less, measured from the center line of the street, is considered two intersecting streets for the purpose of evaluating whether a lot is a corner lot. See Figures that follow.
- **Flag lot.** A lot with two distinct parts (See Figure that follows):
  - The flag, which is the only building site; and is located behind another lot; and
  - The pole, which connects the flag to the street; provides the only street frontage for the lot; and at any point is less than the minimum lot width for the zone.
- **Through lot.** A lot that has frontage on two parallel or approximately parallel streets.

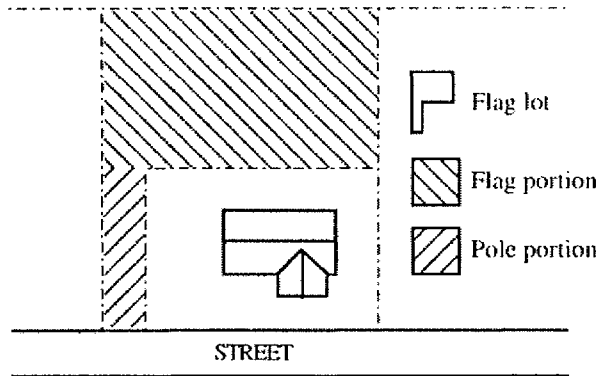
**Lot lines/property lines.** The property lines along the edge of a lot or site.

- **Front lot line.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front lot line. However, a through lot has two front lot lines regardless of whether the street lot lines are of equal or unequal length. See Figures that follow.
- **Rear lot line.** A lot line that is opposite a front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line. See Figures that follow.
- **Side lot line.** A lot line that connects front and rear lot lines. On a corner lot, the longer lot line that abuts a street is a side lot line. See Figures that follow.
- **Side street lot line.** A lot line that is both a side lot line and a street lot line. See Figures that follow.
- **Street lot line.** A lot line, or segment of a lot line, that abuts a street. Street lot line does not include lot lines that abut an alley. On a corner lot, there are two (or more) street lot lines. Street lot line can include front lot lines and side lot lines. See Figures that follow.

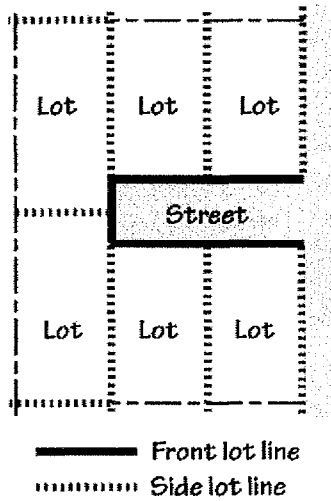
### Corner Lots



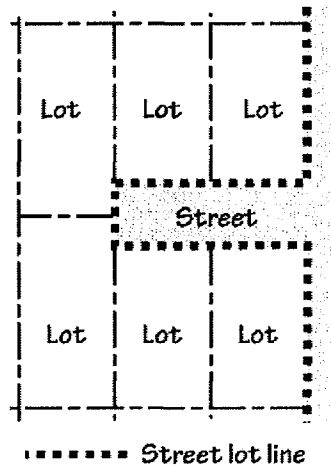
### Flag Lot



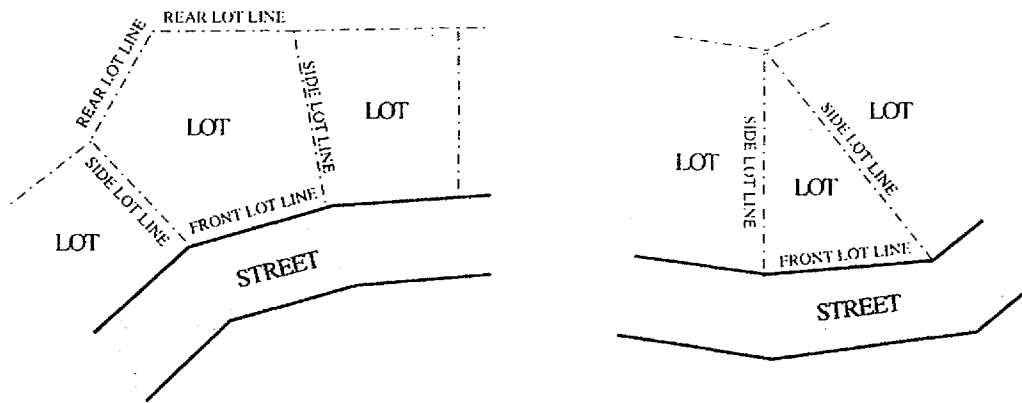
### Front and Side Lot Lines



### Street Lot Lines



### Lot Lines on Irregular Lots



**Lot of record.** A lot of record is a plot of land:

- that was not created through an approved subdivision or partition;
- that was created and recorded before *[date of code adoption]*; and
- for which the deed, or other instrument dividing the land, is recorded with the appropriate county recorder.

See Chapter 5.3, Lots of Record

**Lot, double-frontage.** See Lot, Through Lot.

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

**Lot coverage.** The total area of a lot covered by the foundation plane, as allowed by the applicable land use district development standards. Does not include overhangs, eaves, decks, and similar projections beyond the foundation plane.

**Lot line adjustment.** See Property Line Adjustment.

## M

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

**Major remodeling.** Projects where the floor area is being increased by 50 percent or more, or where the cost of the remodeling is greater than the assessed value of the existing improvements on the site. Assessed value is the value shown on the applicable county assessment and taxation records for the current year.

**Manufactured home/dwelling.** Includes residential trailer, mobile home, and manufactured home. See also, Residential Structure Types.

**Maneuvering area/aisle.** The driving area in a parking lot where motor vehicles are able to turn around and access parking or loading spaces.

**Manufactured dwelling 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 or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot. See also, ORS Chapter 446.

**Ministerial.** A routine administrative action or decision that involves little or no discretion. The issuance of a building permit is generally such an action. See Chapter 4.1.200 (Type I Review).

**Mitigation.** To avoid, rectify, repair, or compensate for negative impacts that result from other actions (e.g., improvements to a street may be required to mitigate for transportation impacts

resulting from development.)

**Mixed-use.** The combination on a site of residential uses with commercial (e.g., office, retail, or services), civic, or industrial uses.

**Mobile home park.** Two or more mobile homes that are located on a single site for 30 days or more and intended for residential use. Mobile home park does not include sites where unoccupied mobile homes are offered for sale or lease. See also Recreational Vehicle Park.

**Mobile home space.** The area occupied by a mobile home and its accessory uses and structures in a mobile home park.

**Motor home.** See Recreational Vehicle, under Vehicle Types.

**Motor vehicle.** See Vehicle Types.

**Multi-dwelling development or Multifamily housing.** See Residential Structure Types.

**Multi-dwelling structure.** See Residential Structure Types.

**Multi-use pathway.** See Walkway and Bicycle facility.

## N

**Natural resource areas/natural resources.** See Environment-Related Definitions.

**Natural hazard.** Natural areas that can cause dangerous or difficult development situations. For example, natural hazard areas include steep slopes, unstable soils, and areas prone to landslides, floodways and flood plains.

**Neighborhood.** A residential area usually having distinguishing character or geography.

**Neighborhood commercial.** See Use Categories, Commercial.

**Nonconforming development.** An element of a development, such as a setback, height, or parking area, that was created in conformance with development regulations but which subsequently, due to a change in the zone or zoning regulations, is no longer in conformance with the current applicable development standards. Nonconforming development includes development that is over a maximum allowed amount of floor area, as long as the development does not include an amount of floor area that is specifically prohibited by the current development standards. See Chapter 5.2.

**Nonconforming residential density.** A residential use that is an allowed use in the zone and that was constructed at a lawful density, but which subsequently, due to a change in the zone or zoning regulations, now has greater density than is allowed in the zone. See Chapter 5.2.

**Nonconforming situation.** A Nonconforming Residential Density, Nonconforming Development, or Nonconforming Use. A situation may be nonconforming in more than one aspect. For example, a site may contain a nonconforming use and also have some nonconforming development. See also Nonconforming Residential Density, Nonconforming Development, and Nonconforming Use. See Chapter 5.2.

**Nonconforming Use.** A use that was allowed by right when established or a use that obtained a required land use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Chapter 5.2.

**Non-native invasive plants.** Plants listed under current Oregon State University Extension Service Bulletins as non-native, invasive plants in Oregon.

## O

**Off-street parking.** All off-street areas designed, used, required or intended to be used for the parking of motor vehicles. See Chapter 3.3 for parking standards.

**On-street parking.** Parking in the street right-of-way, typically in parking lanes or bays. Parking may be “parallel” or “angled” in relation to the edge of the right-of-way or curb. See Chapter 3.3 for parking standards.

**Open space (public/private/dedicated in common).** Land that has been dedicated in common to the ownership within a development or to the public, or privately held, specifically for the purpose of providing places for recreation, conservation or other open space uses. Includes parks and mini-parks and incorporates the classifications found in the City of Creswell Parks and Open Space Master Plan. See Section 2.2.200(H) for multi-family housing open space standards.

**Orientation.** To cause to face toward a particular point of reference (e.g., “A building oriented to the street”). See also, Pedestrian-Oriented Development.

**Outlying commercial pad.** A small, free-standing commercial use (e.g., bank, restaurant, gas station, car wash, etc.) adjacent to larger commercial use(s), either on the same parcel or on a separate parcel, and typically oriented and designed to take advantage of internal driveways and surface parking that the uses share; may include a drive-up/drive-through facility.

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

**Overlay zone/district.** Overlay zones impose and/or relax requirements of an underlying land

use district, or base zone, where characteristics of the land or neighborhood, or the types of development planned for an area, require special regulations. See Chapters 2.7-2.10.

**Owner.** The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the County Assessor. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the City a copy of a deed or contract of sale showing date, book, and page of recording.

**Ownership.** An ownership is one or more contiguous lots that are owned by the same person, partnership, association, or corporation. Ownership also includes lots that are in common ownership but are separated by a right-of-way. See also, Lot and Site.

## P

**Parcel.** A legally defined area of land created through a partition.

**Parking Area.** A parking area is all the area devoted to the standing, maneuvering, and circulation of motor vehicles. Parking areas do not include driveways or areas devoted exclusively to non-passenger loading. See also, Driveway, Garage, Structured Parking, and Vehicle Areas.

**Parking lot perimeter.** The boundary of a parking lot area that usually contains a landscaped buffer area.

**Parking space.** A space designed to provide standing area for a motor vehicle. See Chapter 3.3 for parking space standards.

**Partial Street.** See Transportation-Related Definitions.

**Parking.** Area designed and developed in accordance with Chapter 3.3 for automobile or bicycle parking, as applicable.

**Parking bay.** A parking area with a concrete curb forming one side of the parking stall(s). Bays are typically adjacent and accessible to a sidewalk or walkway within a development.

**Parking versus storage.** Parking is to leave a motor vehicle for a temporary time, no longer than 24 hours. Storage is to place or leave in a location for maintenance, repair, sale, rental, or future use more than 24 hours in the future. See also, Exterior Display.

**Parol.** Expressed or evidenced by word of mouth; not written. This definition is specific and applies to Section 2.7, Flood Plain.

**Partition.** To divide an area or tract of land into two or three parcels within a calendar year when



such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See ORS 92. 010(8). )

**Pathway.** See Walkway and Bicycle facility.

**Paved area.** See Development-Related definitions.

**Pedestrian amenity(ies).** See Development-Related definitions.

**Planter strip.** A landscape area for street trees and other plantings within the public right-of-way, usually a continuous planter area between the street and a sidewalk. See also, Tree Well.

**Plat.** Diagrams, drawings and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division. This term includes the State law definitions of “partition plat” and “subdivision plat”. See also, Chapter 4.3, Land Divisions.

**Plaza.** An area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas typically provided with amenities, such as seating, drinking and ornamental fountains, art, trees, and landscaping for use by pedestrians. See also, Pedestrian Amenities (Development-Related definitions).

**Practicable.** Capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

**Primary structure.** A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.

**Primary use.** An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use.

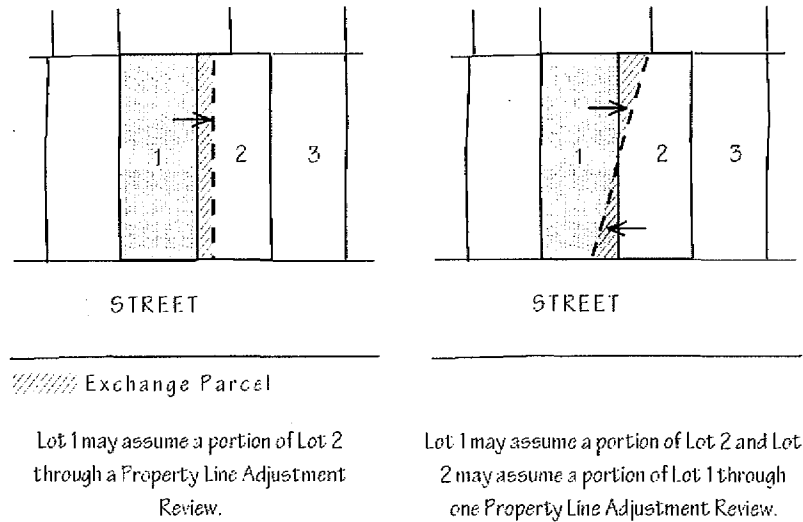
**Project.** An existing or proposed use or development.

**Project, major.** A project that requires Site Design Review (Sections 4.2.400-600), Subdivision or Partition review (Chapter 4.3), Conditional Use Permit review (Chapter 4.4), or Master Planned Development review (Chapter 4.5).

**Project, minor.** A project that requires Land Use Review (Section 4.2.300), but does not require Site Design Review (Section 4.2.400-600), Subdivision or Partition review (Chapter 4.3), Conditional Use Permit review, or Master Planned Development review (Chapter 4.5).

**Property line adjustment.** The relocation of a single common property line between two abutting properties, in conformance with ORS 92.010(11). See Figure.

**Property Line Adjustment**



**Public access easement.** See Transportation-Related Definitions.

**Public safety facility.** A facility necessary to respond to an immediate hazard to the public health and safety, and that is owned, leased, or operated by the City of Creswell. Public safety facilities include fire and police stations, flood control facilities, water towers and pump stations needed for emergency service, and emergency communication broadcast facilities.

**Property line: front, rear, interior side, street side.** See Lot Line.

**Public improvements.** Development of public infrastructure, as required by the City, County, Special District, or Road Authority, as applicable. See Chapter 3.4.

**Q**

**Quasi-judicial.** An action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to the facts of a development proposal, and usually involves a public hearing. See Chapter 4.1.400 (Type III Review).

**Queue area.** Places where people wait for goods or services.

## R

**Rail Right-of-way.** See Transportation-Related Definitions.

**Recreation camp.** (1) An area devoted to facilities and equipment for recreation purposes, including swimming pools, tennis courts, playgrounds, and similar uses, either open to the public upon payment of a fee, or limited to private membership. (2) An area designated by the landowner for picnicking or overnight camping and offered to the general public, with or without a fee or charge. (See ORS Chapter 446)

**Recreational vehicle.** See Vehicle Types.

**Recreational vehicle park.** A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks. See also Mobile Home Park.

**Residence.** Same as Dwelling. See Residential Structure Types.

### Residential Structure Types

- **Accessory Dwelling Unit.** A second dwelling unit created on lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than the house, attached house, or manufactured home.
- **Attached Duplex.** A duplex located on its own lot that shares one or more common or abutting walls with one other duplex (for a total of 4 dwelling units). The common or abutting wall must be shared for at least 50 percent of the length of the side of the dwelling.
- **Attached House (Townhome or Rowhouse).** A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units. The common or abutting wall must be shared for at least 50 percent of the length of the side of the dwelling. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a rowhouse or a common-wall house.
- **Cottage.** A small house, generally containing not more than 1,200 square feet of floor area that may be used as an accessory dwelling.
- **Cottage cluster.** A group of two or more cottages on one lot.
- **Duplex.** A building that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.

- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill.
- **Group Living Structure.** A structure that contains sleeping areas and at least one set of cooking and sanitary facilities that is used as a residence for Group Living uses:
  - **Residential facility/group care facility.** A residence for 6 to 15 physically or mentally disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility; or
  - **Residential home/group care home.** A residence for five or fewer physically or mentally disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Home.
- **Mobile Home.** A dwelling unit constructed off of the site and that is not constructed to the standards of the uniform building code. Mobile homes include residential trailers and manufactured homes.
  - **Manufactured Home.** A manufactured home is a mobile home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976.
  - **Residential Trailer.** A mobile home that was not constructed in accordance with federal manufactured housing construction and safety standards (HUD code), in effect after June 15, 1976. This definition includes the State definitions of residential trailers and mobile houses, as stated in Oregon Revised Statutes (ORS) 446.
- **Multi-dwelling development.** A grouping of individual structures where each structure contains one (1) or more dwelling units. The land underneath the structures is not divided into separate lots. A multi-dwelling development project may include an existing single-dwelling detached building with one (1) or more new detached structures located to the rear or the side of the existing house. It might also include a duplex in front with either one (1) or more single-dwelling houses behind or one (1) or more duplex units or multi-dwelling structures behind. There is no requirement for the structures on the sites to be attached.
- **Multi-dwelling structure.** A structure that contains three or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-dwelling includes structures commonly called garden apartments, apartments, and condominiums.

- **Senior housing.** See Residential Structure types. Housing designated and/or managed for persons over a specified age. Specific age restrictions vary.
- **Single-family House.** A detached dwelling unit located on its own lot.
- **Single room occupancy housing (SRO).** A structure that provides living units that have separate sleeping areas and some combination of shared bath or toilet facilities. The structure may or may not have separate or shared cooking facilities for the residents. SRO includes structures commonly called residential hotels and rooming houses.

**Review Body.** The person or group who is assigned to make decisions on land use reviews, whether initially or on appeal. Review body includes the Planning Director, Planning Commission, and the City Council.

**Right-Of-Way.** See Transportation-Related Definitions.

**Riparian Areas.** See Environment-Related Definitions.

**Roadway; Roadway Authority.** See Transportation-Related Definitions.

## S

**Senior housing.** See Residential Structure types.

**Sensitive lands.** See Environment-Related Definitions.

**Setback/Setback yard.** The minimum distance required between a specified object, such as a building, and another point, measured from lot lines to a specified object. Typically, a setback refers to the minimum distance (yard dimension) from a building to a specified property line.

**Shared driveway.** See Transportation-Related definitions.

**Shared parking.** See Development-Related Definitions. Required parking facilities for two or more uses, structures, or lots or parcels, which are satisfied jointly with the same facilities. See Chapter 3.3.

**Shopping street.** See Development-Related definitions.

**Sign.** Any outdoor device, or device visible from outdoors, providing identification, advertising or directional information for a specific business, group of businesses, service, product, brand, person, organization, place or building. Including in this definition of signs are: graphic devices such as logos, trademarks, and attention attracting objects such as wind-driven spinners and portable sign devices, logo sculpture and, banners, balloons, streamers, strobe lights, flags, inflatable structures, projected picture signs, holographic projection signs, laser projected

designs/images/copy and other attention attracting media and devices. Signs are not regulated in the Ordinance but are subject to applicable local, state, and federal requirements and ordinances.

**Significant trees, significant vegetation.** Any tree, shrub, or combination thereof, meeting the threshold standards in Section 3.2.200, and those that are located within a sensitive land area as identified by the Comprehensive Plan or any refinement of the Comprehensive Plan. See also, Environment-Related Definitions in this Chapter, and Section 3.2.200, Landscape Conservation.

**Single Room Occupancy Housing (SRO).** See Residential Structure Types.

**Site.** For land divisions, property line adjustments, and lot consolidations, the site is the lots, lots of record, parcels, or tracts proposed to be divided or reconfigured. For all other purposes, the site is an ownership except as follows:

- If a proposed development includes multiple ownerships, then the site is the combined area of all the ownerships.
- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

**Site frontage.** The part of a site that abuts a street. See also, Block Frontage.

**Site design review.** A discretionary review that applies to all developments except those specifically designated for Land Use Review. A development proposal is reviewed in light of the basic Chapter 2 land use district development standards and more detailed design standards and public improvement requirements in Chapter 3. See Chapter 4.2, Land Use Review and Site Design Review.

**Specific Area Plan.** An adopted plan for a sub area of the City and/or Urban Growth Area providing a framework and standards for future land uses, densities, blocks, typical lot patterns, public improvements and streets, and site design; may also include architectural design guidelines or standards.

**Standards and criteria.** Both are Code requirements for how to develop uses and structures on land. A standard is a quantitative requirement, or a qualitative requirement that is used in interpreting a subjective criterion. (*Example.* Criterion: All developments subject to site design review shall comply with the Chapter 3 parking standards. Standard: Medical and dental office uses must provide one vehicle parking space for each  $x$  square feet of gross floor area. )

**Stealth facilities.** Man-made trees, clock towers, bell steeples, light poles, and similar camouflaging designs that camouflage or conceal the presence of antenna or towers.

**Steep slopes.** Slopes of greater than 20 percent.

**Step-down.** See Building Height in Development-Related definitions.

**Storefront character.** See Development-Related definitions.

**Stormwater facility.** See Development-Related definitions.

**Stormwater management system.** A stormwater facility (e. g., conveyance, detention/retention, treatment system or outfall).

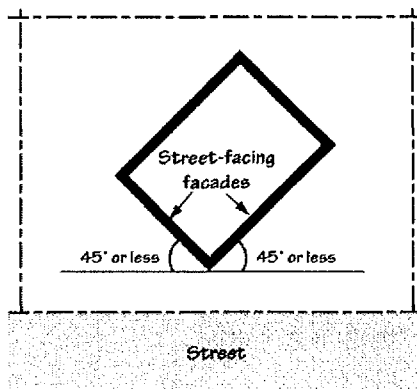
**Stream.** See Environment-Related Definitions

**Street.** See Transportation-Related Definitions.

**Street connectivity.** See Transportation-Related definitions.

**Street-facing façade/wall.** All the wall planes of a structure as seen from one side or view that are at an angle of 45 degrees or less from a street lot line. See Figure below.

**Street-facing Facade**



**Street furniture/furnishings.** See Development-Related definitions.

**Structure.** See Development-Related Definitions.

**Subdivision.** To divide land into four or more lots within a single calendar year. See also, Chapter 4.3, Land Divisions, and ORS 92.010(13).

**Surface water management.** Storm drainage and/or storm drainage facilities that are functioning in accordance with the City of Creswell Storm Drainage Master Plan.

**Swale.** See Development-Related definitions.

## T

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

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

**Through lot.** See Lot.

**Through street.** See Transportation-Related Definitions.

**Top of bank.** See Environment-Related Definitions.

**Topographical constraint.** Where existing slopes, landforms (e.g., streams, canals, rock outcropping, etc.) or manmade feature (e.g., embankment or berm) make conformance with a Code standard impracticable.

**Tower, Wireless Communications.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, and similar communication purposes. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**Tract.** A piece of land within a platted subdivision reserved for open space, utility corridor, recreation facilities, sensitive lands, or other purpose; may be dedicated to a homeowner's association or other entity for maintenance.

**Transportation-Related Definitions** (See also, Chapter 3.4.1 for related standards. )

- **Access.** A way or means of approach to provide pedestrian, bicycle, and/or motor vehicular entrances or exits to a property.
- **Access easement.** An easement recorded for the purpose of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access. **Cross access** is a service drive providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.
- **Access way.** A walkway or multi-use pathway providing a through connection for pedestrians between two streets, between two lots, or between a development and adjoining public right-of-way. It may be an access way for pedestrians and bicyclists (with no vehicle access), or a walkway on public or private property (i.e., with a public access easement). See also, Walkway.



- **Accessible.** Two meanings are possible depending on the specific code provision: In general, accessible means approachable by pedestrians, vehicles or other transportation mode, as applicable. Accessible may also mean, under approachable and useable by people with disabilities, in conformance with the Federal Americans With Disabilities Act. Either or both definitions may apply in a particular situation. See Accessible Route.
- **Accessible route.** A route that can be used by a disabled person using a wheelchair and that is also usable by people with other disabilities.
- **Access management.** The systematic control of the location, spacing, design, and operation of driveways, median openings, interchanges, and street connections to a roadway to minimize conflicts between turning and through vehicles, bicyclists and pedestrians. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Public facility measures to support access management include roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. Measures that may be included as conditions of approval for development decisions include but are not limited to 1) standards such as minimum spacing of driveways and onsite vehicle storage requirements, 2) mitigations related to site conditions such as right-in-right-out only approaches, medians, dedicated turn lanes, and shared access approaches, and 3) provision for future opportunities for mitigation by land dedication or easement.
- **Access spacing/intersection spacing.** The minimum required distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.
- **Alley.** A right-of-way that provides vehicle access to a lot or common parking area. Generally, alleys provide secondary vehicle access; however, where vehicle access from the street is not allowed, not possible, or not desirable the alley may provide primary vehicle access.
- **Apron.** That portion of the driveway approach extending from the gutter flow line to the property line and lying between the end slopes of the driveway approach. When the sidewalk is located at the curb line, the apron is a part of the sidewalk section.
- **Arterial.** The highest order classification of streets; includes highways and other major streets with limited or no direct access from adjoining properties.
- **Bicycle facility.** There are different types of bicycle facilities: In general, a bicycle facility is a public or private way designed for and dedicated to bicycle use. It may consist of a road, a lane within or on the shoulder of a road, a path, multi-use path, or other way that is specifically designated for bicycle travel or shared bicycle/pedestrian travel.

- **Boulevard.** A street with broad open space areas; typically with planted medians. See standards under Section 3.4.1.
- **Bus stop.** A location where bus service stops to load and unload passengers. For purposes of measuring, the bus stop is the location of a sign denoting the bus stop.
- **Collector, minor/major.** Type of street that serves traffic within commercial, industrial, and residential neighborhood areas. Connects local neighborhood or district streets to the arterial network. Part of the street grid system. See standards under Section 3.4.1.
- **Common green.** A courtyard that provides for pedestrian and bicycle access, but not vehicle access, to abutting property and generally provides a common area for use by residents. A common green may function as a community yard. Hard and soft landscape features may be included in a common green, such as groundcover, trees, shrubs, surfaced paths, patios, benches, or gazebos.
- **Curb cut.** A driveway opening delineated by a concrete apron along a street.
- **Dead-end street.** A street that connects to another street at only one end and does not have a City-approved turnaround on its other end. A pedestrian connection may extend from the end of a dead-end street to connect with another street of any type, or with another pedestrian connection.
- **Driveway.** An area on private property where automobiles and other vehicles are operated or allowed to stand.
- **Driveway approach.** An area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or curb return and the sidewalk section.
- **Lane, mid-block.** A narrow, limited use roadway facility, similar to an alley in design, usually used to access a limited number of dwelling units.
- **Level of service ("LOS").** A quantitative standard for transportation facilities describing operational conditions. Level of Service may be described for intersections (signalized or unsignalized) or street segments (between signalized intersections).
- **Pathway.** A walkway conforming to Chapter 3.1 that is not within a street right-of-way.
- **Pedestrian connection.** See Access way.

- **Public access easement.** A public access easement is an easement granted to the public for all the purposes for which a public sidewalk may be used, including but not limited to, pedestrian and bicycle travel.
- **Rail right-of-way.** A public or private right-of-way, for the purpose of allowing rail travel.
- **Right-of-way.** An area that allows for the passage of people or vehicles. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public will be in a tract.
- **Roadway.** The portion of a right-of-way that is improved for motor vehicle travel. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.
- **Road authority.** The City or other agency (e.g., Oregon Department of Transportation, Land County, a special purpose district, or other agency) with jurisdiction over a road or street.
- **Sidewalk.** A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb or curb and planter strip.
- **Sight distance.** The unobstructed viewing distance measured from one object or location to another object or location, usually required for the purpose of traffic safety.
- **Street.** A right-of-way that is intended for motor vehicle, pedestrian or bicycle travel or for motor vehicle, bicycle or pedestrian access to abutting property. For the purposes of this Code, street does not include alleys, rail rights-of-way that do not also allow for motor vehicle access, or freeways and their onramps.
- **Street connectivity.** Expressed as the number of street and/or access way connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.
- **Street stub.** A temporary street ending where the street will be extended through adjacent property in the future, as that property develops. Not a permanent street-end or dead-end street.
- **Street tree.** A tree planted in a planter strip or tree well between the street and sidewalk.
- **Through Street.** A street that connects to other streets at both ends.

- **Transit Street.** A street that is classified in the Transportation Element of the Comprehensive Plan as a bus route.
- **Transportation mode.** The method of transportation (e.g., automobile, bus, walking, bicycling, train, etc.)
- **Turnaround.** A vehicle maneuvering area at the end of a dead-end street (e.g., hammerhead, cul-de-sac, or other configuration) that allows for vehicles to turn around. See Section 3.4.1 for related standards.
- **Walkway.** A sidewalk or pathway, including access ways, providing a pedestrian connection that is improved to City standards, or to other roadway authority standards, as applicable. See also, Access way, Pathway, Sidewalk.

**Travel trailer.** A vacation structure or self-propelled vehicle equipped with wheels for street or highway use; intended for human occupancy; equipped with plumbing, sink or toilets; used for vacation and recreational purposes; and not used as a residence. (See ORS 446.003(5), (24).)

**Travel trailer/recreational vehicle park/campground.** A lot or parcel on which two or more travel trailers, recreational vehicles, motor homes, tent trailers, tent sites, capers, and/or similar vehicles or devices are permitted outright, with or without a charge or fee.

**Tree well.** A planter area cut out of a sidewalk within the street furnishing zone, planted with a street tree and including ground cover or a grate cover; typically used in commercial districts where on-street parking or pedestrian traffic makes the use of a planter strip impracticable.

## U

**Use.** The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained. See also, Chapter 1.4, Use Categories.

**Utilities.** For the purposes of this Code, utilities are telephone, cable, natural gas, electric, and telecommunication facilities. See also, Chapter 3.5.100, Wireless Telecommunication Facilities.

## V

**Vacate plat/street.** To abandon a subdivision or street right-of-way. For example, vacation of a public right-of-way that is not needed or cannot be used for a street or other public purpose. Vacation of a plat typically returns the property to the adjoining owners and restores it to an undivided condition and ownership.

**Vacation home rental.** A commercial use of a single-family or duplex dwelling unit where the unit is rented for periods of time of 28 or fewer consecutive days.

**Variance.** An administrative or quasi-judicial decision to lessen or otherwise modify the

requirements of this Code. See Chapter 5.1.

**Vehicle areas.** See Development-Related definitions.

**Vehicle Types.**

- **Motor vehicle.** Vehicles that have their own motive power and that are used for the transportation of people or goods on streets. Motor vehicle includes motorcycles, passenger vehicles, trucks, and recreational vehicles, except all terrain vehicles, off-road vehicles, snow mobiles, and similar vehicles that are not allowed on streets.
- **Passenger vehicle.** A motor vehicle designed to carry ten persons or less including the driver. Passenger vehicles are passenger cars and multipurpose passenger vehicles as defined by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3. See also Recreational Vehicle, and Truck.
- **Recreational vehicle.** A vehicle with or without motive power that is designed for sport or recreational use, or that is designed for human occupancy on an intermittent basis. Recreational vehicle is divided into two categories as follows:
  - **Motor home.** Motor home includes motorized vehicles designed for human occupancy on an intermittent basis. A camper is considered a motor home when it is on the back of a pick-up or truck. Motor homes are regulated as trucks unless the regulations specifically indicate otherwise. See also Truck.
  - **Accessory recreational vehicle.** Accessory recreational vehicle includes nonmotorized vehicles designed for human occupancy on an intermittent basis such as vacation trailers and fifth-wheel trailers. A camper is considered an accessory recreational vehicle when it is standing alone. Accessory recreational vehicle also includes vehicles designed for off-road use, such as all-terrain vehicles, dune buggies, and recreational boats.
- **Truck.** A motor vehicle that is designed primarily for the movement of property or special purpose equipment, or a motor vehicle that is designed to carry more than ten persons. Truck includes vehicles commonly called trucks, pick-ups, delivery vans, buses, motor homes and other similar vehicles. See also, National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3.
  - **Light Truck.** Trucks and similar vehicles with single rear axles and single rear wheels.
  - **Medium Truck.** Trucks and similar vehicles, other than truck tractors, with single rear axles and dual rear wheels. Truck tractors are in the Heavy Truck category.
  - **Heavy Truck.** Trucks, including truck tractors, and similar vehicles with two or more rear axles.

- **Utility Trailer.** A vehicle designed to be pulled by a motor vehicle that is used to carry property, trash, or special equipment and that is 16 feet or less in length. Boat trailers are included as utility trailers. Utility trailers that are longer than 16 feet are considered industrial vehicles and are regulated as heavy trucks.

## V

**Vision Clearance Area.** Those areas near intersections of roadways and motor vehicle access points where a clear field of vision is necessary for traffic safety and to maintain adequate sight distance. See standards in Chapter 3.1.200.

## W

**Waste collection areas.** Waste collection areas include areas set aside or designed to be used for garbage collection and collection of materials for recycling. Waste collection areas include areas occupied by dumpsters and other solid waste receptacles.

**Window.** A transparent or semi-transparent (not more than 50% opaque) glazing on a building facade. For the purpose of this Code, a window may be a display window (e.g., for merchandise, art, etc.) that is integral to a building design, but a window is not a display box mounted onto the exterior of a building.

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

**Wireless Telecommunication Facilities.** The site, structures, equipment, and appurtenances used to transmit, receive, distribute, provide, or offer wireless telecommunications services. This includes, but is not limited to, antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics, and switching equipment.

**X** *[placeholder]*

## Y

**Yard.** The area defined by setbacks (i.e., between the setback line and nearest property line). See Setbacks.

## Z

**Zero-lot line house.** A single-family detached dwelling with one "0" side yard setback.

**Zone of benefit.** The area benefited by the construction of sewer, water, surface water management or street improvements financed in whole or in part by a person without the formation of a local improvement district. A Zone of Benefit may be formed in conjunction with a local improvement district where a person finances a share of the cost of the improvement that is larger than the share that would result from a uniform application of the district assessment formula to property located in the district and owned by the person.

## Chapter 1.4 — Use Categories

**Background:** Chapter 1.4 is intended to be used in conjunction with the land use standards in Article 2. For example, the tables in Article 2 summarizing permitted uses for each zone contain only general land use categories. Chapter 1.4 provides specific examples of uses that fall under each general category. By providing examples of specific uses, and not an exhaustive list, the city has flexibility in determining similar uses, which should be helpful as community values, technology, and consumer needs change.

### Sections:

#### **Introduction to the Use Categories**

- 1.4.010 Purpose
- 1.4.020 Category Titles
- 1.4.030 Classification of Uses

#### **Residential Use Categories**

- 1.4.100 Group Living
- 1.4.110 Household Living

#### **Commercial Use Categories**

- 1.4.200 Commercial Outdoor Recreation
- 1.4.210 Commercial Parking
- 1.4.220 Quick Vehicle Servicing
- 1.4.230 Major Event Entertainment
- 1.4.235 Educational Services, Commercial
- 1.4.240 Office
- 1.4.250 Retail Sales and Service
- 1.4.260 Self-Service Storage
- 1.4.270 Vehicle Repair

#### **Industrial Use Categories**

- 1.4.300 Industrial Service
- 1.4.310 Manufacturing and Production
- 1.4.320 Warehouse, Freight Movement, and Distribution
- 1.4.330 Waste-Related
- 1.4.340 Wholesale Sales

#### **Institutional Use Categories**

- 1.4.400 Basic Utilities
- 1.4.410 Colleges
- 1.4.420 Community Service
- 1.4.430 Daycare
- 1.4.450 Medical Centers
- 1.4.460 Parks and Open Areas
- 1.4.470 Religious Institutions and Places of Worship
- 1.4.480 Schools



**Other Use Categories**

- 1.4.500 Agriculture
- 1.4.510 Mining
- 1.4.520 Radio Frequency Transmission Facilities
- 1.4.530 Rail Lines and Utility Corridors

**Introduction to the Use Categories****1.4.010 Purpose**

This Chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics, as follows:

- A. Categorization.** Uses are assigned to the category whose description most closely describes the nature of the primary use. The "Characteristics" subsection of each use category describes the characteristics of each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses.
- B. Interpretation.** When a use's category is not clearly identifiable, the City of Creswell Planning Director, through a Type II procedure, determines the applicable use category. The following is considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:
  - The description of the activity(ies) in relationship to the characteristics of each use category;
  - The relative amount of site or floor space and equipment devoted to the activity;
  - Relative amounts of sales from each activity;
  - The customer type for each activity;
  - The relative number of employees in each activity;
  - Hours of operation;
  - Building and site arrangement;
  - Vehicles used with the activity;
  - The relative number of vehicle trips generated by the activity;
  - Signs;
  - How the use advertises itself; and
  - Whether the activity would function independently of the other activities on the site.
- C. Developments with multiple primary uses.** When all the primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a retail bakery and a cafe would be classified in the Retail Sales and Service category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

**D. Accessory uses.** Accessory uses are allowed by right in conjunction with the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use. Typical accessory uses are listed as examples with the categories.

**E. Use of examples.** The "Examples" subsection of each use category provides a list of examples of uses that are included in the use category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers, would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category.

## Residential Use Categories

### 1.4.100 Group Living

- A. Characteristics.** Group Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group will be larger than the average size of a household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Generally, Group Living structures have a common eating area for residents. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site. Group Living may include the State definition of residential facility (see Chapter 1.3.300, Definitions).
- B. Accessory Uses.** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
- C. Examples.** Examples include dormitories; fraternities and sororities; monasteries and convents; nursing and convalescent homes; some group homes for the physically and/or mentally disabled; some residential programs for drug and alcohol treatment; and alternative or post incarceration facilities.
- D. Exceptions.**
1. Lodging where tenancy may be arranged for periods less than one month is considered a hotel or motel use and is classified in the Retail Sales and Service category. However, in certain situations, lodging where tenancy may be arranged for periods less than one month may be classified as a Community Service use such as short-term housing.
  2. Lodging where the residents meet the definition of Household, and where tenancy is arranged on a month-to-month basis, or for a longer period is classified as Household Living.
  3. Facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Detention Facilities category.

### 1.4.110 Household Living

- A. Characteristics.** Household Living is characterized by the residential occupancy of a dwelling unit by a household. Where units are rented, tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging

(see the Retail Sales and Service and Community Service categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living. Single Room Occupancy (SRO) housing, that do not have totally self contained dwelling units are also included if at least two thirds of the units are rented on a monthly basis. SROs may have a common food preparation area, but meals are prepared individually by the residents. In addition, residential homes as defined by the State of Oregon are included in the Household Living category.

**B. Accessory Uses.** Accessory uses commonly found are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.

**C. Examples.** Uses include living in houses, duplexes, apartments, condominiums, retirement center apartments, manufactured housing, houseboats, and other structures with self-contained dwelling units. Examples also include living in SROs if the provisions are met regarding length of stay and separate meal preparation.

**D. Exceptions.**

1. Lodging in a dwelling unit or SRO where less than two thirds of the units are rented on a monthly basis is considered a hotel or motel use and is classified in the Retail Sales and Service category.
2. SROs that provide common dining are classified as Group Living.
3. Guest houses that contain kitchen facilities are prohibited as accessory to Household Living uses.
4. In certain situations, lodging where tenancy may be arranged for periods less than one month may be classified as a Community Service use, such as short term housing or mass shelter.

## Commercial Use Categories

### 1.4.200 Commercial Outdoor Recreation

- A. Characteristics.** Commercial Outdoor Recreation uses are large, generally commercial uses that provide continuous recreation or entertainment oriented activities. They generally take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting.
- B. Accessory Uses.** Accessory uses may include concessions, restaurants, parking, caretaker's quarters, and maintenance facilities.
- C. Examples.** Examples include amusement parks, theme parks, golf driving ranges, miniature golf facilities, and marinas.
- D. Exceptions.**
1. Golf courses are classified as Parks and Open Space.
  2. Uses that draw large numbers of people to periodic events, rather than on a continuous basis, are classified as Major Event Entertainment.

### 1.4.210 Commercial Parking

- A. Characteristics.** Commercial Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking facility.
- B. Accessory Uses.** In a parking structure only, accessory uses may include car washing, and vehicle repair activities.
- C. Examples.** Examples include short- and long-term fee parking facilities, commercial district shared parking lots, commercial shuttle parking, and mixed parking lots (partially for a specific use, partly for rent to others).
- D. Exceptions.**
1. Parking facilities that are accessory to a use, but that charge the public to park for occasional events nearby, are not considered Commercial Parking facilities.
  2. Parking facilities that are accessory to a primary use are not considered Commercial Parking uses, even if the operator leases the facility to the primary use or charges a fee to the individuals who park in the facility. See Accessory Parking Facilities in Chapter 1.3.300, Definitions.

3. Public transit park-and-ride facilities are classified as Basic Utilities.

#### 1.4.220 Quick Vehicle Servicing

**A. Characteristics.** Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits in the car before and while the service is performed. The development will include a drive-through facility, the area where the service is performed (See Chapter 1.300, Definitions. ) Full-serve and mini-serve gas stations are always classified as a primary use (Quick Vehicle Servicing), rather than an accessory use, even when they are in conjunction with other uses.

**B. Accessory Uses.** Accessory uses may include auto repair and tire sales.

**C. Examples.** Examples include full-serve and mini-serve gas stations, unattended card key stations, car washes, and quick lubrication services.

**D. Exceptions.**

1. Truck stops are classified as Industrial Service.
2. Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) that are on the site where the vehicles are kept, are accessory to the use.

#### 1.4.230 Major Event Entertainment

**A. Characteristics.** Major Event Entertainment uses are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.

**B. Accessory Uses.** Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.

**C. Examples.** Examples include sports arenas, race tracks (auto, horse, dog, etc.), auditoriums, exhibition and meeting areas, outdoor amphitheaters, and fairgrounds.

**D. Exceptions.**

1. Exhibition and meeting areas with less than 10,000 square feet of total event area are classified as Retail Sales and Service.
2. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
3. Theaters, including drive-in theaters, are classified as Retail Sales and Service.

#### 1.4.235 Educational Services, Commercial

- A. Characteristics.** Commercial Educational Service uses are characterized by activities conducted in an office setting and generally focusing on serving students with supplemental education, enrichment, and/or tutoring.
- B. Accessory uses.** Accessory uses may include incidental retail (e.g., sale of instructional materials), parking, or other amenities primarily for the use of employees and customers.
- C. Examples.** Examples include tutoring centers, computer classes, after school math and reading centers, and arts and crafts classes.

#### 1.4.240 Office

- A. Characteristics.** Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.
- B. Accessory uses.** Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.
- C. Examples.** Examples include professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices and public utility offices; TV and radio studios; medical and dental clinics, and medical and dental labs.
- D. Exceptions.**
  - 1. Offices that are part of and are located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other category.
  - 2. Contractors and others who perform construction or similar services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site.
  - 3. Mobile health screening uses are considered temporary uses.

### 1.4.250 Retail Sales and Service

**A. Characteristics.** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.

**B. Accessory uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking.

**C. Examples.** Examples include uses from the four subgroups listed below:

1. Sales-oriented: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
2. Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; tax preparers, accountants, real estate, legal, financial services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.
3. Entertainment-oriented: Restaurants, cafes, delicatessens, taverns, and bars; indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges; theaters, health clubs, gyms, membership clubs, and lodges; hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days.
4. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.

**D. Exceptions.**

1. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as Wholesale Sales.
2. The sale of landscape materials, including bark chips and compost not in conjunction with a primary retail use, is classified as Industrial Service.
3. Repair and service of consumer motor vehicles, motorcycles, and light and medium trucks is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, and heavy trucks is classified as Industrial Service.



4. Sales, rental, or leasing of heavy trucks and equipment is classified as Wholesale Sales.
5. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop that is classified as Industrial Service.
6. In certain situations, hotels and motels may be classified as a Community Service use, such as short-term housing or mass shelter. See Community Services.
7. When kennels are limited to boarding, with no breeding, the applicant may choose to classify the use as Retail Sales and Service or Agriculture.

#### 1.4.260 Self-Service Storage

- A. Characteristics.** Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.
- B. Accessory uses.** Accessory uses may include security and leasing offices. Living quarters for one resident manager per site are allowed. Other living quarters are subject to the regulations for Residential Uses. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Service Storage use. The rental of trucks or equipment is also not considered accessory to a Self-Service Storage use.
- C. Examples.** Examples include single story and multistory facilities that provide individual storage areas for rent. These uses are also called mini warehouses.
- D. Exceptions.** A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement category.

#### 1.4.270 Vehicle Repair

- A. Characteristics.** Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. (Different than Quick Vehicle Services category.)
- B. Accessory Uses.** Accessory uses may include offices, sales of parts, and vehicle storage.

#### 1.4 – Use Categories: Commercial

- C. Examples.** Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
- D. Exceptions.** Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

## Industrial Use Categories

### 1.4.300 Industrial Service

**A. Characteristics.** Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.

**B. Accessory uses.** Accessory uses may include offices, parking, storage, rail spur or lead lines, and docks.

**C. Examples.** Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire re-treading or recapping; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; dry-docks and the repair or dismantling of ships and barges; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.

**D. Exceptions.**

1. Contractors and others who perform Industrial Services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication, or similar work is not carried on at the site.
2. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

### 1.4.310 Manufacturing and Production

**A. Characteristics.** Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.

**B. Accessory uses.** Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair

facilities, or truck fleets. Living quarters for one caretaker per site are allowed. Other living quarters are subject to the regulations for Residential Uses.

**C. Examples.** Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; slaughter houses, and meat packing; feed lots and animal dipping; weaving or production of textiles or apparel; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie production facilities; ship and barge building; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; production of prefabricated structures, including mobile homes; and the production of energy.

**D. Exceptions.**

1. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service.
2. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

**1.4.320 Warehouse, Freight Movement, and Distribution**

**A. Characteristics.** Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.

**B. Accessory uses.** Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, and repackaging of goods.

**C. Examples.** Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.

**D. Exceptions.**

1. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.

2. Mini-warehouses are classified as Self-Service Storage uses.

#### 1.4.330 Waste-Related

**A. Characteristics.** Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include uses that receive hazardous wastes from others and are subject to the regulations of OAR 340.100-110, Hazardous Waste Management.

**B. Accessory Uses.** Accessory uses may include recycling of materials, offices, and repackaging and transshipment of by-products.

**C. Examples.** Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, and hazardous-waste-collection sites.

**D. Exceptions.**

1. Disposal of clean fill, as defined in OAR 340-093-0030, is considered a fill, not a Waste-Related use.
2. Sewer pipes that serve a development are considered a Basic Utility.

#### 1.4.340 Wholesale Sales

**A. Characteristics.** Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.

**B. Accessory uses.** Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.

**C. Examples.** Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.

**D. Exceptions.**

1. Firms that engage primarily in sales to the general public are classified as Retail Sales and Service.
2. Firms that engage in sales on a membership basis are classified as either Retail Sales and Service or Wholesale Sales, based on a consideration of characteristics of the use.
3. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse, Freight Movement, and Distribution.

## Institutional and Civic Use Categories

### 1.4.400 Basic Utilities

- A. Characteristics.** Basic Utilities are infrastructure services that need to be located in or near the area where the service is provided. Basic Utility uses generally do not have regular employees at the site. Services may be public or privately provided. All public safety facilities are Basic Utilities.
- B. Accessory uses.** Accessory uses may include parking; control, monitoring, data or transmission equipment; and holding cells within a police station.
- C. Examples.** Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; bus stops or turnarounds, suspended cable transportation systems, transit centers; and public safety facilities, including fire and police stations, and emergency communication broadcast facilities.
- D. Exceptions.**
1. Services where people are generally present, other than bus stops or turnarounds, transit centers, and public safety facilities, are classified as Community Services or Offices.
  2. Utility offices where employees or customers are generally present are classified as Offices.
  3. Bus barns are classified as Warehouse and Freight Movement.
  4. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail Lines and Utility Corridors.

### 1.4.410 Colleges

- A. Characteristics.** This category includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the State Board of Higher Education or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks, though they may be contained in a single building.

**B. Accessory Uses.** Accessory uses include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and support commercial.

**C. Examples.** Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, computer schools, higher education religious schools, and seminaries.

**D. Exceptions.** Business and trade schools are classified as Retail Sales and Service.

#### 1.4.420 Community Services

**A. Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions are open to the general public to join at any time, (for instance, any senior citizen could join a senior center). The use may provide mass shelter or short-term housing where tenancy may be arranged for periods of less than one month when operated by a public or non-profit agency. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.

**B. Accessory uses.** Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; daycare uses; and athletic facilities.

**C. Examples.** Examples include city hall and similar governmental uses, libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short-term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, soup kitchens, and surplus food or clothing distribution centers.

**D. Exceptions.**

1. Private lodges, clubs, and private or commercial athletic or health clubs are classified as Retail Sales and Service. Commercial museums (such as a wax museum) are in Retail Sales and Service.
2. Parks are in Parks and Open Areas.
3. Uses where tenancy is arranged on a month-to-month basis, or for a longer period are residential, and are classified as Household or Group Living.
4. Public safety facilities are classified as Basic Utilities.



#### 1.4.430 Daycare

- A. Characteristics.** Daycare use includes day or evening care of two or more children outside of the children's homes, for a fee. Daycare uses also include the daytime care of teenagers or adults who need assistance or supervision.
- B. Accessory Uses.** Accessory uses include offices, play areas, kitchens, laundry, and parking.
- C. Examples.** Examples include preschools, nursery schools, latch key programs, and adult daycare programs.
- D. Exceptions.** Daycare use does not include care given by the parents, guardians, or relatives of the children, or by babysitters. Daycare use also does not include care given by a "family daycare" provider as defined by ORS 657A.250 if the care is given to 12 or fewer children at any one time including the children of the provider. Family daycare is care regularly given in the family living quarters of the provider's home, and is regulated as a home occupation.

#### 1.4.450 Medical Centers

- A. Characteristics.** Medical Centers includes uses providing medical or surgical care to patients and offering overnight care. Medical centers tend to be on multiple blocks or in campus settings.
- B. Accessory uses.** Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing facilities for staff or trainees.
- C. Examples.** Examples include hospitals and medical complexes that include hospitals.
- D. Exceptions.**
  - 1. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Group Living category.
  - 2. Medical clinics that provide care where patients are generally not kept overnight are classified as Office.
  - 3. Urgency medical care clinics are classified as Retail Sales and Service.

#### 1.4.460 Parks and Open Areas

- A. Characteristics.** Parks and Open Areas are uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures.
- B. Accessory uses.** Accessory uses may include club houses, maintenance facilities, concessions, caretaker's quarters, and parking.
- C. Examples.** Examples include parks, golf courses, cemeteries, public squares, plazas, linear parks, recreational trails, botanical gardens, boat launching areas, nature preserves, and land used for grazing that is not part of a farm or ranch.

#### 1.4.470 Religious Institutions and Places of Worship

- A. Characteristics.** Religious Institutions are intended to primarily provide meeting areas for religious activities.
- B. Accessory uses.** Accessory uses include Sunday school facilities, parking, caretaker's housing, one transitional housing unit, and group living facilities such as convents. A transitional housing unit is a housing unit for one household where the average length of stay is less than 60 days. Religious schools, when accessory to a religious institution, are different than a school as a primary use.
- C. Examples.** Examples include churches, temples, synagogues, and mosques. See also, Religious Schools included in Section 1.4.480, Schools.

#### 1.4.480 Schools

- A. Characteristics.** This category includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education.
- B. Accessory uses.** Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school daycare.
- C. Examples.** Examples include public and private daytime schools, boarding schools and military academies.
- D. Exceptions.**
  - 1. Preschools are classified as Daycare uses.
  - 2. Business and trade schools are classified as Retail Sales and Service.

## Other Use Categories

### 1.4.500 Agriculture

**A. Characteristics.** Agriculture includes activities that raise, produce or keep plants or animals.

**B. Accessory uses.** Accessory uses include dwellings for proprietors and employees of the use, and animal training.

**C. Examples.** Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; farming, truck gardening, forestry, tree farming; and wholesale plant nurseries.

**D. Exceptions.**

1. Processing of animal or plant products, including milk, and feed lots, are classified as Manufacturing and Production.
2. Livestock auctions are classified as Wholesale Sales.
3. Plant nurseries that are oriented to retail sales are classified as Retail Sales and Service.
4. When kennels are limited to boarding, with no breeding, the City may determine the use category is Agriculture or Retail Sales and Service.

### 1.4.510 Mining

**A. Characteristics.** Mining includes mining or extraction of mineral or aggregate resources from the ground for off-site use.

**B. Accessory uses.** Accessory uses include storage, sorting, stockpiling, or transfer off-site of the mined material

**C. Examples.** Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil, gas, or geothermal drilling.

### 1.4.520 Radio Frequency Transmission Facilities

**A. Characteristics.** Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300

GHz and operating as a discrete unit to produce a signal or message. Towers may be self supporting, guyed, or mounted on poles or buildings.

**B. Accessory Uses.** Accessory use may include transmitter facility buildings.

**C. Examples.** Examples include broadcast towers, communication/cell towers, and point to point microwave towers.

**D. Exceptions.**

1. Receive-only antennae are not included in this category.
2. Radio and television studios are classified in the Office category.
3. Radio Frequency Transmission Facilities that are public safety facilities are classified as Basic Utilities.

#### **1.4.530 Rail Lines and Utility Corridors**

**A. Characteristics.** This category includes railroad tracks and lines for the movement of trains. The land may be owned or leased by the railroad. The category also includes public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level.

**B. Examples.** Examples include rail trunk and feeder lines; regional electrical transmission lines; and regional gas and oil pipelines.

**C. Exceptions.**

1. Railroad lead and spur lines for delivery of rail cars to sites or for unloading of rail cars on specific sites are classified as accessory to the primary use of the site.
2. Rail lines and utility corridors that are located within motor vehicle rights-of-way are not included.
3. Railroad yards are classified in the Railroad Yards category.

## Chapter 1.5 — Enforcement

### Sections:

1.5.100	Provisions of this Code Declared to be Minimum Requirements.
1.5.200	Violation of Code Prohibited.
1.5.300	Penalty.
1.5.400	Complaints Regarding Violations.
1.5.500	Inspection and Right of Entry.
1.5.600	Abatement of Violations.
1.5.700	Stop-Order Hearing.

### **1.5.100 Provisions of this Code Declared to be Minimum Requirements.**

- A. Minimum requirements intended.** In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Most restrictive requirements apply.** When the requirements of this Code vary from other provisions of this Code or with other applicable standards, the most restrictive or that imposing the highest standard shall govern.

### **1.5.200 Violation of Code Prohibited**

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

### **1.5.300 Penalty**

- A. Class 1 penalty.** A person violating a provision of this Code shall, upon conviction, be punished by a fine of not more than \$1,000. A violation of this Code shall be considered a separate offense for each day the violation continues.
- B. Each violation a separate infraction.** Each violation of a separate provision of this Code shall constitute a separate infraction, and each day that a violation of this Code is committed or permitted to continue shall constitute a separate infraction.
- C. Abatement of violation required.** A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition to and not in lieu of any other remedies available to the City. Violations of this Code may constitute public nuisances and may be abated pursuant to the City's nuisance ordinance.
- D. Responsible party.** If a provision of this Code is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

**1.5.400 Complaints Regarding Violations.**

- A. Filing written complaint.** The City attorney, upon request of the City Administrator, shall institute any necessary legal proceedings to enforce the provisions of this Development Code. The proceedings may include, but are not limited to, suit in municipal or circuit court to prohibit the continuance of any use, occupation, building, structure, or sign or the carrying on of any conduct or activity in violation of any provision of this Code.
- B. File complaint with City Administrator.** Such complaints, stating fully the causes and basis thereof, shall be filed with the City Administrator. The City Administrator shall properly record such complaints, investigate and take action thereon as provided by this Code.

**1.5.500 Inspection and Right of Entry**

When necessary to investigate a suspected violation of this Code, or an application for a revocation of any permit issued under this Code, the City Administrator, or his or her designee, may enter on any site or into any structure open to the public for the purpose of investigation, provided entry is done in accordance with law. Absent a search warrant, no site or structure that is closed to the public shall be entered without the consent of the owner or occupant. No owner or occupant or agent thereof, shall, after receiving reasonable notice and opportunity to comply, refuse to permit entry authorized by this section. If entry is refused, the City Administrator shall have recourse to the remedies provided by law to secure entry.

**1.5.600 Abatement of Violations.**

Any development or use that occurs contrary to the provisions of this Code or contrary to any permit or approval issued or granted under this Code is unlawful, and may be abated by City personnel through appropriate proceedings. Violations of this Code may constitute public nuisances and may be abated pursuant to the City's nuisance ordinance.

**1.5.700 Stop Order Hearing.**

- A. Stop order issued.** Whenever any work or use are in violation of the provisions of the Code or a condition of any permit or other approval granted pursuant hereto, the City Administrator may order the work stopped by notice in writing posted at the project site or served on persons engaged in doing such work or causing such work to be done. All work under the permit or approval shall cease until it is authorized in writing by the City to continue.
- B. Appeal opportunity.** A person or organization that has been served the stop work order may appeal the decision by submitting a letter to the City Administrator requesting a hearing with the City Council. The City Council shall hold this hearing and make written findings as to the violation within 45 days of receiving such letter.
- C. Stop order hearing.** The City Administrator may schedule a City Council hearing on the stop order. At the discretion of the City Administrator such hearing may be:

1. part of a hearing on revocation of the underlying development approval; or
2. solely to determine whether a violation has occurred.

The City Council shall hold this hearing and shall make written findings as to the violation within 45 days of the stop order's issuance. Upon finding a violation, the stop order shall continue to be effective until the violating party furnishes sufficient proof to the Planning Director that the violation has been abated.

**D. Stop order non-compliance.** Non-compliance with a stop order shall be an independent group for penalties and additional enforcement action.

#### **1.5.800 Revocation of Conditional Use Permits.**

- A. If revocation proceedings are initiated by the City Administrator, a conditional use permit may be revoked under this section upon a finding by the City Council that:
  1. The permit was issued on the basis of erroneous or misleading information or a material misrepresentation;
  2. The development violates the permit or other applicable law; or
  3. There was a failure to pay an administrative penalty as provided under Section 1.5, Enforcement, for violations relating to the subject development site.
- B. The City Council shall conduct a public hearing concerning a potential revocation of a conditional use permit according to the Type III procedures in this Code. After a public hearing and determination by the City Council that one or more of the criteria in subsection (1) are satisfied, the City Council may, by issuing a written notice of such determination, suspend or revoke a conditional use permit issued under the provisions of this Code.
- C. The permit holder shall be entitled to appeal the decision of the City Council in the manner provided in Article 4, Administration of Land Use and Development.

#### **1.5.900 Administrative Civil Penalties.**

- A. In addition to, and not in lieu of any other enforcement mechanism authorized by this Code, upon determination by the City Administrator that a person has violated a provision of this Code, the City Administrator may impose an administrative civil penalty, as provided in this chapter, upon the responsible person. For purposes of this section, "responsible person" includes the violator and, if the violator is not the owner of the building or property at which the violation occurs, the owner.
- B. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative penalty imposed pursuant to subsection (1) of this section shall be grounds for the City Administrator to:

1. Withhold issuance of any requested permits or licenses other than those issued pursuant to Code or
2. Issue a stop order.



## **Article 2 - Land Use Districts**

### Chapters:

- 2.1. Organization of Land Use Districts
- 2.2. Residential (R) Districts
- 2.3. Commercial (C) Districts
- 2.4. Industrial (I) Districts
- 2.5. Park, Recreation or Open Space (PRO-S) District
- 2.6. Public Facilities Zone (PF)
- 2.7. Flood Plain Overlay (/FP)
- 2.8. Airport Overlay (/A)
- 2.9. Resort Commercial Overlay (/RC)
- 2.10. Riparian Protection and Wetlands Overlay (/RPW)

## Chapter 2.1 - Organization of Land Use Districts

**Sections:**

- 2.1.100 Classification of Land Use Districts**
- 2.1.200 Land Use District Map**
- 2.1.300 Determination of Land Use District Boundaries**

**2.1.100 Classification of Land Use Districts**

Every parcel, lot, and tract of land within the City of Creswell is designated with a land use (zoning) district. The use of land is limited to the uses allowed by the applicable land use district and/or overlay zone. The applicable land use districts and overlay zone(s) are determined based on the City of Creswell Zoning Map and the provisions of this Chapter, which shall be consistent with the City of Creswell Comprehensive Plan, as indicated in Table 2.1.100.

**Table 2.1.100**

<b>Comprehensive Plan Designation</b>	<b>Applicable Land Use District(s)</b>
Residential	Low Density Residential (RL)
	Medium Density Residential (RM)
	Residential-Commercial (RC)
Commercial	Downtown Commercial (DC)
	General Commercial (GC)
Industrial	Industrial Commercial (IC)
	General Industrial (GI)
Parks, Recreation, Open Space	Park, Recreation, or Open Space (PRO-S) District
Public Facilities, Government	Public Facilities, Government
Other	See Overlay Districts

**2.1.200 Land Use District Map**

- A. Consistency with Zoning Map.** The boundaries of the land use districts contained within this chapter shall coincide with the boundaries identified on the City’s official Zoning Map, retained by the City Recorder. Said map by this reference is made a part of this Development Code. The official zoning map, and any map amendments, shall be maintained by the City.
- B. Applicability of land use standards.** Each lot, tract, and parcel of land or portion thereof within the land use district boundaries designated and marked on the Zoning Map, is classified, zoned and limited to the uses hereinafter specified and defined for the applicable land use district.

**2.1.300 Determination of Land Use District Boundaries**

When amending land use district boundaries, the City’s comprehensive plan map is the primary source for determining appropriate boundaries. Where the plan map does not provide sufficient detail or direction, district locations and boundaries shall be guided by the purpose and applicability statements at the beginning of each land use chapter (Chapters 2.2 through 2.7). Where due to the scale, lack of scale, lack of detail or illegibility of the City zoning map, or due to any other reason, there is uncertainty, contradiction or conflict as to the existing or intended location of a district boundary line, the boundary line shall be determined by the Planning Official in accordance with all of the following criteria:

- A. Rights-of-way.** Boundaries indicated as approximately following the center lines of streets, highways, railroad tracks, alleys, irrigation canals, bridges, or other right-of-way shall be construed to follow such center lines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same land use district designation that is applicable to lands abutting the vacated areas. In cases where the right-of-way formerly served as a land use district boundary, the lands within the right-of-way now vacated shall be allocated proportionately among the subject land use districts;
- B. Parcel, lot, tract.** Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries;
- C. Jurisdiction boundary.** Boundaries indicated as approximately following a City or County boundary, or the Urban Growth Boundary, shall be construed as following said boundary; and
- D. Natural features.** Boundaries indicated as approximately following a river, stream, drainage channel, drainage basin, topographic contour or other changeable natural feature not corresponding to any feature listed in subsection A-C, above, shall be construed as following such feature, except that the location may be corrected administratively through a Type II (Code Interpretation) procedure, in accordance with Chapter 4.8.

## Chapter 2.2 - Residential Land Use Districts

### Sections:

- 2.2.100 Residential Districts – Purpose and Applicability of Districts
- 2.2.110 Residential Districts – Allowed Land Uses
- 2.2.120 Residential Districts – Development Standards
- 2.2.130 Residential Districts – Setback Yards and Build-To Line: Exceptions, Reverse Frontage Lots, Flag Lots
- 2.2.140 Residential Districts – Infill Standards
- 2.2.150 Residential Districts – Housing Density
- 2.2.160 Residential Districts – Lot Coverage and Impervious Surfaces
- 2.2.170 Residential Districts – Building Height: Measurement, Exceptions, RL Step-Down Requirement
- 2.2.180 Residential Districts – Building Orientation
- 2.2.190 Residential Districts – Architectural Design Standards
- 2.2.200 Residential Districts – Special Use Standards

### 2.2.100 Residential Districts – Purpose and Applicability of Districts

The Residential Districts are intended to promote the livability, stability and improvement of the City's neighborhoods. Three districts are provided: 1) The Residential Low Density (RL) district is intended primarily for household living at lower densities, with parks, schools, places of worship, and other supportive services that are at an appropriate neighborhood scale; 2) The Residential Medium Density (RM) district is intended to accommodate a wider variety of housing types, including more attached and small lot housing, than is allowed in the RL district; and 3) The Residential-Commercial (RC) district is intended to combine a variety of housing variety similar to that of the RM district with public and commercial services at an appropriate residential scale.

**A. Purpose.** This chapter provides standards for land use and development in all three residential districts, based on the following principles:

- Promote the orderly expansion and improvement of neighborhoods.
- Make efficient use of land and public services and implement the Comprehensive Plan.
- Designate land for the range of housing types and densities needed by the community, including owner-occupied and rental housing.
- Provide flexible lot standards that encourage compatibility between land uses, efficiency in site design, and environmental compatibility.
- Provide for compatible building and site design at an appropriate neighborhood scale; provide standards that are in character with the landforms and architecture existing in the community.
- Apply the minimum amount of regulation necessary to ensure compatibility with existing residences, schools, parks, transportation facilities, and neighborhood services.
- Reduce reliance on the automobile for neighborhood travel and provide options for walking, bicycling and transit use.

## 2.2 – Residential (R) Land Use Districts – Purpose

- Provide direct and convenient access to schools, parks and neighborhood services.
- Maintain and enhance the City’s historic architecture and historic neighborhoods.

**B. Applicability of Districts.** The land use districts authorized under this Code shall be applied consistent with the policies and land use designations of the City of Creswell Comprehensive Plan Text and Map. Where the Comprehensive Plan provides for the application of more than one land use district to a given property (i.e., at the time of annexation or any proposed rezoning), the following locational criteria shall apply:

1. Residential-Low (RL) District. The RL District may be applied to any land with a residential designation under the Comprehensive Plan.
2. Residential-Medium (RM) District. The RM District may be applied through a quasi-judicial (Type III) amendment approved by the Planning Commission to any residentially-designated parcel, or group of parcels, provided that the subject site has at least fifty (50) feet of frontage onto a collector or arterial street with pedestrian facilities, the zone change conforms to the purpose in Section 2.2.100 and applicable regulatory policies of the comprehensive plan, and a conceptual master plan for future development of the subject area is approved concurrently with the zone change. The hearing body may stipulate that the plan is binding on the subject property and require the applicant to record a legal instrument to that effect.
3. Residential-Commercial (RC) District. The RC District may be applied through quasi-judicial (Type III) amendment approved by the Planning Commission to any residentially- or commercially-designated parcel, or group of parcels, provided that the subject site has at least fifty (50) feet of frontage onto a collector or arterial street with pedestrian facilities, the zone change conforms to the purpose in Section 2.2.100 and applicable regulatory policies of the comprehensive plan, and a conceptual master plan for future development of the subject area is approved concurrently with the zone change. The hearing body may stipulate that the plan is binding on the subject property and require the applicant to record a legal instrument to that effect.
4. Commercial (DC and GC) Districts. The DC and GC Districts shall be applied consistent with the Creswell Comprehensive Plan and Creswell Downtown Plan.
5. Industrial (IC and GI) Districts. The IC and GI Districts shall be applied consistent with the Creswell Comprehensive Plan.
6. Park, Recreation or Open Space (PRO-S) District. The PRO-S District shall be applied consistent with the Creswell Comprehensive Plan.

2.2 – Residential (R) Land Use Districts – Allowed Land Uses

2.2.110 Residential Districts – Allowed Land Uses

Table 2.2.110 identifies the land uses that are allowed in the Residential Districts. The specific land use categories are described and uses are defined in Chapter 1.3 and 1.4.

Table 2.2.110 – Land Uses Allowed in Residential Districts (RL, RM, RC)				
1				
Uses	Status of Use in District			
Use Categories <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	Low Density Residential (RL)	Medium Density Residential (RM)	Residential Commercial (RC)	[Reserve]
<b>Residential Categories</b>				
<b>Household Living</b>				
Single-Family (not attached)	P	P	P	
Accessory Dwelling, per Section 2.2.200.	S	S	S	
Duplex (2 dwellings sharing a common wall on one lot)				
- One duplex on a corner lot	P	P	P	
- One duplex on an interior lot	CU	P	P	
- More than one duplex (4+ units) attached, per Section 2.2.200	N	S	S	
Single-Family Attached (2 or more common-wall Single-Family dwellings), each on its own lot, per Section 2.2.200	CU	S	S	
Cottage Cluster (2-4 Single-Family dwellings on one lot, oriented to an alley or common green, and each containing less than 1,200 square feet of floor area)	CU	P	P	
Manufactured Home, per Section 2.2.200	S	S	S	
Manufactured Home Park, per Section 2.2.200.	CU	CU	CU	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.2 – Residential (R) Land Use Districts – Allowed Land Uses

<b>Table 2.2.110 – Land Uses Allowed in Residential Districts (RL, RM, RC)</b>				
<b>1</b>				
<b>Uses</b>	<b>Status of Use in District</b>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Low Density Residential (RL)</b>	<b>Medium Density Residential (RM)</b>	<b>Residential Commercial (RC)</b>	<i>[Reserve]</i>
Zero Lot Line Housing (not common wall), per Section 2.2.200	CU+S	S	S	
Multifamily (3 or more dwellings on lot), except as provided for Cottage Housing; includes Senior Housing, Assisted Living, and Single Room Occupancy Uses, but not Group Living)	CU+S	S	S	
<b>2Group Living</b>				
Group Home, per Section 2.2.200	S	S	S	
Group Facility, per Section 2.2.200	N	S	S	
<b>Commercial Categories</b>				
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 2.3.190	N	N	N	
Bed and Breakfast Inn	CU+S	CU+S	S	
Educational Services, not a school or home occupation (e.g., tutoring or similar services), floor area limited to 2,000 square feet per use	N	CU	P	
Entertainment, Major Event	N	N	N	
Home Occupation, per the standards in Section 2.2.200 and the procedures in Section 4.9.200.	S	S	S	
Office, floor area limited to 2,000 square feet per use	N	N	P	
Outdoor Recreation, Commercial	N	N	N	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.2 – Residential (R) Land Use Districts – Allowed Land Uses

<b>Uses</b>	<b>Status of Use in District</b>			
	<b>Low Density Residential (RL)</b>	<b>Medium Density Residential (RM)</b>	<b>Residential Commercial (RC)</b>	<b>[Reserve]</b>
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>				
Quick Vehicle Servicing or Vehicle Repair	N	N	N	
Retail Sales and Service, floor area limited to 2,000 square feet per use	N	N	P	
Self-Service Storage	N	N	N	
Short-Term Vacation Rental, per Section 2.1.210	S	S	S	
<b>Industrial Categories<sup>3</sup></b>				
Industrial Service, enclosed in primary building	N	N	CU	
Manufacturing and Production, enclosed in primary building	N	N	CU	
Warehouse and Freight Movement	N	N	N	
Waste-Related	N	N	N	
Wholesale Sales	N	N	N	
<b>Institutional Categories</b>				
Basic Utilities	P	P	P	
Colleges	N	N	N	
Community Service, no drive-up uses				
- limited to 2,000 square feet floor area	CU	CU	P	
- exceeds 2,000 square feet floor area	N	N	CU	
Daycare, adult or child; does not include Family Daycare (12 or fewer children), ORS 657A.250	P	P	P	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted



2.2 – Residential (R) Land Use Districts – Allowed Land Uses

Table 2.2.110 – Land Uses Allowed in Residential Districts (RL, RM, RC)				
1				
Uses	Status of Use in District			
Use Categories <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	Low Density Residential (RL)	Medium Density Residential (RM)	Residential Commercial (RC)	[Reserve]
Parks and Open Space	CU	CU	CU	
Parks and Open Space, when designated on an adopted Specific Area/Refinement Plan, or when proposed as part of a Subdivision (Chapter 4.3) or Master Planned Development (Chapter 4.5).	P	P	P	
Religious Institutions and Houses of Worship	CU	CU	CU	
Schools <sup>4</sup>	CU	CU	CU	
<b>Other Categories<sup>5</sup></b>				
Accessory Structures (with a permitted use)				
- no taller than 14 ft. and no larger than 800 square feet of building footprint	P	P	P	
- taller than 14 ft. or larger than 800 square feet of building footprint, not to exceed primary structure's floor area	CU	CU	CU	
Membrane carports are not allowed				
Agriculture – Animals, except livestock, cattle, horse, sheep, or similar size animal; and excluding roosters and swine (e.g., chickens, rabbits, and similar animals)	N	N	N	
Agriculture – Nurseries and similar horticulture (indoor or outdoor), except gardening that is allowed as ancillary to a permitted residential use	CU	N	N	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.2 – Residential (R) Land Use Districts – Allowed Land Uses

<b>Table 2.2.110 – Land Uses Allowed in Residential Districts (RL, RM, RC)</b>				
<b>1</b>				
<b>Uses</b>	<b>Status of Use in District</b>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Low Density Residential (RL)</b>	<b>Medium Density Residential (RM)</b>	<b>Residential Commercial (RC)</b>	<i>[Reserve]</i>
Historic Building Modifications (Sec. 2.2.200.K)	S	S	S	
Mining	N	N	N	
Radio Frequency Transmission Facilities, except those allowed as ancillary to a permitted use	CU	CU	CU	
Rail Lines, Rail Yards, and Utility Corridors; except those existing prior to effective date of Development Code are permitted	CU	CU	CU	
Temporary Uses (limited to "P" and "CU" uses), per Section 4.9.100.	P/CU	P/CU	P/CU	
Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City's Transportation System Plan)	P	P	P	

2.2 – Residential (R) Land Use Districts – Development Standards

2.2.120 Residential Districts – Development Standards

The development standards in Table 2.2.120 apply to all uses, structures, buildings, and development, and major remodels, in the Residential Districts.

<b>Table 2.2.120 – Development Standards for Residential Districts<sup>6</sup> (except as modified by 2.2.140 – Residential Infill Standards)</b>				
<b>Standard</b>	<b>RL</b>	<b>RM</b>	<b>RC</b>	<b>[Reserve]</b>
<b>Density (DU/acre) – Minimum and Maximum</b>	No minimum 16.4 du/acre max, subject to lot area standards	8 du/acre min – 16.4 du/acre max, subject to lot area standards	No minimum 16.4 du/acre max, subject to lot area standards	
<b>Minimum Lot Area* (square feet)</b>				
Single-Family, not attached	5,000 sf	3,000 sf	3,000 sf	
Single-Family, attached	4,000 sf	2,650 sf	2,650 sf	
Single-Family, with accessory d.u.	6,000 sf	5,000 sf	5,000 sf	
Duplex	7,000 sf	5,300 sf	5,300 sf	
Multiple-Family or Cottage Cluster	10,000 sf/3 units, plus 2,500 sf per each add'l unit	10,000 sf/3 units, plus 2,500 sf per each add'l unit	10,000 sf/3 units, plus 2,500 sf per each add'l unit	
Non-Residential Uses, except tracts for open space and utilities	5,000 sf	5,000 sf	5,000 sf	
*Lot size may be reduced through <i>lot size averaging</i> , or additional lot area may be required through Conditional Use approvals.				
See also, land division procedures in Chapter 4.3.115. Minimum lot sizes do not apply to open space tracts.				

2.2 – Residential (R) Land Use Districts – Development Standards

<b>Table 2.2.120 – Development Standards for Residential Districts<sup>6</sup> (except as modified by 2.2.140 – Residential Infill Standards)</b>				
<b>Standard</b>	<b>RL</b>	<b>RM</b>	<b>RC</b>	<b>[Reserve]</b>
<b>Minimum Lot Width</b>				
Single-Family, not attached	40 ft	40 ft	40 ft	
Single-Family, attached	20 ft	20 ft	20 ft	
Duplex	50 ft	50 ft	50 ft	
Multiple-Family or Cottage Cluster	50 ft	50 ft	50 ft	
Non-Residential Uses	20 ft	20 ft	20 ft	
<i>For flag lots, width is measured at the front setback line on the "flag" portion of the lot.</i>				
<b>Minimum Lot Depth</b>				
	2 times min. width	2 times min. width	2 times min. width	
*Lot area must conform to the standards above. Lot dimensions may be reduced for Flag Lots, Section 4.3.115.				
<b>Building/Structure Height</b> (See also, Sec. 2.2.130 Setbacks; 2.2.140, Infill Standards; 2.2.170, RL Height Step-Down; 2.2.200.A Accessory Dwellings; 3.1.2, Clear Vision; 3.2.500, Fences and Walls.)				
<u>Standard Maximum Height</u>	35 ft	35 ft	35 ft	
<u>Creswell Butte Area Max. Height</u> , except as may be increased through a Master Planned Dev. (clustering) under Chapter 4.5	18 ft	18 ft	18 ft	
<u>Accessory Structure Max. Height</u>	15 ft	15 ft	15 ft	
<u>Building Height Transition</u> Required adjacent to single-story dwelling in RL District, per Section 2.2.170	Yes	Yes	Yes	
<u>Fences, Retaining/Garden Walls</u>				
Max. Height. – Front Yard	4 ft	4 ft	4 ft	
Max. Height. – Interior Side	6 ft	6 ft	6 ft	
Max. Height – Rear Yard	6 ft	6 ft	6 ft	
Max. Height – Street Side or Reverse Frontage Lot (rear)	4 ft, or 6 ft with 5 ft landscape buffer	4 ft, or 6 ft with 5 ft landscape buffer	4 ft, or 6 ft with 5 ft landscape buffer	

2.2 – Residential (R) Land Use Districts – Development Standards

<b>Table 2.2.120 – Development Standards for Residential Districts<sup>6</sup> (except as modified by 2.2.140 – Residential Infill Standards)</b>				
<b>Standard</b>	<b>RL</b>	<b>RM</b>	<b>RC</b>	<b>[Reserve]</b>
<b>Lot Coverage</b> (two options):				
1. Max. Building Coverage (Foundation plane as % of site area)				
Single-Family Dwelling	45%	50%	50%	
Single-Family – Common Wall	60%	70%	70%	
Duplex	60%	60%	60%	
Multifamily Use or Cottage Cluster	60%	60%	60%	
Mixed-Use/Live Work/Commercial	Not applicable	70%	70%	
Civic/Institutional/Open Space	60%	60%	60%	
2. Lot Coverage Bonus				
Allowable lot coverage may increase when driveway and/or parking surfaces are paved using a City-approved porous/permeable paving surface. Coverage may increase by a ratio of one-half (1/2) square foot for every one (1) square foot of required parking and/or driveway area that is paved using a City-approved material (i.e., allowing stormwater infiltration) <u>or</u> one-half (1/2) square foot for every one (1) square foot of City-approved water quality treatment area (e.g., vegetative swale or biofiltration) on the development site. Lot coverage bonuses require approval through Site Design Review.				
<b>Min. Landscape Area (% site area)</b> , except does not apply to a Single-Family Dwelling on an individual lot. Landscape area may include plant areas and some non-plant areas as allowed under Section 3.2.300.D.				
	10%	7%	7%	
<b>Minimum Setbacks (feet):</b> (See also, Sections 2.2.130 Setback Yards; 2.2.140, Infill Standards; 2.2.170, RL Height Step-Down; 3.1.2, Clear Vision, and 3.2.500, Fences and Walls.)				
<b>Front/Street Setback</b>				
Structure >16' height, except		15 ft		
Garages and Carport Entries		20 ft		
Structure <=16' height, except		15 ft		
Open Structures (e.g., porch, balcony, portico, patio, wall), where structure is less than 50% enclosed on side elevations		5 ft – 10 ft, subject to Sec 2.2.140 (Infill) and provided the structure does not conflict with utilities or other easements		
<b>Note: Other standards may preclude building at a minimum setback. Be sure to avoid utilities, easements, and clear vision areas. See also, special setback for planned street improvements.</b>				

2.2 – Residential (R) Land Use Districts – Development Standards

**Table 2.2.120 – Development Standards for Residential Districts<sup>6</sup>  
(except as modified by 2.2.140 – Residential Infill Standards)**

<b>Standard</b>	<b>RL</b>	<b>RM</b>	<b>RC</b>	<b>[Reserve]</b>
<p><b>Side Setback, except alleys (total of 2 sides, provided no yard is less than 3 feet wide)</b></p> <p><b>Garage/Carport Entry, except alley</b></p> <p><b>Exceptions:</b></p> <p><u>Alley</u> Open Structures (e.g., porch, balcony, portico, patio wall), where structure is less than 50% enclosed on side elevations</p> <p><u>Common Walls/Zero Lot Line</u>, when allowed</p>	<p>10 ft</p> <p>20 ft</p> <p>5 ft</p> <p>5 ft min. on side with open structure</p> <p>0 ft</p>	<p>10 ft</p> <p>20 ft</p> <p>5 ft</p> <p>5 ft min. on side with open structure</p> <p>0 ft</p>	<p>10 ft</p> <p>20 ft</p> <p>5 ft</p> <p>5 ft min. on side with open structure</p> <p>0 ft</p>	
<p><b>Minimum Setbacks (feet) (continued):</b></p> <p><b>Rear Setbacks, except alley</b></p> <p>Structure &gt;28' height</p> <p>Structure 16'-28' height</p> <p>Structure &lt;/=16' height</p> <p>Garage or Carport Entry</p> <p><b>Reductions:</b></p> <p><u>Open Structures</u> (e.g., porch, balcony, portico, patio wall), where structure is less than 50% enclosed on side elevations</p> <p><u>Common Walls/Zero Lot Line</u></p> <p><b>Alley Setbacks</b></p>	<p>15 ft</p> <p>10 ft</p> <p>5 ft</p> <p>20 ft</p> <p>5 ft min. on side with open structure</p> <p>0 ft</p> <p>2 ft</p>	<p>10 ft</p> <p>10 ft</p> <p>5 ft</p> <p>20 ft</p> <p>5 ft min. on side with open structure</p> <p>0 ft</p> <p>2 ft</p>	<p>10 ft</p> <p>10 ft</p> <p>5 ft</p> <p>20 ft</p> <p>5 ft min. on side with open structure</p> <p>0 ft</p> <p>2 ft</p>	
<p><b>Note:</b> Other standards may preclude building at a minimum setback. Be sure to avoid utilities, easements, and clear vision areas. See also, special setback for planned street improvements.</p>				

2.2 – Residential (R) Land Use Districts – Development Standards

**Table 2.2.120 – Development Standards for Residential Districts<sup>6</sup>  
(except as modified by 2.2.140 – Residential Infill Standards)**

<i>Standard</i>	<i>RL</i>	<i>RM</i>	<i>RC</i>	<i>[Reserve]</i>
<p><b>Build-To Line (feet):</b></p> <p><u>New Buildings Only:</u> At least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except where a greater setback is required for a Planned Street Improvement, then the build-to line increases proportionately. The build-to line may also be increased through Site Design Review when pedestrian amenities are provided between a primary building entrance and the street right-of-way. (See also, Section 2.3.180.)</p>	Not Applicable	20 ft; may be increased when pedestrian amenities are provided between a primary building entrance and street	20 ft; may be increased when pedestrian amenities are provided between a primary building entrance and street	
<p>Special Setback for Planned Street Improvements in Residential Districts</p>	<p>The City may require a minimum setback of up to 40 feet, measured from the street center line to any structure, when a structure abuts a street containing less than the standard right-of-way for the subject street classification. Street classification and required right-of-way width are as indicated by the City of Creswell Transportation System Plan.</p>			

**2.2.130 Residential Districts – Setback Yards and Build-To Line: Exceptions, Reverse Frontage Lots, Flag Lots**

**A. Residential Yard Setbacks – Purpose**

Residential setback yards provide space for private yards and building separation for fire protection/security, building maintenance, sunlight and air circulation. The setback yard standards contained in Table 2.2.120 are also intended to promote human-scale design and traffic calming by diminishing the visual presence of garages along the street and encouraging the use of pedestrian amenities, such as extra-wide sidewalks and street furnishings in multiple family developments and in residential-commercial projects. The standards also encourage the orientation of buildings to provide street visibility for public safety and neighborhood security.

**B. Setback Yards – Exceptions**

The following architectural features may encroach into the setback yards by no more than thirty-six (36) inches, provided that a setback of not less than thirty-six (36) inches is preserved, all applicable building and fire codes are met, and the clear vision standards in Section 3.1.2 are met. Eaves, chimneys, bay windows, overhangs, and similar architectural features may encroach into a setback yard by not more than 36 inches. Porches, decks and similar structures not exceeding thirty (30) inches in height may encroach into setbacks as provided in Table 2.1.120. Walls and fences built on property lines are subject to the height standards in Table 2.1.120 and the provisions of Sections 3.1.200, Vision Clearance, and 3.2.500, Fences and Walls.

**C. Setback Yards – Reverse Frontage Lots**

Buildings on reverse-frontage lots (through lots) shall be required to meet the build-to line standard on only one street. Reverse frontage lots are subject to the fence height and setback requirements in Section 2.2.120 and the landscape buffer requirements in Chapter 3.2.300.

**D. Setback Yards – Flag Lots**

The front yard of a flag lot shall conform to one of the following two options:

1. parallel to the street from which access is taken, or
2. parallel to the flag pole from which access is taken.

The applicant for a building permit may choose either Option 1 or Option 2, except as otherwise prescribed by conditions of a partition or subdivision approval. [Note: The City may impose such conditions as provided under Section 2.2.140 and Section 4.3.115.]



### 2.2.140 Residential Districts – Infill Standards

The purpose of Section 2.2.140 is to ensure compatibility of new infill development and redevelopment of existing neighborhoods. The setback and building height standards in Section 2.2.140 supersede those in Table 2.2.120 when a building or partition is proposed on a subdivision lot in a Residential District that was platted prior to *[effective date of new code]*. The approval body, through Land Use Review (single-family dwelling) or Site Design Review (multiple family or other attached housing), as applicable, shall use the criteria and standards in subsections A-D, below, in reviewing building plans:

- A. Compatibility with Yards of Adjacent Residence(s).** Except as provided in Section 2.2.140.D, when a proposed building is located within twenty (20) feet of an existing single-family dwelling on the same side of the street, and the existing dwelling has a front yard setback that is greater than the minimum setback in Section 2.2.120, a front yard setback similar to that of the nearest Single-Family residence shall be used. “Similar” means the setback is equal to or within ten (10) percent of the setback provided by the nearest single-family residence on the same side of the street. (Figure 2.2.140.A) For example, if the existing single-family residence has a front yard setback of thirty (30) feet, then the new building shall have a front yard setback between twenty-seven (27) feet and thirty-three (33) feet. If the new building is to be located between two existing residences, then the setback for the new building shall be the average setback of both adjacent residences, plus or minus ten (10) percent.
- B. Compatibility with Building Height of Adjacent Residence(s).** Except as provided in Section 2.2.140.D, when an existing single-family residence is located within twenty (20) feet of the subject site on the same side of the street, and said residence has a building height that is less than the maximum building height allowed in Table 2.2.120, a building height similar to that of the nearest single-family residence(s) shall be used. “Similar” means the building height is not more than one hundred ten (110) percent of the height of the nearest single-family residence on the same side of the street. (Figure 2.2.140.B) For example, if the existing single-family residence has a height of twenty (26) feet, then the new building shall have a height that does not exceed twenty eight point six (28.6) feet. If the new building is to be located between two existing residences, then the height of the new building shall not exceed one hundred ten (110) percent of the average height of the two adjacent buildings.
- C. Historic Creswell.** Modifications to existing designated historic buildings are exempt from the provisions of Section 2.2.140, Section 2.2.190, and Section 2.3.170 (Architectural Design). Such modifications are subject to Section 2.2.200.K, Modifications to Designated Historic Structures. New structures within Creswell’s Historic Core Area (available at Creswell City Hall) shall follow, borrow from, or appropriately adapt a recognized, historic architectural style found in Creswell. For example, designs that follow, borrow from, or appropriately adapt one of the following styles are acceptable: Craftsman Bungalow, Colonial Revival, and Queen Anne, per subsections 2.2.140.C.1.a through 2.2.140.C.1.c. Land Use reviews and Site Design reviews for new buildings in the Historic Core Area shall follow the procedures in subsections 1-7 below:

1. Building plans must exemplify an acceptable style in their ground plan, elevations (rhythm, color, and materials), and structure (e.g., roof shapes and details such as windows, doors, trim, and ornamentation). The styles listed above are deemed acceptable; other historic styles may be accepted upon the decision body finding that the proposed design borrows from or appropriately adapts one of the above recognized styles using vernacular design elements.
2. Except as provided under subsection 3, below, the City Administrator shall review all new buildings in the Historic Core Area through a Type II Land Use Review; he or she shall approve or disapprove the design, or refer the design to the City's Architectural Consultant for further review, based on the above criteria. The City Administrator and the Architectural Consultant, as applicable, shall review a preliminary set of building elevations and floor plans, and a color and materials sample board, for conformance with Section 2.2.140.C and the standards in Section 2.2.190, Architectural Design Standards.
3. When a project requires Site Design (Type III) approval, the Planning Commission shall be the decision making body under Section 2.2.140.C, and shall review the building design concurrently with the Site Design Review application following the preliminary review of the City Administrator (subsection 2).
4. Where the City Administrator refers the design to the City's Architectural Consultant, the applicant shall pay a deposit for the consultant's review, against which the consultant's time and expenses will be charged. Alternatively, the applicant may modify the design and submit it to the City Administrator for reconsideration.
5. Design comments and advice provided by the Architectural Consultant under subsection 3 shall be advisory. The applicant may modify his or her plans in response to the consultant's input, and the City Administrator shall take the consultant's input into consideration in approving or disapproving said plans under subsection 2. Where the applicant chooses to modify and resubmit plans, the City may require that he or she waive or extend the 120-day rule under Section 4.1.600.
6. Design approval under Section 2.2.140.C, or the City Administrator's determination that a project is exempt from Section 2.2.140.C, shall be required prior to issuance of building permits.
7. The City Administrator's decision shall be binding upon future building permits for the subject property; any modifications to the design must be resubmitted following the provisions of Section 2.2.140.C.

**D. Exception to Standard for Redevelopment Potential on Adjacent Lot(s).** Sections 2.2.140.A and 2.2.140.B do not apply when the approval body finds that the subject single-family housing located within twenty (20) of the subject site is redevelopable. "Redevelopable," for the purposes of this Section, means a lot either has an assessed market value that exceeds the assessed market value of all improvements on the lot, based on the most recent data from Lane County Assessor's Office; or the front yard of the subject lot is large enough that it could be subdivided based on the applicable Residential district development standards.

**2.2.150 Residential Districts – Housing Density**

**A. Residential Density Standard.** To ensure efficient use of buildable lands and to provide for a range of needed housing in conformance with the Comprehensive Plan, all new developments in the Residential Districts shall conform to the minimum and maximum densities prescribed in Table 2.2.120, except as provided below in subsections 1-3:

1. Residential care homes/facilities, senior housing, including assisted living, accessory dwellings, and subdivisions where the average slope exceeds 20% are exempt from the minimum density standard.
2. The density standards may be averaged over more than one development phase (i.e., as in a master planned development). Duplex lots used to comply with the density standard shall be so designated on the final subdivision plat.
3. Partitions and construction of single-family homes on lots exceeding 20,000-40,000 square feet shall be planned so that the land is used efficiently and future development on these lots or parcels can occur based on the minimum lot size and other dimensional standards of the district. See also, Chapter 4.3.110.C, Future Re-division Plan.

**B. Residential Density Calculation.**

1. Minimum and maximum housing densities are calculated by multiplying the total parcel or lot area by the applicable density standard.
2. Areas reserved for flag lot access (flag poles) are not counted for the purpose of calculating minimum densities.

**2.2.160 Residential Districts – Lot Coverage and Impervious Surfaces**

- A. Lot Coverage Calculation.** The maximum allowable lot coverage shall be as provided in Table 2.2.120. Lot coverage is calculated as the percentage of a lot or parcel covered by buildings or structures (as defined by the foundation plane).
- B. Impervious Surface Calculation.** Impervious surfaces are calculated as the percentage of a lot or parcel covered by non-permeable surface-level development (e.g., asphalt, concrete, gravel, and similar impervious paving). It does not include planted areas, porous paving surfaces, and other areas allowing stormwater infiltration, as approved by the City.

**2.2.170 Residential Districts – Building Height: Measurement, Exceptions, RL Step-Down Requirement**

Building heights shall conform to the standards in Table 2.2.120, and subsections A-C, below:

**A. Building Height Measurement.** Building height is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mid-point of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. The reference datum shall be either 1 or 2, whichever yields a greater height:

1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above the lowest grade;
2. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in subsection 1 is more than ten (10) feet above the lowest grade.

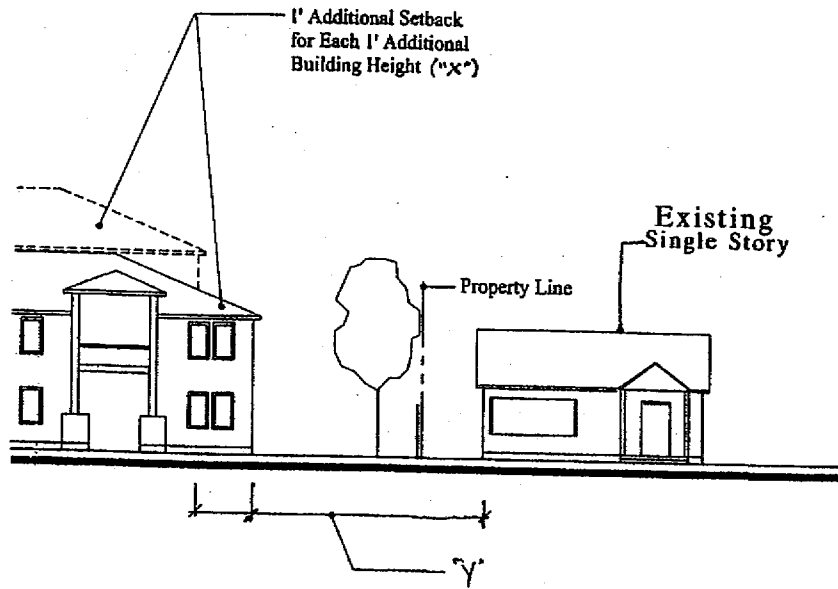
**B. Exclusions from Maximum Building Height Standards.** Chimneys, bell towers, steeples, roof equipment, flag poles, and similar features not for human occupancy are exempt from the maximum building heights, provided that all applicable fire and building codes are met.

**C. Height Step-down – RL District Transition.** To provide compatible scale and relationships between new multi-story buildings and existing single-story dwellings in the RL District, multi-story buildings and structures in RL, RM, RC, GC, DC, IC, and GI districts shall “step-down” to create a building height transition to adjacent single-story building(s) in the RL District, as provided in subsections 1-3, below:

1. This standard applies to new and vertically expanded buildings and structures in any district that are within twenty (20) feet (as measured horizontally) of an existing single-story building in the RL District with a height of twenty (20) feet or less, as shown in Figure 2.2.170.C.

2. The transition standard is met when the height of the taller structure (“x”) does not exceed one (1) foot of height for every one (1) foot separating the two structures (“y”), as shown in Figure 2.2.170.D.

Figure 2.2.170.C - RL Height Step-Down/Transition



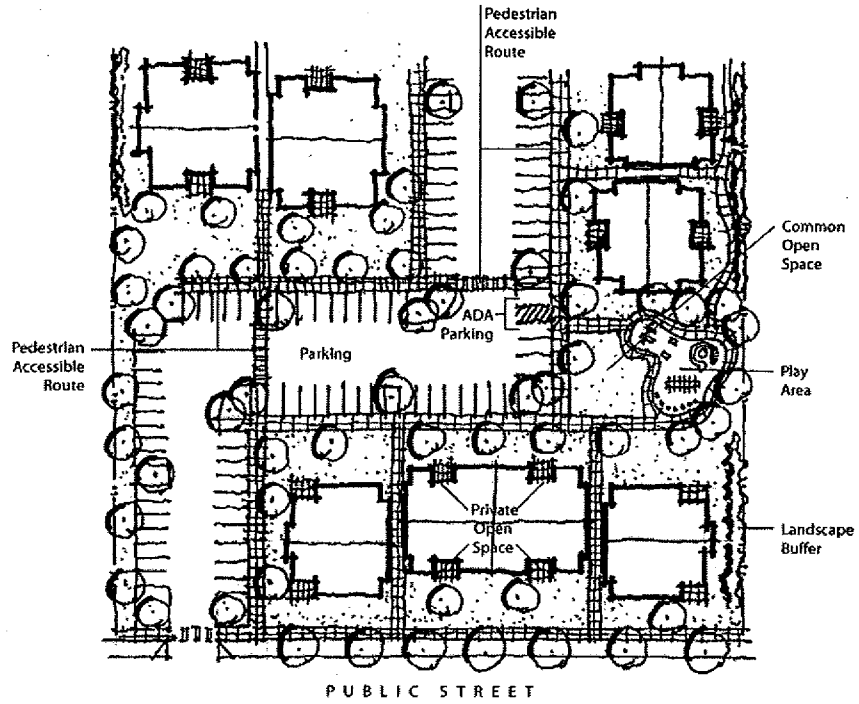
3. Exception: The provisions of subsections 2.2.170.C.1-2 do not apply when the approval body finds that the subject single story buildings located within twenty (20) feet of the subject site are redevelopable. “Redevelopable,” for the purposes of this Section, means a lot either has an assessed market value that exceeds the assessed market value of all improvements on the lot, based on the most recent data from Lane County Assessor’s Office; or the front yard of the subject lot is large enough that it could be subdivided based on the Residential District standards.

**2.2.180 Residential Districts – Building Orientation**

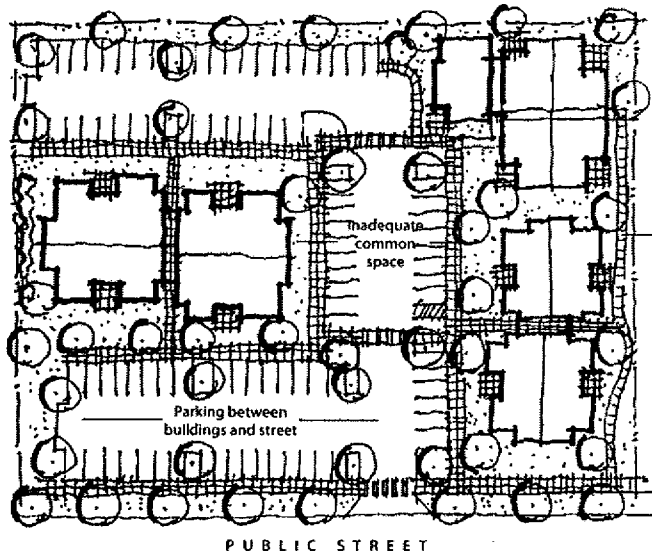
- A. Purpose.** The following standards are intended to orient buildings close to streets to promote pedestrian-oriented development where walking is encouraged, and to discourage automobile-oriented development. Placing residences and other buildings close to the street also encourages crime prevention, natural surveillance or security, and safety by having more “eyes-on-the-street.”
- B. Applicability.** Section 2.2.180 applies to all developments that are subject to Site Design Review, including developments that are reviewed as part of a Master Planned Development or Conditional Use application.
- C. Building orientation standards.** All developments that are subject to Section 2.2.180 shall have buildings that are oriented to a street. This standard is met when all of the following criteria are met:
1. Compliance with the setback and build-to line standards in Section 2.2.120;
  2. Except as provided in subsections 3 and 4, below, all buildings in the Residential Districts shall have at least one primary building entrance (i.e., dwelling entrance, a tenant space entrance, a lobby entrance, or breezeway/courtyard entrance serving a cluster of units or commercial spaces) facing an adjoining street, or if on a side elevation, not more than twenty (20) feet from a street sidewalk. See Figures 2.2.180.C(1);

Figure 2.2.180.C(1) – Residential District Building Orientation

Acceptable



Not Acceptable

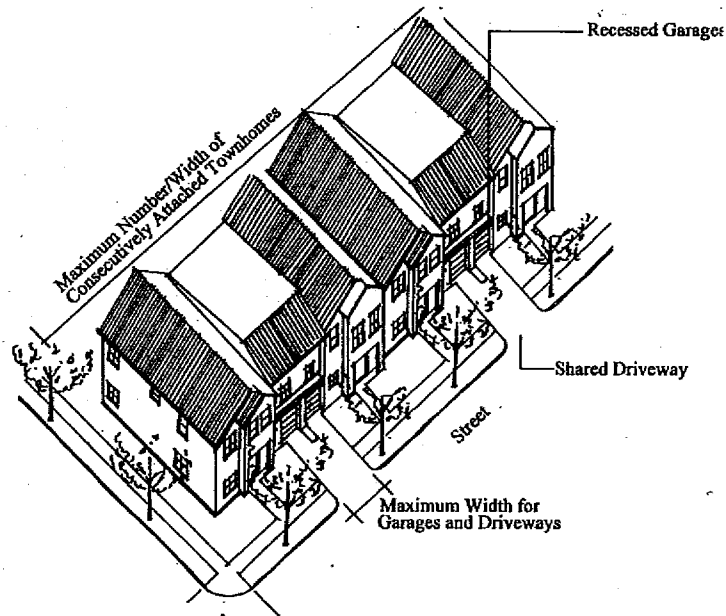




## 2.2 – Residential (R) Land Use Districts – Building Orientation

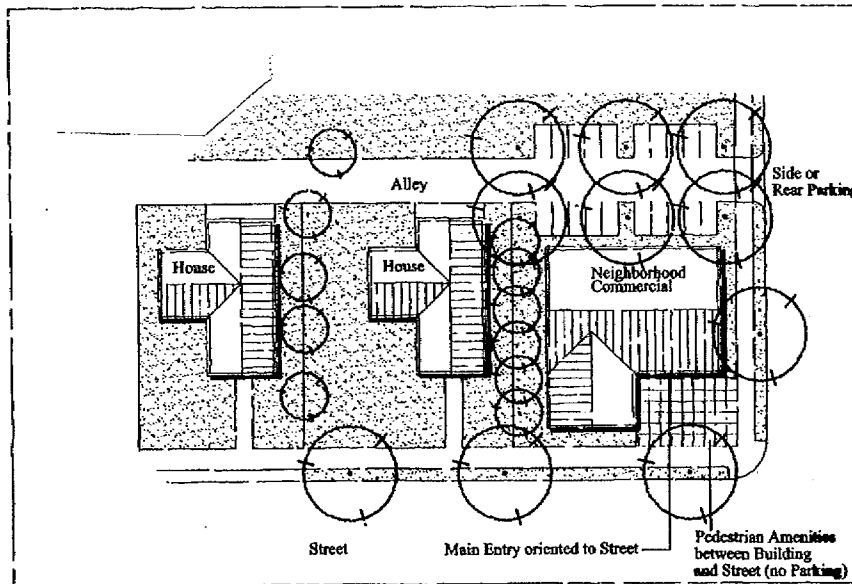
3. Off-street parking, driveways, and other vehicle areas shall not be placed between buildings and the street(s) to which they are oriented, as per subsection 2 and Figure 2.2.180C(1); except the following vehicle areas are allowed where the approval body finds that they will not adversely affect pedestrian safety and convenience:
  - a. Schools, multi-family buildings, assisted living facilities, and other institutional uses may have one driveway not exceeding twenty (20) feet in width plus parallel parking, including ADA accessible spaces, located between the street and the primary building entrance, provided that the building's primary entrance is connected to an adjacent street by a pedestrian walkway and the driveway/parking area is crossed by a clearly defined pedestrian walkway, as required by Section 3.1.300. The intent of this exception is use driveways that have street-like features;
  - b. Attached single-family housing developments (townhomes) with street-facing garages may have one (1) driveway access located between the street and the primary building entrance for every two (2) dwelling units, provided they meet the following criteria, as generally shown in Figure 2.2.180C(2):
    - 1) Where two (2) abutting townhomes have street-facing garages, they shall share one driveway access that does not exceed 16 feet in width where it crosses the sidewalk and intersects the street;
    - 2) All primary building entrances shall be connected to a driveway (and sidewalk) via a pedestrian walkway that is not less than three (3) feet wide;
    - 3) The maximum number consecutively attached townhomes with garages facing the same street is four (4) (two driveways); and
    - 4) Street-facing garages shall be setback at least twenty (20) feet from the street; where a building is placed less than twenty (20) feet from the street, the 20-foot garage setback may be accomplished recessing the garage behind the front building elevation.

Figure 2.2.180.C(2) – Townhome Building Orientation



- c. Commercial buildings and uses (e.g., neighborhood commercial or mixed-use in the RC District) shall have all of their off-street parking located behind or to the side of such buildings and uses and screened from abutting properties in accordance with Chapter 3.2, as generally shown in Figure 2.2.180.C(3). Off-street parking shall not be located between any building and any street.

Figure 2.2.180.C(3) – Commercial Orientation in a Residential District



## 2.2 – Residential (R) Land Use Districts – Building Orientation

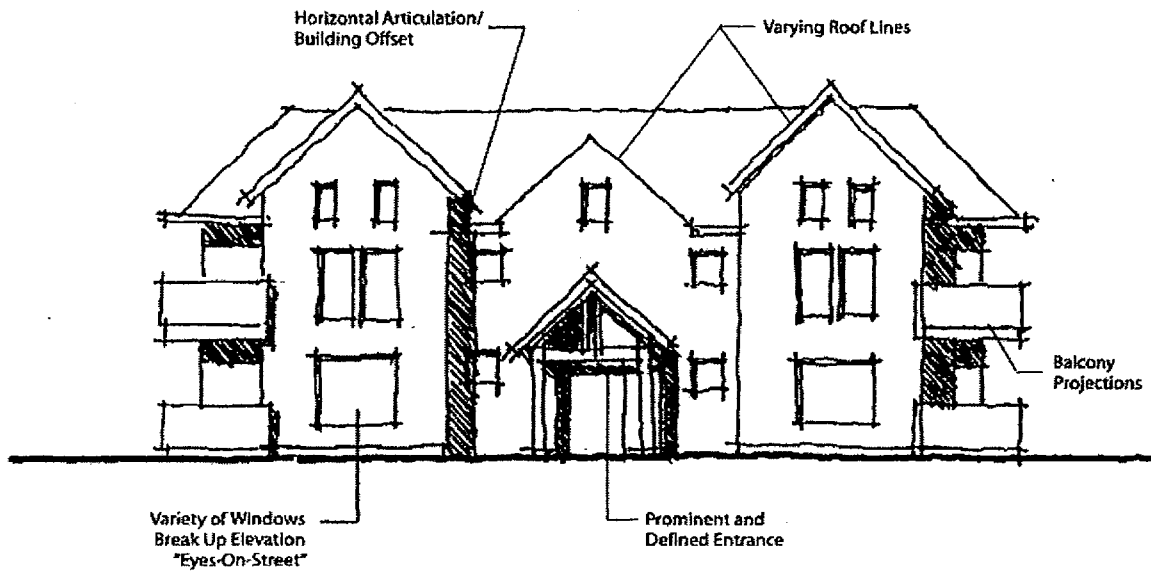
4. Where a development contains multiple buildings and there is insufficient street frontage to which buildings can be oriented, a primary entrance may be oriented to common green, open space, plaza, or courtyard. When oriented in this way, the primary entrance(s) and green, plaza, or courtyard shall be connected to the street by a pedestrian walkway meeting the standards in Section 3.1.3. See example in Figure 2.2.180C(1) “acceptable site plan.”

**2.2.190 – Residential Districts – Architectural Design Standards**

- A. Purpose.** The purpose of Section 2.2.190 is to promote the public health, safety, and welfare by requiring at least a minimum level of design on every building. The design standards are intended to promote architectural compatibility and harmony within residential districts, and between new and existing residential structures. The standards are also intended to provide for human-scale design and street visibility from residential structures, while affording flexibility to use a variety of building styles. (See also, the supplemental standards for buildings within Creswell’s Historic Core Area under Section 2.2.140.C.)
- B. Applicability.** Section 2.2.190 applies to all new buildings, except accessory structures and remodels of, or additions to, designated historic structures, per Section 2.2.140.C. The standards and criteria in Section 2.2.190 are applied through the Land Use Review or Site Design Review procedure (Chapter 4.2), as applicable, prior to building permit review. The provisions under Section 2.2.190.C may be adjusted through the Design Performance Option in Section 4.2.510.
- C. Standards.** All projects that are subject to Section 2.2.190 shall meet all of the standards in subsections 1-3. The graphics provided with each standard are intended to show examples of how the standards can be met and should not be interpreted as requiring a specific architectural design. Other building styles and designs can be used to meet the standards when the approval body finds they are consistent with the text. An architectural feature (i.e., as shown Figures 2.2.190C(1) and (2)) may be used to comply with more than one standard.
1. **Building Length.** The continuous horizontal distance, as measured from end-wall to end-wall, of individual buildings shall not exceed 88 feet in the RL District and 120 feet in the RM and RC Districts.
  2. **Articulation.** All buildings shall incorporate design features such as varying roof lines, offsets, balconies, projections (e.g., overhangs, porches, or similar features), recessed or covered entrances, window reveals, change in materials or textures [e.g., stone or faux stone, brick, wood or concrete-wood (shakes versus lap or board and batten siding, etc.)], or similar elements to break up large expanses of uninterrupted building surfaces or blank walls. Along the vertical face of a structure, and on all building stories, such elements shall occur at a minimum interval of 32 feet, and each floor shall contain at least two (2) elements, as generally shown in Figure 2.2.190C(2):
    - a. Recess (e.g., deck, patio, courtyard, entrance or similar feature) that has a minimum depth of four (4) feet;
    - b. Extension (e.g., floor area, deck, patio, entrance, overhang, or similar feature) that projects a minimum of two (2) feet and runs horizontally for a minimum length of four (4) feet; and/or
    - c. Offsets or breaks in roof elevation of two (2) feet or greater in height;

- d. Change in materials, where one material is the predominant material on all elevations (e.g., where wood lap siding is the predominant material, brick, stone or faux stone could be selected for wainscoting or column accents; wood or wood-appearance shakes could be selected for gable ends; etc.).

**Figure 2.2.190C(1) - Building Length and Articulation (Multi-family Housing Example)**



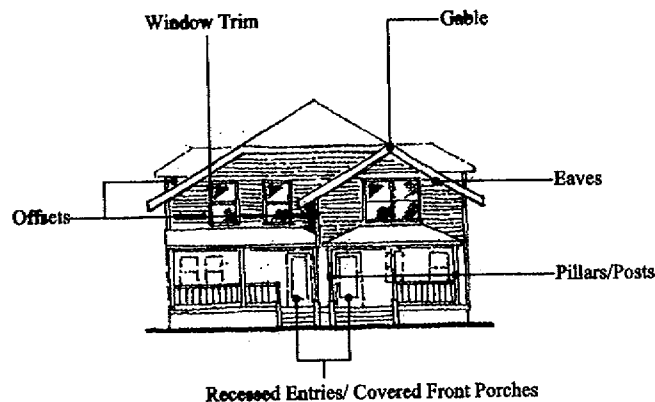
3. Eyes on the Street. All building elevations visible from a street right of way shall provide prominent defined entrances, and a combination of windows, porches, and/or balconies. A minimum of 40 percent of front (i.e., street-facing) elevations (30 percent for manufactured homes that also conform to Section 2.2.200.D), and a minimum of thirty (30) percent of side and rear building elevations shall meet this standard, as generally shown in Figure 2.2.190C(2), above. "Percent of elevation" is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. The standard applies to each full and partial building story.

## 2.2 – Residential (R) Land Use Districts – Architectural Design

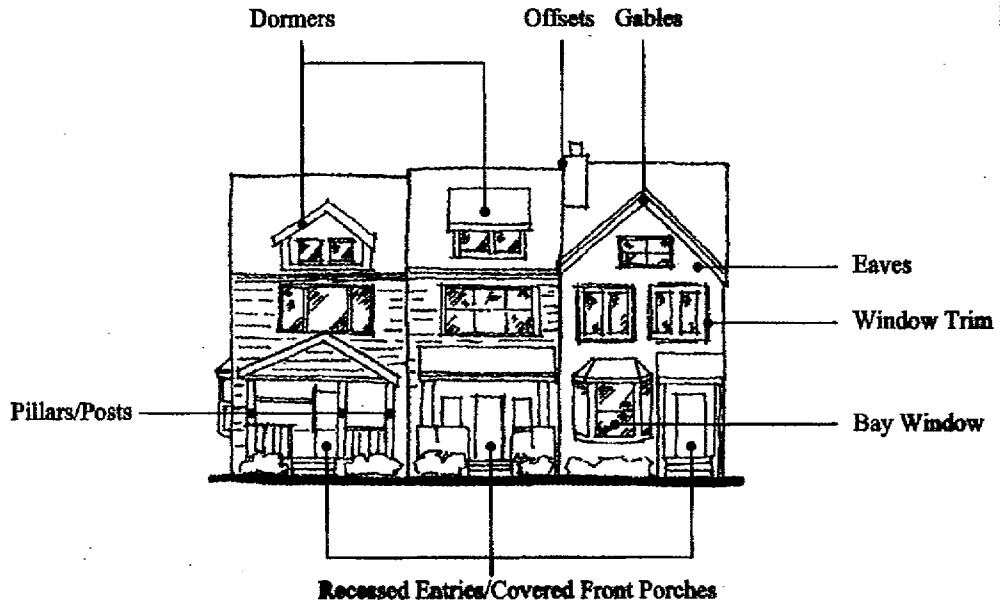
4. **Detailed Design.** All buildings shall provide detailed design on all street-facing walls (45 degrees or less from street lot line). Detailed design shall be provided by using at least six (6) of the architectural features in items “a” through “m,” below, as is appropriate for the proposed building type and style. The applicant may select the elements that he or she wants, and it is not within the approval body’s authority to prescribe specific elements; except when the project is being reviewed as part of a Master Planned Development, Conditional Use Permit, or Site Design Review (item “n”), the approval body may require specific design elements or changes to promote compatibility with adjacent uses and to achieve the desired community character or pedestrian-orientation.
- a. Dormers
  - b. Gables
  - c. Recessed entries
  - d. Covered porch entries or portico
  - e. Cupolas or towers
  - f. Pillars or posts
  - g. Eaves (minimum 6-inch projection)
  - h. Off-sets in building face or roof (minimum 16 inches)
  - i. Window trim (minimum 3 inches wide)
  - j. Bay windows
  - k. Balconies
  - l. Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation, and similar features)
  - m. Decorative cornice or pediment (e.g., for flat roofs)
  - n. An alternative feature providing visual relief, similar to options a.-m., as approved through the Design Performance Option under Section 4.2.510.

**Figure 2.2.190.C(4) - Examples of Architectural Elements (illustrative only)**

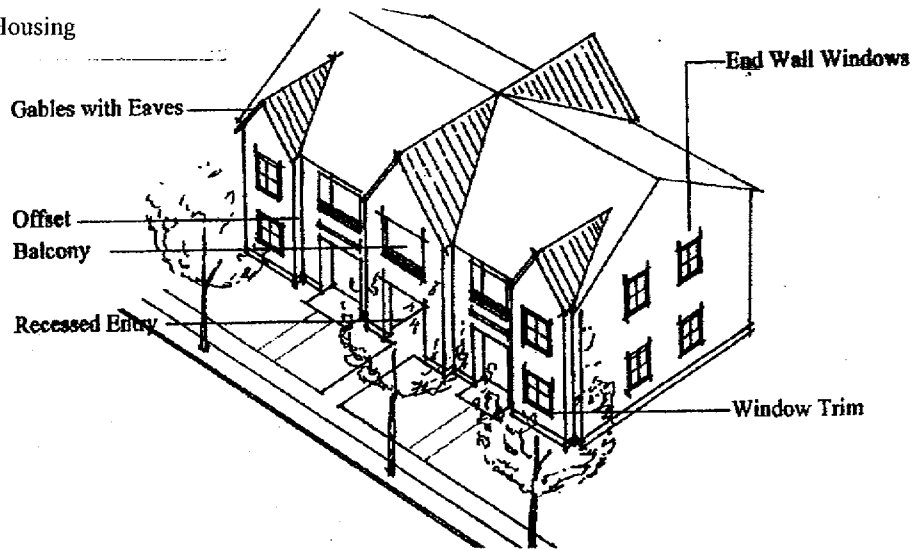
**Example 1**  
Single-family Housing



**Example 2**  
Single-family Housing



**Example 3**  
Multi-family Housing



### 2.2.200 – Residential Districts – Special Use Standards

Section 2.2.200 provides standards for specific land uses and building types, as identified in Table 2.2.110, that control the scale and compatibility of those uses within the Residential District. The standards in Section 2.2.230 supplement (are in addition to and do not replace) the standards in Sections 2.2.100 through 2.2.190. This Section applies to the following uses and building types, as specified in subsections A-K:

- Accessory Dwelling
- Attached Single-Family (Townhouses or Rowhouses) and Attached Duplexes
- Bed and Breakfast Inns
- Group Living (Residential Care Homes and Facilities)
- Home Occupations
- Manufactured Homes
- Manufactured/Mobile Home Parks
- Multiple Family Housing
- Short-Term Vacation Rentals
- Zero-Lot Line Housing (not common wall)
- Modifications to Designated Historic Structures

**A. Accessory dwelling (attached, separate cottage, or above detached garage).** Accessory dwellings shall conform to all of the following standards:

1. Floor Area. Accessory dwellings shall not exceed 800 square feet of floor area, or 40% of the primary unit, whichever is smaller. The unit can be a detached cottage, a unit attached to a garage, or in a portion of an existing house;
2. Exempt from Density. Accessory dwellings are exempt from the housing density standards of the Residential District, due to their small size and low occupancy levels;
3. Oregon Structural Specialty Code. The structure complies with the Oregon Structural Specialty Code;
4. Owner-Occupied. The primary residence or accessory dwelling shall be owner-occupied. Alternatively, the owner may appoint a member of his or her immediate family as a resident care-taker of the principal house and manager of the accessory dwelling;
5. One Unit. A maximum of one accessory dwelling unit is allowed per lot;
6. Building Height. The building height of detached accessory dwellings (i.e., separate cottages) shall not exceed twenty-eight (28) feet; and
7. Buffering. The approval body may require a landscape hedge or fence be installed on the property line separating a detached accessory dwelling from an abutting single-family dwelling, unless the applicant and the owner of the abutting single-family dwelling agree in writing not to install the hedge or fence.



**2.2 – Residential (R) Land Use Districts – Special Use Standards: Attached Single Family/Duplexes**

**B. Attached Single-Family (Townhouses and Rowhouses) and Duplexes.** Single-family attached housing with three or more dwellings (lots), and attached duplex housing (two or more consecutively attached duplexes), shall comply with the standards in sections 1-2, below, which are intended to control development scale; avoid or minimize impacts associated with traffic, parking, and design compatibility; and ensure management and maintenance of common areas.

1. Alley Access Required for Subdivisions Principally Containing Townhomes or Duplexes. Subdivisions, or phases of subdivisions, proposed to contain three (3) or more consecutively attached single-family dwellings, and developments with two (2) or more attached duplexes (4+ dwelling units), shall provide vehicle access to all such lots and units from an alley or parking court, as described in Chapter 3.1.2. Alley(s) and parking court(s) shall be created at the time of subdivision approval, and may be contained in private tracts or, if approved by the City, in public right-of-way, in accordance with Chapter 3.4.1, Transportation Standards, and Chapter 4.3, Land Divisions.
2. Common Areas. Any common areas (e.g., landscaping, private tracts, common driveways, private alleys, building exteriors, and/or similar common areas) shall be owned and maintained by a homeowners association or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

2.2 – Residential (R) Land Use Districts – Special Use Standards: Bed and Breakfast Inns

**C. Bed and Breakfast Inns.** Where Bed and Breakfast Inns are allowed, they shall require approval through Land Use Review (Type II) and conform to all of the following standards. (See also, Short-Term Vacation Rentals, which are different than Bed and Breakfast Inns, under Section 2.2.200.I.)

1. Accessory Use. The use must be accessory to a household already occupying the structure as a residence.
2. Maximum Size. Four (4) bedrooms for guests, and a maximum of eight (8) guests are permitted per night. No separate structures are permitted, except for customary residential accessory structures as defined in Section J that follows.
3. Length of Stay. Maximum length of stay is 28 days per guest; anything longer is classified as a hotel or commercial lodging. The Bed and Breakfast shall maintain a guest registry.
4. Employees. Up to two (2) non-resident employees. There is no limit on residential employees.
5. Food Service. May be provided only to overnight guests of the business.
6. Owner-Occupied. Shall be owner-occupied.
7. Other Permit or Licensing Requirements. The owner of a bed and breakfast use shall be responsible for obtaining and complying with all other applicable permit and/or licensing requirements.

2.2 – Residential (R) Land Use Districts – Special Use Standards: Group Living (Residential Care)

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

1. Licensing. All residential care homes and facilities shall be duly licensed by the State of Oregon.
2. Parking. Parking in accordance with Chapter 3.3.
3. Site Development Review. Site Development Review shall be required for new structures to be used as residential care homes or facilities, to ensure compliance with the licensing, parking, and other requirements of this Code. Residential care homes are exempt from this requirement.

**E. Home Occupations.** The purpose of this Section is to encourage those who are engaged in small commercial ventures that 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. Two types of home occupations are contemplated by this Code: 1) Home Occupations meeting the standards in subsections 1-8, below, are allowed by right, provided the owner has obtained and is in compliance with all applicable permit and licensing requirements, and all other uses and structures on the subject property are in conformance with all applicable city codes and requirements; and 2) Home Occupations exceeding any of the threshold standards in subsections 1-8 may receive approval through the Type III Home Occupation Permit procedure under Section 4.9.200.

### **Type I Standards for Home Occupations**

1. 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 (i.e., prior development permit approval).
- d. No products and or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

2. Storage:

- a. Outside storage, visible from the public right-of-way or adjacent properties, that exceeds what is customary for a single-family residence in the vicinity, 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.

3. Employees:

- a. Other than family members residing within the dwelling located on the home occupation site, there shall be not more than one (1) full time equivalent employee at the home occupation site at any given time. As used in this chapter, the term “home occupation site” means the legal lot on which the home occupation is conducted.

## 2.2 – Residential (R) Land Use Districts – Special Use Standards: Home Occupations

- 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 occupation site.
  - c. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations.
4. Vehicles, Parking and Traffic:
- a. One (1) 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 (3) commercial vehicle deliveries to or from the home occupation site daily. There shall be no commercial vehicle deliveries during the hours of 9:00 p.m. to 7:00 a.m.
  - c. There shall be no more than one (1) client's or customer's vehicle at any one time and no more than eight (8) per day at the home occupation site.
5. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7:00 a.m. to 9:00 p.m. only, except on Sundays, subject to subsections 1 and 5, above.
6. Prohibited Home Occupation Uses:
- a. Any activity that produces radio, TV, or other electronic 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, including garage sales exceeding the thresholds of a temporary use, is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business is allowed subject to 1-6, above.
  - c. The following uses and uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, are prohibited:
    - (1) Ambulance service;
    - (2) Animal hospital, veterinary services, kennels or animal boarding;
    - (3) Auto and other vehicle repair, including auto painting; and

**2.2 – Residential (R) Land Use Districts – Special Use Standards: Home Occupations**

- (4) Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.
- 7. Enforcement: The City Administrator may visit and inspect the site of a home occupation in accordance with this Chapter periodically to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice, in accordance with Chapter 1.5.

## 2.2 – Residential (R) Land Use Districts – Special Use Standards: Manufactured Homes

- F. Manufactured Homes.** Manufactured homes are permitted on individual lots, subject to all of the following design standards. Exception: The following standards do not apply to units that were lawfully placed within the City prior to the effective date of this Code.
1. Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet;
  2. Roof. The manufactured home shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees);
  3. Residential Building Materials. The manufactured home shall have exterior siding and roofing that in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing);
  4. Garages and Carports. If the manufactured home has a garage or carport, the garage or carport shall be constructed of materials like those used on the house;
  5. Thermal Envelope. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards is deemed to satisfy the exterior thermal envelope certification requirement. Additional manufacturer certification shall not be required;
  6. Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home;
  7. Foundation Skirt. The foundation area of the manufactured home shall be fully skirted;
  8. Prohibited. The manufactured home shall not be located in a designated historic district.

**G. Manufactured/Mobile Home Parks.** Manufactured/mobile home parks (not including recreational vehicles) are permitted on parcels of one (1) acre or larger, subject to applicable Fire Code requirements and compliance with subsections 1-6, below:

1. Creswell Butte Protection Area. To conform to the Comprehensive Plan limits on visual impact of developments on Creswell Butte, and to avoid problems associated with steep slopes and erosion and earthquake hazards, no Manufactured Home Park shall be allowed within the Creswell Butte Protection Area (see Chapter 1.3, Definitions).
2. Permitted uses: Single-family residences, manufactured home park manager's office, home occupations, and accessory structures that are necessary for the operation and maintenance of the manufactured dwelling park (e.g., landscape maintenance).
3. Space. The minimum size pad or space for each dwelling is 2,500 square feet, provided that the overall density of the park does not exceed 12 units per acre. Each space shall be at least 30 feet wide and 40 feet long, in accordance with ORS 446.100(c).
4. Setbacks and Building Separation. The minimum setback between park structures and abutting properties is 5 feet. The minimum setback between park structures and public street right-of-way is 15 feet. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than 5 feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than 6 feet to any other structure or dwelling, except that a double carport or garage may be built that serves 2 dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least 3 feet.
5. Perimeter landscaping. When manufactured dwellings are oriented with their back or side yards facing a public right-of-way, the City may require installation of fencing and planting of a fifteen (15) foot wide landscape buffer consistent with Section 3.2.300(F) between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.
6. Dwelling design (for parks smaller than 3 acres). Manufactured dwellings in parks smaller than 3 acres shall meet the following design standards, consistent with ORS 197.314(6):
  - a. The manufactured dwelling shall have a pitched roof with a slope not less than 3 feet in height for each 12 feet in width (14 degrees); and
  - b. The manufactured dwelling shall have exterior siding and roofing that in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered "superior" to metal siding and roofing);
  - c. Exception: Subsections a-b, above, do not apply to manufactured dwellings that were lawfully placed within the City of Creswell prior to the effective date of this ordinance.



**H. Multiple Family (Multi-Family) Housing.** Where multi-family housing is allowed, it shall conform to all of the following standards, which are intended to promote livability for residents and compatibility with nearby uses. Figure 2.2.200.H provides a conceptual illustration of the requirements listed below.

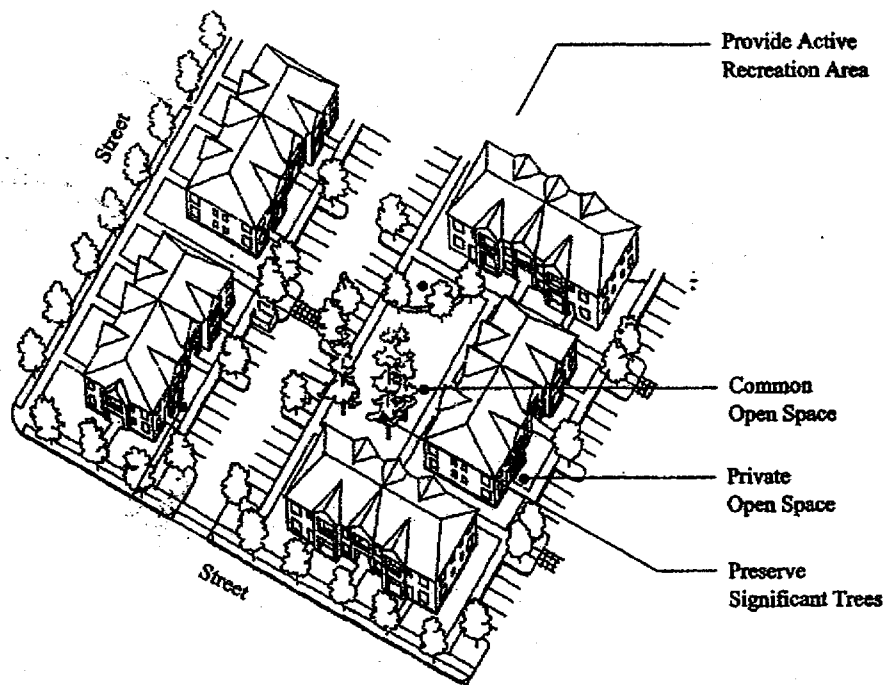
1. Building design. The architectural design standards under Section 2.2.190 apply.
2. Common open space. A minimum of ten (10) percent of the site area shall be designated and permanently reserved as common open space in all multiple family developments, in accordance with all of the following criteria:
  - a. The site area is defined as the lot or parcel on which the development to be located, after subtracting any required dedication of street right-of-way and other land for public purposes (e.g., public park or school grounds, etc.);
  - b. In meeting the common open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (e.g., trees preserved), play fields, outdoor playgrounds, outdoor sports courts, swim pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.
  - c. Historic buildings or landmarks within the project that are open to the public may count toward meeting the common open space requirements when approved by the Planning Commission.
  - d. To receive credit under Section 2.2.200.H, a common open space area shall have an average width that is not less than 20 feet and an average length that is not less than 20 feet;
  - e. The common open space requirement for projects in the Residential-Commercial District may be reduced by up to five (5) percent when a project contains an equivalent area with pedestrian amenities, as described under Section 3.1.300, between a primary building entrance(s) and adjoining street(s);
  - f. The approval body may waive the common open space requirement for the first 20 dwelling units in a multiple family project that is located within one-quarter mile (walking distance) of a public park, and there is a direct, accessible (i.e., Americans With Disabilities Act-compliant), lighted pedestrian walkway or multi-use pathway connecting the site to the park. If the park is not developed, or only partially developed, the approval body may require the multi-family housing developer to improve park land in an amount comparable to the open space that he or she would otherwise be required to provide in his or her development.
3. Private open space. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following criteria:
  - a. A minimum of 40 percent of all ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within 5 feet of the finished ground elevation

## 2.2 – Residential (R) Land Use Districts – Special Use Standards: Multiple Family Housing

(i.e., after grading and landscaping);

- b. A minimum of 40 percent of all upper-floor housing units shall have balconies or porches measuring at least 48 square feet. Upper-floor housing means housing units that are more than 5 feet above the finished grade; and
- c. In the Residential-Commercial District, multi-family dwellings are exempt from the private open space standard where the development contains pedestrian amenities located between all primary building entrance(s) and adjoining street(s).

**Figure 2.2.200H – Examples of Multiple Family Open Space**



4. Trash receptacles. Trash receptacles shall be oriented away from building entrances, setback at least ten (10) feet from any public right-of-way and adjacent residences and shall be screened with an evergreen hedge or solid fence or wall of not less than 6 feet in height. Receptacles must be accessible to trash pick-up trucks.

**2.2 – Residential (R) Land Use Districts – Special Use Standards: Short-Term Vacation Rentals**

**I. Short-Term Vacation Rentals.** Short-term vacation rentals shall conform to all of the following criteria:

1. Vacation rentals allowed under this subsection are those with 28 or fewer days continuous occupancy by the same tenant;
2. A Conditional Use Permit is required to operate one or more short-term vacation rentals in any RL or RM district;
3. The vacation rental unit shall provide two (2) off-street parking spaces, as is required for a Single-Family dwelling;
4. In the RL and RM districts, all required parking shall be provided on the same lot as the vacation home rental unit;
5. All vacation home rentals shall have a maximum occupancy of one person per 200 square feet or not more than 16 people, whichever is more restrictive; and
6. The scale, building materials, and colors of the building shall be consistent with the neighborhood.

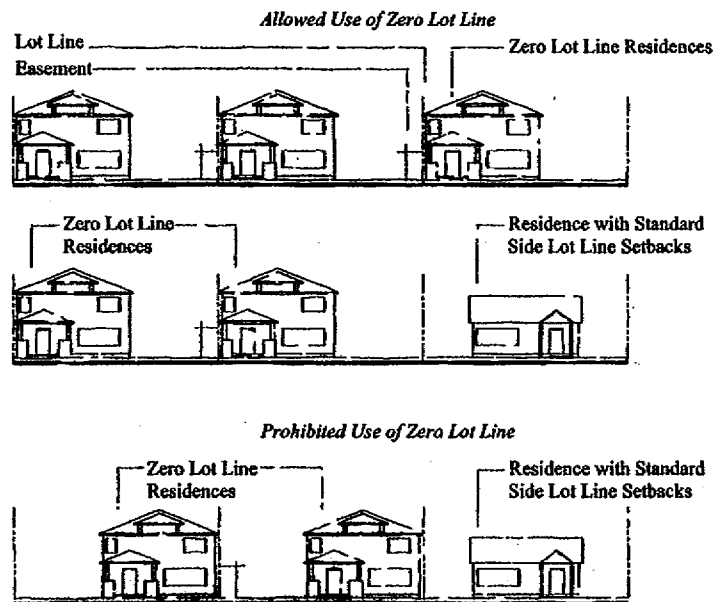
**J. Zero-Lot Line Housing.** Zero-lot line houses are subject to the same standards as non-attached single-family housing, except that a side yard setback is not required on one side of the lot, as generally shown in Figure 2.2.200.J. The standards for zero-lot line housing are intended to ensure adequate outdoor living area, compatibility between adjacent buildings, and access to side yards for building maintenance. All zero-lot line houses shall conform to all of the criteria in subsections 1-4, below:

1. Site Design Review Required. Site Design Review is required for new zero-lot line developments. When a zero-lot line development is proposed as part of a Land Division, Master Planned Development, or other application, the Site Design Review may be combined with the other application(s).
2. Setbacks for Primary and Accessory Structures. The allowance of a zero (0) side yard setback is for one single-family dwelling on each lot; it does not extend to accessory structures, which shall conform to the applicable setback requirements of the zone;
3. Setbacks Adjacent to Non-Zero Lot Line Development. When a zero-lot line house shares a side property line with a non-zero lot line development, the zero-lot line building shall be setback from that common property line by not less than ten (10) feet;

4. Building Orientation and Design. The building placement and/or design shall encourage privacy for the occupants of abutting lots. For example, this standard can be met by staggering foundation plans, by placing windows (along the zero lot line) above sight lines with direct views into adjacent yards, by using frosted/non-see-through windows, by avoiding placement of windows on the zero lot line, or other designs approved by the approval body through Site Design Review; and

5. Construction and Maintenance Easement. Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line house that guarantees access onto adjoining lot for the purpose of construction and maintenance of the zero-lot line house. The easement shall require that no fence or other structure shall be placed in a manner that would prevent maintenance of the zero-lot line house. The easement shall not preclude the adjoining owner from landscaping the easement area.

Figure 2.2.200.J – Zero-Lot Line Housing



- K. Modifications to Designated Historic Structures.** Proposals to alter, move, renovate, demolish or change the use of any historical structure, as defined by the Creswell Comprehensive Plan, shall be subject to review and approval by the Planning Commission through the Site Design Review procedure (Chapter 4.2). Planning Commission approval is required before such a change can be undertaken. For site plans related to modifications of historic structures, the Planning Commission must adopt findings, which shall include the following considerations:
- A. Whether the site, structure or object has maintained the required characteristics for historic significance.
  - B. Whether it has deteriorated or changed so as to become hazardous to public health, safety or welfare.
  - C. Whether historical significance will be substantially affected by the proposed change.
  - D. Whether the financial or other hardship to the owner in preserving the historic significance is outweighed by the public interest in preserving historic values.
  - E. Whether there are alternative ways in which historic values may be preserved if the proposed action is carried out.
  - F. Whether the proposed action or change will have any substantial economic, social, environmental or energy consequences and the affect of such consequences on the public and private interests involved.
  - G. Whether there are sources of compensation or financial assistance available to compensate the owner in the event that preservation of the property is recommended by the Planning Commission.

## Chapter 2.3 — Commercial Districts

### Sections:

- 2.3.100 Commercial Districts – Purpose**
- 2.3.110 Commercial Districts – Allowed Land Uses**
- 2.3.120 Commercial Districts – Development Standards**
- 2.3.130 Commercial Districts – Zero Setbacks and Build-To Line**
- 2.3.140 Commercial Districts – Lot Coverage and Impervious Surface**
- 2.3.150 Commercial Districts – Building Orientation and Commercial Block Layout**
- 2.3.160 Commercial Districts – Building and Structure Height; Bonus for Mixed-Use**
- 2.3.170 Commercial Districts – Architectural Design Standards**
- 2.3.180 Commercial Districts – Pedestrian and Transit Amenities**
- 2.3.190 Commercial Districts – Special Use Standards**

### **2.3.100 Commercial Districts – Purpose**

Commercial districts are centers of business and civic life. This Chapter provides two commercial districts to accommodate the range of commercial land uses in the community. The Downtown Commercial District is focused on the core commercial and civic (i.e., the central business area) of the community. The General Commercial District regulations apply to those commercial areas outside or adjacent to the central business area. Both districts are intended to:

- Promote efficient use of land and urban services;
- Create a mixture of land uses that encourages employment and housing options in close proximity to one another;
- Provide formal and informal community gathering places and opportunities for socialization (i.e., along an active street front);
- Encourage pedestrian-oriented development in all commercial areas;
- Create a distinct storefront character in the Downtown Commercial District;
- Provide connections to and appropriate transitions between residential areas and commercial areas;
- Apply land use and design standards to automobile-oriented and automobile-dependent uses that promote pedestrian safety, aesthetics, and economic development;
- Provide for visitor accommodations and tourist amenities;
- Encourage transit-supportive development to reduce reliance on the automobile and to minimize the need for off-street parking;
- Implement design standards that support a pedestrian-orientation, while maintaining and enhancing the City’s historic character.

2.3.110 Commercial Districts – Allowed Land Uses

Table 2.3.110 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are described and uses are defined in Chapter 1.3 and 1.4.

Table 2.3.110 – Land Uses Allowed in Commercial Districts ( DC, GC)			
7			
Uses	Status of Use in District		
Use Categories <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	Downtown Commercial (DC)	General Commercial (GC)	[Reserve]
<b>Residential Categories</b>			
<b>Household Living</b>			
All Residential Uses (Household Living and Group Living) allowed, if: <ul style="list-style-type: none"> <li>- lawfully existing as of <i>[effective date]</i>, or</li> <li>- new dwelling built in conjunction with a permitted commercial use (residential use is allowed <i>above</i> ground floor commercial only)</li> </ul> <i>Group Living Uses shall conform to the provisions in Section 2.2.200.</i>	P P	P CU	
<b>Commercial Categories</b>			
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 2.3.190	N	CU+S	
Bed and Breakfast Inn	P	P	
Educational Services, not a school (e.g., tutoring or similar services)	P	P	
Entertainment, Major Event	CU	CU	
Offices	P	P	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.3 – Commercial (C) Land Use Districts – Allowed Land Uses

<b>Table 2.3.110 – Land Uses Allowed in Commercial Districts ( DC, GC)</b>			
<b>7</b>			
<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Downtown Commercial (DC)</b>	<b>General Commercial (GC)</b>	<b>[Reserve]</b>
Outdoor Recreation, Commercial	CU	CU	
Parking Lot (when not an accessory use)	CU	CU	
Quick Vehicle Servicing or Vehicle Repair. (See also Drive-Up/Drive-In/Drive-Through Uses, per Section 2.3.190)			
- fully enclosed (e.g., garage)	CU	CU+S	
- not enclosed	N	CU+S	
Retail Sales and Service (See also Drive-Up Uses)	P	P	
Self-Service Storage	N	CU	
<b>Industrial Categories<sup>8</sup></b>			
Industrial Service (See also Drive-Up Uses)			
- fully enclosed (e.g., office)	CU	P	
- not enclosed	N	CU	
Manufacturing and Production			
- fully enclosed	CU	P	
- not enclosed	N	CU	
Warehouse and Freight Movement	N	CU	
Waste-Related	N	N	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted



2.3 – Commercial (C) Land Use Districts – Allowed Land Uses

Table 2.3.110 – Land Uses Allowed in Commercial Districts ( DC, GC) 7			
<i>Uses</i>	<i>Status of Use in District</i>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Downtown Commercial (DC)</b>	<b>General Commercial (GC)</b>	[Reserve]
Wholesale Sales			
- fully enclosed	CU	P	
- not enclosed	N	CU	
<b>Institutional Categories</b>			
Basic Utilities	P	P	
Colleges	CU	CU	
Community Service	P	P	
Daycare, adult or child day care; does not include Family Daycare (12 or fewer children) under ORS 657A.250	P	P	
Parks and Open Space			
- pedestrian amenities	P	P	
- parks and recreation facilities	P	CU	
- other open space	P	P	
Religious Institutions and Houses of Worship,			
- lawfully existing as of <i>[effective date]</i>	P	P	
- new	CU	CU	
Schools			
- lawfully existing as of <i>[effective date]</i>	P	P	
- new	CU	CU	

2.3 – Commercial (C) Land Use Districts – Allowed Land Uses

Table 2.3.110 – Land Uses Allowed in Commercial Districts ( DC, GC)			
7			
Uses	Status of Use in District		
Use Categories <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	Downtown Commercial (DC)	General Commercial (GC)	[Reserve]
<b>Other Categories<sup>9</sup></b>			
Accessory Structures (with a permitted use)	P	P	
Agriculture – Animals	N	N	
Agriculture – Nurseries and similar horticulture (See also, Wholesale and Retail Uses)	CU	CU	
Buildings and Structures Exceeding the Height Limits in Table 2.3.120	CU	CU	
Historic Building Modifications (Sec. 2.2.200.K)	S	S	
Mining	N	N	
Radio Frequency Transmission Facilities, except those allowed as ancillary to a primary permitted use	CU	CU	
Rail Lines and Utility Corridors, except those existing prior to effective date of Development Code are permitted.	CU	CU	
Temporary Uses (limited to "P" and "CU" uses), per Section 4.9.100.	P/CU	P/CU	
Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City's Transportation System Plan)	P	P	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

**2.3.120 Commercial Districts – Development Standards**

The development standards in Table 2.3.120 apply to all new structures, buildings, and development, and major remodels, in the Commercial Districts.

<b>Table 2.3.120 – Development Standards for Commercial Districts<sup>10</sup></b>			
<b>Standard</b>	<b>DC</b>	<b>GC</b>	<b>[Reserve]</b>
<p><b>Minimum Lot Area* (square feet)</b></p> <p>*Development must conform to lot width, depth, yard setback and coverage standards.</p>	No Standard	No Standard	
<p><b>Minimum Lot Width</b></p> <p>Single-family, not attached                      Single-family, attached                      Duplex                      Multiple-Family                      Non-Residential Uses</p> <p><i>For flag lots, width is measured at the front building line.</i></p>	<p>40 ft                      20 ft                      50 ft                      50 ft                      20 ft</p>	<p>40 ft                      20 ft                      50 ft                      50 ft                      20 ft</p>	
<p><b>Minimum Lot Depth</b></p>	2 times min. width	2 times min. width	
<p><b>Building/Structure Height*</b></p> <p>Maximum height</p> <p><u>Height Bonus</u> for Residential Use in Upper Building Story, per Section 2.3.160</p> <p><u>Building Height Transition</u> required adjacent to RL District, per Section 2.2.170</p>	<p>36 ft</p> <p>Additional 10 ft, provided adequate fire protection</p> <p>Yes</p>	<p>36 ft</p> <p>None</p> <p>Yes</p>	

2.3 – Commercial Land Use Districts – Development Standards

<b>Table 2.3.120 – Development Standards for Commercial Districts<sup>10</sup></b>			
<b>Standard</b>	<b>DC</b>	<b>GC</b>	<b>[Reserve]</b>
<p><u>Fences, Retaining/Garden Walls</u> (permitted only as necessary to screen or secure parking areas and outdoor storage areas, where such areas are allowed) Max. Height. – Front Yard Max. Height. – Interior Side Max. Height – Rear Yard Max. Height – Street Side or Reverse Frontage Lot (rear)</p> <p>(See also, Sections 3.1.2, Vision Clearance; and 3.2.500, Fences and Walls)</p>	<p>4 ft 6 ft 6 ft 4 ft, or 6 ft with 5 ft landscape buffer</p>	<p>4 ft 6 ft 6 ft 4 ft, or 6 ft with 5 ft landscape buffer</p>	
<p><b>Lot Coverage</b> (two options):</p> <p>1. Max. Building Coverage (Foundation plane as % of site area)</p>	<p>95%</p>	<p>90%</p>	
<p><b>Min. Landscape Area (% site area)</b>, <i>except</i> does not apply to Single-family Dwellings. Landscape area may include plant areas and some non-plant/hardscape areas, as allowed under Section 3.2.300.C.</p>	<p>5%</p>	<p>10%</p>	

2.3 – Commercial Land Use Districts – Development Standards

<b>Table 2.3.120 – Development Standards for Commercial Districts<sup>11</sup></b>			
<b>Standard</b>	<b>DC</b>	<b>GC</b>	<b>[Reserve]</b>
<p><b>Minimum Setbacks (feet)*:</b> (See also, Section 2.2.170, RL Height Step-Down; and Section 2.2.190.A, Drive-Up Facilities.)</p> <p><u>Front, Street, Side, and Rear</u> property lines, except garage or carport</p> <p><u>Garage/Carport/Service Bay Entry</u>, setback from street</p> <p><u>Alley</u></p> <p><u>Adjacent to RL District</u></p>	<p>0 ft</p> <p>20 ft, or greater as may be required through CUP</p> <p>3 ft</p> <p>10 ft, and per Section 2.2.170</p>	<p>0 ft</p> <p>20 ft, or greater as may be required through CUP</p> <p>3 ft</p> <p>10 ft, and per Section 2.2.170</p>	
<p><b>Build-To Line (feet)*:</b> <u>New Buildings Only:</u> At least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except where a greater setback is required for a Planned Street Improvement, then the build-to line increases proportionately. The build-to line may also be increased through Site Design Review when pedestrian amenities are provided between a primary building entrance and the street right-of-way. (See also, Sections 2.3.170 and 2.3.180.)</p>	<p>5 ft; may be increased when pedestrian amenities are provided between a primary building entrance and street</p>	<p>60 ft; may be increased when a shopping street connects the primary building entrance(s) to the street, per Section 2.3.160</p>	
<p>*Additional street setbacks beyond those required by Section 2.3.120 may apply, as required by the City of Creswell Transportation System Plan (TSP), or the TSP of other road authority(ies), for the purpose of maintaining a clear area for planned future street improvements.</p>			

**2.3.130 Commercial Districts – Zero Setbacks and Build-To Line**

**A. Zero Setbacks and Build-To Line – Purpose; Fire Code; and Clear Vision.**

Zero setbacks and build-to lines, as provided in Table 2.3.120, are intended to encourage pedestrian-oriented development, while providing more flexibility in site design than what is possible with large setbacks. With buildings placed close to the street, a development can afford good access for emergency service providers in the case of a fire or other emergency. Where no minimum setback is required, all structures and buildings shall conform to the vision clearance standards in Chapter 3.1 and the applicable fire and building codes (e.g., for attached structures, fire walls, and related requirements).

**B. Setback Yards – Reverse Frontage Lots**

Buildings on reverse-frontage lots (through lots), or lots that front onto more than one street, shall be required to meet the build-to line standard on only one street. The Planning Commission may require that the build-to line apply to the highest order street. Reverse frontage lots are subject to the fence height and setback requirements in Section 2.3.120 and the landscape buffer requirements in Chapter 3.2.300.

**C. Setback Yards – Flag Lots**

The front yard of a flag lot shall conform to one of the following two options:

1. parallel to the street from which access is taken, or
2. parallel to and abutting the flag pole from which access is taken.

The applicant for a building permit may choose either Option 1 or Option 2, except as otherwise prescribed by conditions of a partition or subdivision approval. [Note: The City may impose such conditions as provided under Section 2.2.140 and Section 4.3.115.]

**2.3.140 Commercial Districts – Lot Coverage**

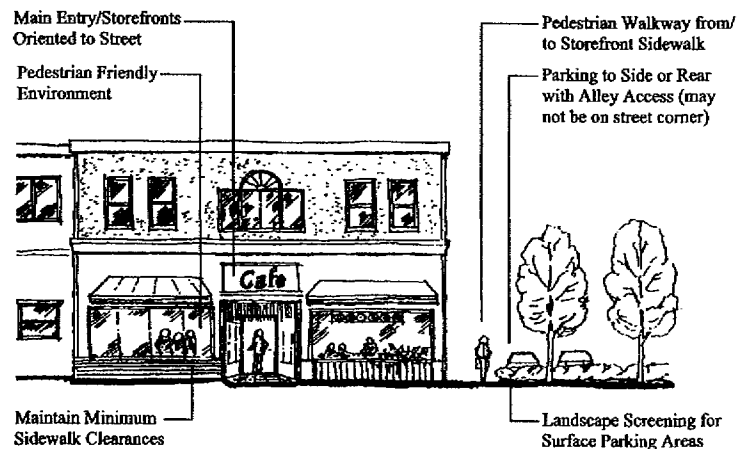
Lot coverage is calculated as provided under Table 2.3.120.

2.3.150 Commercial Districts – Building Orientation and Commercial Block Layout

- A. **Purpose.** Section 2.3.150 orients buildings close to streets to promote pedestrian-oriented development where walking is encouraged, and to discourage automobile-oriented development. Placing residences and other buildings close to the street also encourages crime prevention, natural surveillance or security, and safety by having more “eyes-on-the-street.”
- B. **Applicability.** Section 2.3.150 applies to projects that are subject to Site Design Review or Land Division Review, including those reviewed as part of a Master Planned Development.
- C. **Building orientation standards.** Developments subject to this Section shall have their buildings oriented to a street, as generally shown in Figure 2.3.150.C(1). This standard is met when all of the following criteria are met:

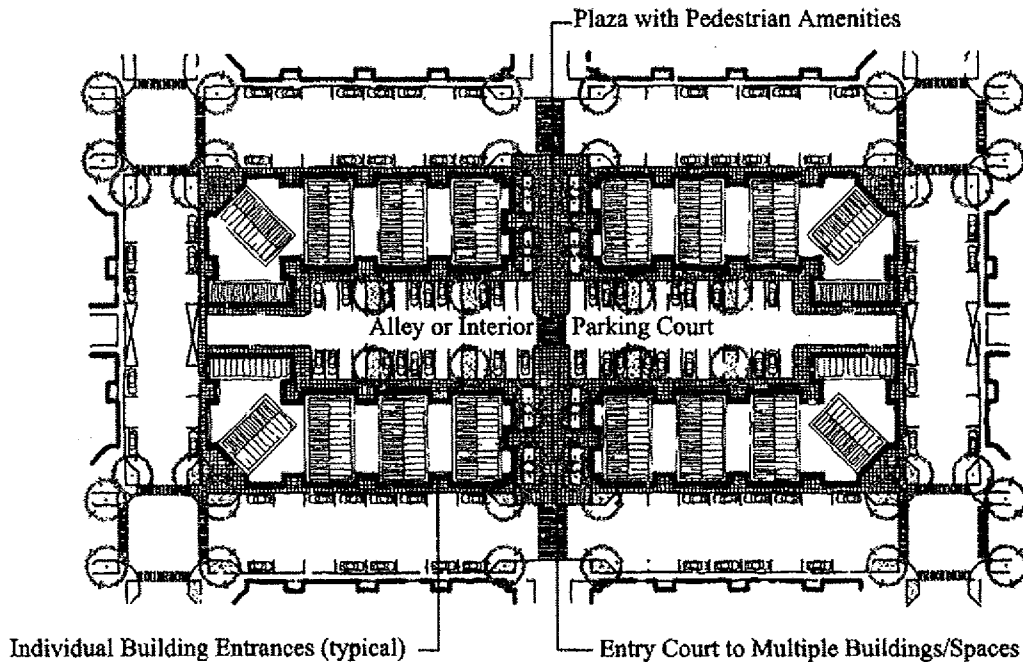
- 1. Compliance with the setback and build-to line standards in Section 2.3.120, where applicable. The build-to line may be setback to provide pedestrian amenities between a building and its adjoining street;
- 2. Except as provided in subsections 2.3.150.C(4) and (5), below, all buildings shall have at least one primary building entrance (i.e., dwelling entrance, a tenant entrance, lobby entrance, or breezeway/courtyard entrance) facing an adjoining street (i.e., within 45 degrees of the street property line), or if the building entrance is turned more than 45 degrees from the street (i.e., front door is on a side elevation), the primary entrance shall not be more than 20 feet from a street sidewalk in the DC District and not more than 60 feet in the GC District, except to provide pedestrian amenities; a walkway shall connect the primary entrance to the sidewalk.

Figure 2.150.C(1) – Building Orientation



- 3. In the DC District, off-street parking, driveways, and other vehicle areas shall not be placed between buildings and the street(s) to which they are oriented; except as allowed under subsection 2.3.150.C(4). Off-street parking in the DC District shall be oriented internally to the site, with parking bays separated by landscaping, as generally shown in Figure 2.3.150.C(2). Bays shall contain no more than 24 parking spaces per bay.

Figure 2.3.150.C(2) – Building Orientation With Internal Parking



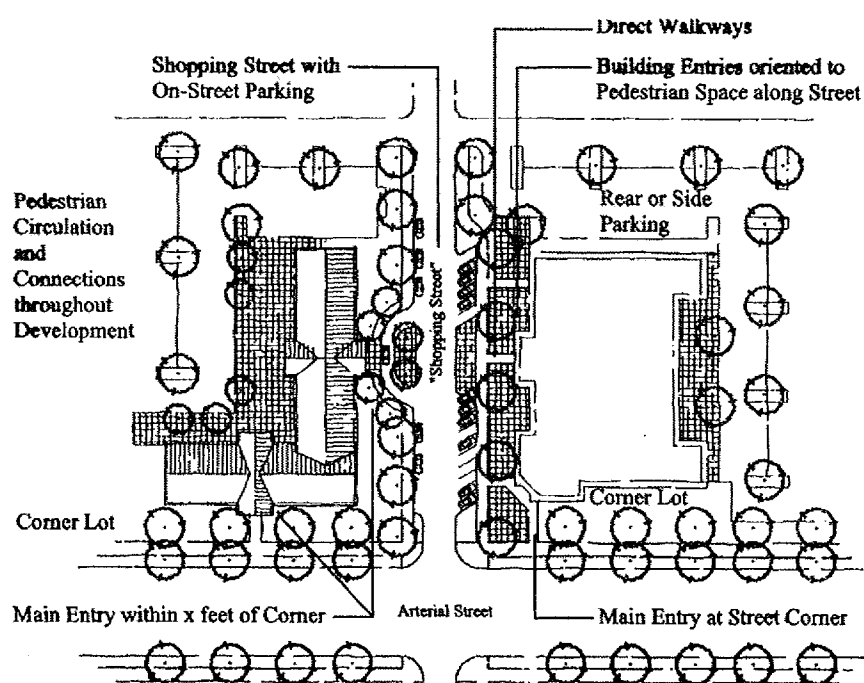
4. In the GC District, the building orientation standard may be met with vehicle areas allowed between the street right-of-way and a building's primary entrance when the approval body finds that the following criteria are met:
  - a. Placing vehicle areas between the street right-of-way and building's primary entrance will not adversely affect pedestrian safety and convenience, based on the distance from the street sidewalk to the building entrance, projected vehicle traffic volumes, and available pedestrian walkways;
  - b. The proposed vehicle areas are limited to one driveway of not more than 20 feet in width with adjoining bays of not more than eight (8) consecutive parking spaces per bay (including ADA accessible spaces) on the side(s) of the drive aisle. (The intent of which is to create a drive aisle that is street-like, and break up parking into small bays with landscaping); and
  - c. The building's primary entrance is connected to an adjoining street by a pedestrian walkway that meets the standards for pedestrian walkways under Section 3.1.3.
  
5. Where a development contains multiple buildings and there is insufficient street frontage to which buildings can be oriented, a primary entrance may be oriented to common green, plaza, or courtyard. When oriented in this way, the primary entrance(s) and green, plaza, or courtyard shall be connected to the street by a pedestrian walkway meeting the standards in Section 3.1.3.



**D. Block Layout (Pedestrian-Orientation) Standard.** Developments containing more than one building, including commercial subdivisions containing outlying commercial pads, shall meet all of the following standards:

1. The site shall be configured into blocks that have frontage onto streets, interior parking courts (as generally shown in Figure 2.3.150.C(2), above), or shopping streets (as generally shown in Figure 2.3.150.C(3), below). All parking courts and shopping streets shall contain on-street parking bays (parallel or angled parking), street- or court-facing building entrances and entrances at or near (i.e., within 40 feet of) block corners, sidewalks, street trees, and pedestrian lighting;
2. Blocks shall not exceed 400 feet in length, and shall have a perimeter not exceeding 1,400 feet. Pedestrian walkways inside buildings are not counted as block edges;
3. Pedestrian pathways shall connect the street right-of-way to building entrances and the interior parking courts between buildings, as necessary to ensure reasonably safe, direct, and convenient access to building entrances and off-street parking;

**Figure 2.3.150.C(3) – Shopping Street Example**

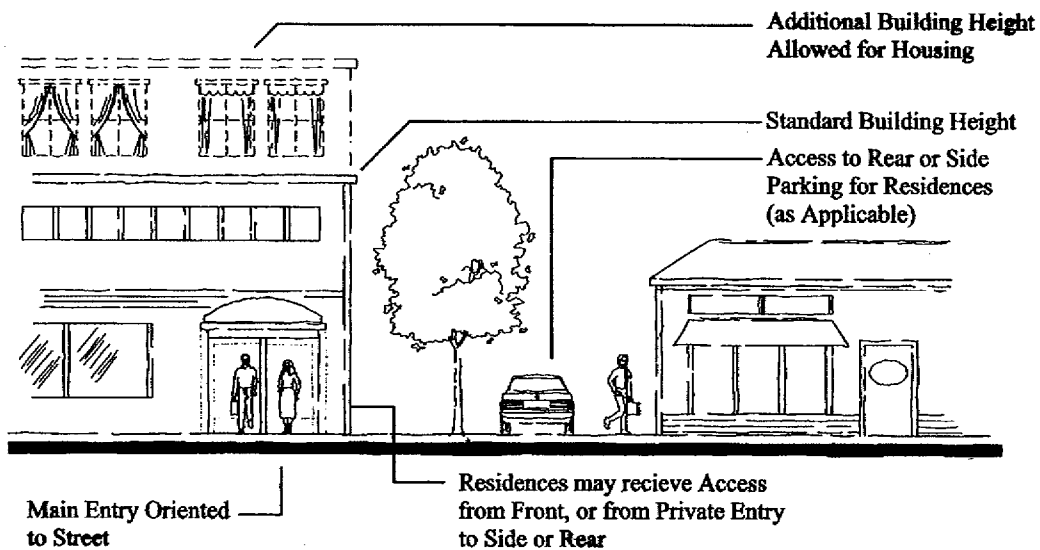


**2.3.160 Commercial Districts – Building and Structure Height; Bonus for Mixed-Use**

**A. Method of Measurement.** Building and structure heights shall conform to the standards in Table 2.3.120. Height is measured in conformance with Section 2.2.170. Where a height transition (RL height step-down) is required, it shall conform to the standards in Section 2.2.170C.

**B. Height Bonus for Housing.** The building height in the Downtown Commercial District may be increased by ten (10) feet when housing is provided above ground floor commercial use(s), as generally shown in Figure 2.3.160B, and fire protection standards are met. Where a second egress is required for fire safety, residences may have their entrances/egress oriented to any yard; such entrances need not be oriented to the street yard.

**Figure 2.3.160B - Building Height Bonus for Housing**



**2.3.170 Commercial Districts – Architectural Design Standards**

- A. Purpose.** The purpose of Section 2.3.170 is to promote the public health, safety, and welfare by requiring at least a minimum level of design on every building. The design standards are intended to promote architectural compatibility and harmony within the commercial districts. The standards are also intended to provide for human-scale design and street visibility from, while affording flexibility to use a variety of building styles.
- B. Applicability.** Except for existing historic structures, all major remodels and new buildings in the commercial districts shall meet the standards of subsections 2.3.170.C-E. The standards are applied through Site Design Review) prior to building permit review. The applicant demonstrates that the standards are met by complying with the criteria under each standard. Remodels of, or additions to, designated historic residential structures are subject to the requirements under Section 2.2.200.K. The provisions of Section 2.3.170 may be adjusted through the Design Performance Option in Section 4.2.510.
- C. Pedestrian-Oriented.** The design of all buildings on a site shall support a safe and attractive pedestrian environment. This standard is met when the approval body finds that all of the criteria in 1-7, below, are met. Alternatively, the approval body may approve an alternate design under Section 4.2.510 upon finding that the proposed design equally or better achieves the above standard.
1. The building orientation standards under Section 2.3.150 are met; and
  2. Primary building entrances shall open directly to the outside and, if not abutting a street, shall have walkways connecting them to the street sidewalk; every building shall have at least one primary entrance that does not require passage through a parking lot or garage to gain access; and
  3. Corner buildings (i.e., buildings within 20 feet of a corner as defined by the intersecting curbs) shall have corner entrances, or shall provide at least one entrance within 20 feet of the street corner or corner plaza; and
  4. At least 20 percent of the building's front façade (measured horizontally in linear feet) in the GC District, and 50 percent of the front façade in the DC District, shall be located at the build-to line or closer to the street; build-to lines are prescribed by Section 2.3.120; and
  5. Ground floor windows or window displays shall be provided along at least 30 percent of the building's (ground floor) street-facing elevation(s) in the GC District, and 50 percent of the street-facing elevation in the DC District. Design elements such as large regularly spaced and similarly shaped windows with window trim, and with transom or clerestory windows above building entrances are counted; windows and display boxes shall be integral to the building design and not mounted to an exterior wall; and
  6. In the DC District, windows shall cover no more than 80 percent of the ground floor

### 2.3 – Commercial Land Use Districts – Architectural Design Standards

façade area, and shall not begin less than 18 inches or more than 30 inches above the sidewalk (except transom windows). Second and third story windows shall match the vertical and horizontal character of ground level windows.

7. Street-facing elevations shall be designed with weather protection, such as awnings, canopies, overhangs, or similar features. Such weather protection shall project a minimum of four (4) feet and a maximum of eight (8) feet over sidewalks or other pedestrian space; and
8. Drive-up and drive-through facilities, when allowed, shall conform to Section 2.3.190; the provisions of which shall *not* be modified without a variance (Chapter 5.1).

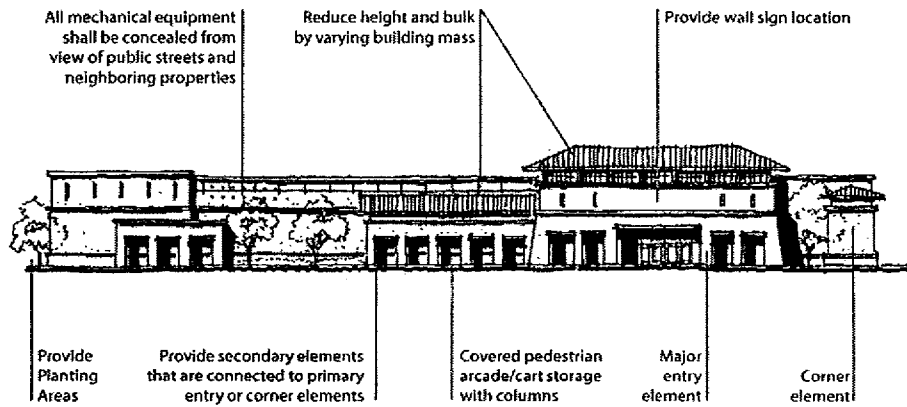
**D. Compatibility.** All new buildings and major remodels shall be designed consistent with the architectural context in which they are located. This standard is met when the approval body finds that all of the criteria in 1-7, below, are met.

1. There is continuity or effective transitions in building sizes between new and existing buildings;
2. The ground floor and upper floor elevations and architectural detailing are compatible with adjacent commercial buildings;
3. Buildings adjacent to the RL district, meet the height step-down provisions under Section 2.2.170.C.
4. Roof elevation is compatible with adjacent commercial buildings (roof pitch, shape, height step-down);
5. There is continuity in the rhythm of windows and doors on the proposed building(s);
6. The relationship of buildings to public spaces, such as streets, plazas, other areas, and public parking, including on-street parking, is strengthened by the proposed building(s);
7. The materials, colors, and architectural style are compatible with Creswell's character. Compatible materials include masonry, tile, stucco, split face concrete blocks, or wood. Unadorned poured or tilt-up concrete or metal siding are not allowed. Where blank walls are required for structural reasons, all such walls visible from public streets shall include a combination of architectural elements and features such as offsets, entry treatments, patterns of varied materials and colors, decorative murals and divisions into bays, or similar features.

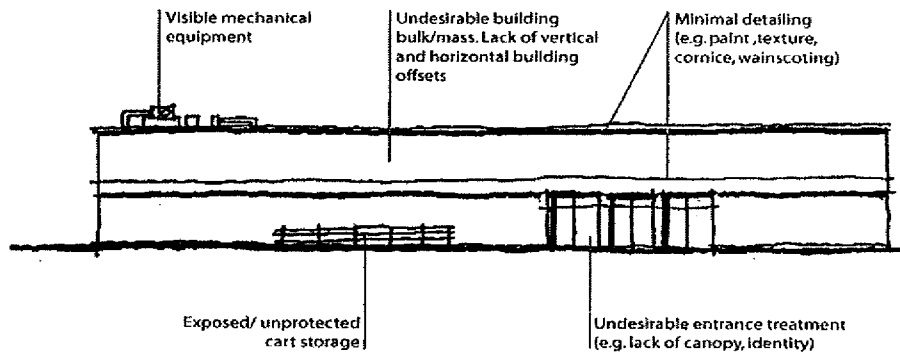
- E. Human Scale.** The design of all buildings shall be to a human-scale. This standard is met when the approval body finds that all of the criteria in 1-6, below, are met. Alternatively, the approval body may approve a different design upon finding that the design contains an equally good or superior way of achieving the above standard. Figure 2.3.170.D contrasts examples of building elevations that are consistent/inconsistent with human scale criteria.
1. Regularly spaced and similarly-shaped windows are provided on all building stories;
  2. Ground floor retail spaces have tall ceilings (i.e., 12-16 feet) with display windows on the ground-floor;
  3. Display windows are trimmed, recessed, or otherwise defined by wainscoting, sills, water tables, or similar architectural features;
  4. On multi-story buildings, ground floors are defined and separated from upper stories by appropriate architectural features (e.g., cornices, trim, awnings, canopies, arbors, trellises, overhangs, or other features) that visually identifies the transition from ground floor to upper story; such features should be compatible with the surrounding architecture;
  5. The tops of flat roofs are treated with appropriate detailing (i.e., cornice, pediment, flashing, trim, or other detailing) that is compatible with the surrounding architecture;
  6. Pitched roofs have eaves, brackets, gables with decorative vents, or other detailing that is consistent with the surrounding architecture;
  7. Historic design and compatibility requirements under Section 2.2.140.C, where applicable, are met; and

8. Where buildings with greater than 10,000 square feet of enclosed ground-floor space are proposed, they shall provide articulated facades on all street-facing elevations. This criterion is met when an elevation contains at least one of the following features for every 40 feet of building (horizontal length): windows; primary entrances; weather protection (awnings, canopies, arbors, trellises), building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; ornamentation; screening trees; small-scale lighting (e.g., wall-mounted lighting, or up-lighting); and/or similar features as generally shown in Figure 2.3.170.D. See also, subsection 2.3.170.C.

**Figure 2.3.170.D – Examples of Design Elements on Large Commercial Buildings**



**Large Commercial Massing - Acceptable**



**Large Commercial Massing - Unacceptable**

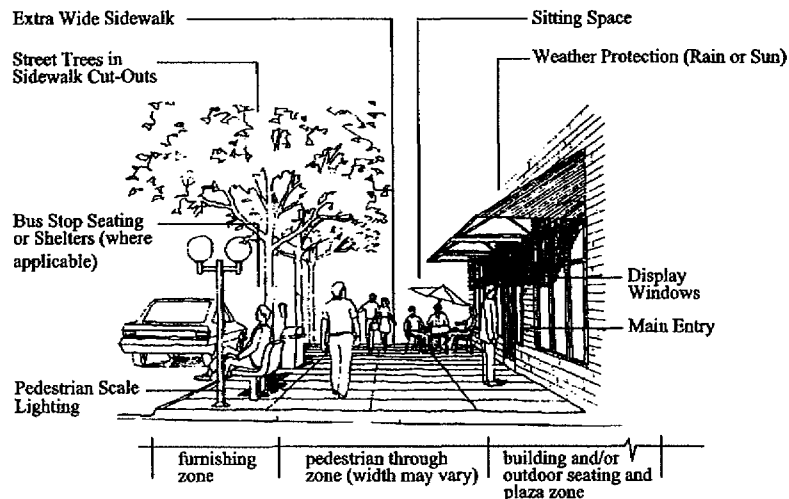
**2.3.180 Commercial Districts – Pedestrian and Transit Amenities**

**A. Purpose and Applicability.** Section 2.3.180 provides standards for pedestrian amenities when pedestrian amenities are required as part of new developments and major remodels in the DC District, and when pedestrian amenities are provided to meet the requirements of other code sections. Pedestrian amenities serve as informal gathering places for socializing, resting, and enjoyment along street frontages, and they support the community’s public safety and transportation objectives through natural surveillance and a walkability.

**B. Standards.** New developments and major remodels in the DC District and other developments subject to the provisions of this section shall provide one (1) or more of the “pedestrian amenities” listed below, and as generally illustrated in Figure 2.3.180.B. Pedestrian amenities may be provided within a street furnishing zone, building frontage zone, or plaza, or within the pedestrian through zone, as shown in Figure 2.3.180.B, provided that applicable minimum clearance and ADA standards are met. Use of the public right-of-way requires approval by the roadway authority.

1. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance with a minimum width of six (6) feet;
2. Sitting space (i.e., dining area, benches, garden wall or ledges between the building entrance and sidewalk) with a minimum of 16 inches in height and 30 inches in width;
3. Building canopy, awning, pergola, or similar weather protection (minimum projection of 4 feet over a sidewalk or other pedestrian space);
4. Public art that incorporates seating (e.g., fountain, sculpture).
5. Transit amenity, such as bus shelter, per the standards of the transit service provider, as applicable.

**Figure 2.3.180 – Examples of Pedestrian and Transit Amenities**



**2.3.190 Commercial Districts – Special Use Standards**

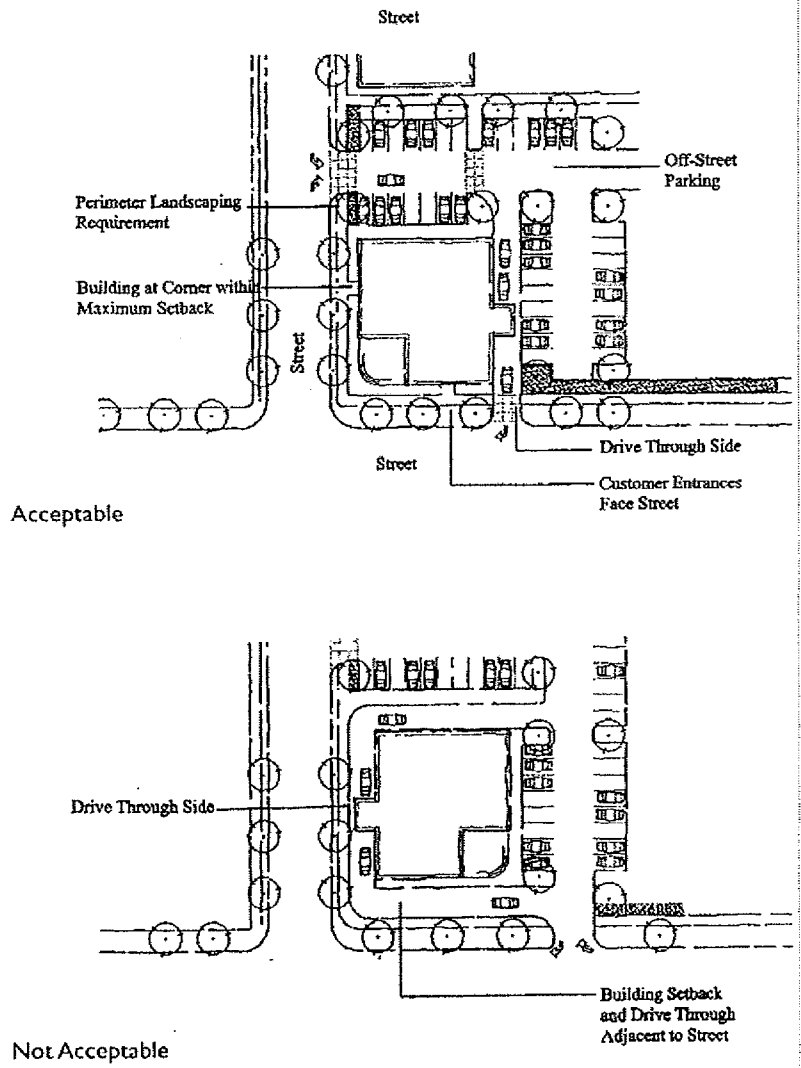
This section supplements the standards contained Sections 2.3.110 through 2.3.180. It provides standards for drive-up and Drive-through Uses and Facilities

**A. Drive-Up/Drive-In/Drive-Through Uses and Facilities.**

When drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, and protect pedestrian comfort and safety.

1. The drive-up/drive-through facility shall orient to an alley, driveway, or interior parking area, and not a street [Figure 2.3.190.A(1)];
2. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) are located within 20 feet of a street and shall not be oriented to a street corner. (Walk-up only teller machines and kiosks may be oriented to a street or placed adjacent to a street corner);
3. Drive-up/in queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way; and
4. The minimum spacing of drive-up, drive-in, and drive-through facilities receiving access onto the same street is 400 linear feet along that street's block face (same side of street).

**Figure 2.3.190.A(1) – Drive-Up and Drive-Through Facilities**





## Chapter 2.4 —Industrial (I) Districts

### Sections:

- 2.4.100 Industrial Districts – Purpose**
- 2.4.110 Industrial Districts – Allowed Uses**
- 2.4.120 Industrial Districts – Setback Yards and Buffering**
- 2.4.130 Industrial Districts – Lot Coverage**
- 2.4.140 Industrial Districts – Site Layout and Design**
- 2.4.150 Industrial Districts – Building and Structure Height**

### **2.4.100 Purpose**

Chapter 2.4 accommodates a range of industrial and commercial land uses in two Industrial Districts, Industrial Commercial (IC) and General Industrial (GI). Both districts are intended to provide for land use compatibility while providing a high-quality environment for businesses and employees. The GI district is also intended to provide suitable locations for heavy industrial uses (e.g., raw materials processing; and manufacturing, assembly, packaging or distribution of heavy or large goods) that would not otherwise be compatible in other districts. Chapter 2.4 guides the orderly development of industrial areas based on the following objectives:

- Provide for efficient use of land and public services;
- Provide appropriately zoned land with a range of parcel sizes for industry;
- Provide transportation options for employees and customers;
- Locate business services close to major employment centers;
- Ensure compatibility between industrial uses and nearby commercial and residential areas;
- Provide appropriate design standards to accommodate a range of industrial users;
- Provide attractive locations for business to locate; and
- Accommodate mixed-use development of light industrial areas.

**2.4.110 Land Uses Allowed in the Industrial Districts**

Table 2.4.110 identifies the land uses that are allowed in the Industrial Districts. The specific land use categories are described and uses are defined in Chapter 1.3 and 1.4.

<b>Uses</b>	<b>Status of Use in District</b>	
	<b>General Industrial (GI)</b>	<b>Industrial Commercial (IC)</b>
<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>		
<b>Residential Categories</b>		
<b>Household Living</b>		
All Residential Uses (Household Living and Group Living) allowed, if:  <ul style="list-style-type: none"> <li>- lawfully existing as of [effective date], or</li> <li>- new dwelling built in conjunction with a permitted commercial or industrial use (residential use is allowed above ground floor only)</li> </ul> <i>Group Living Uses shall conform to the provisions in Section 2.2.200.</i>	P  N	P  P
<b>Commercial Categories</b>		
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 2.3.190.A for uses in IC District	P	S
Bed and Breakfast Inn	N	N
Educational Services, not a school (e.g., tutoring or similar services)	N	CU
Entertainment, Major Event	N	CU
Offices	P	P
Outdoor Recreation, Commercial	N	CU
Parking Lot (when not an accessory use)	CU	CU
Quick Vehicle Servicing or Vehicle Repair (See also Drive-Up Uses)	P	S

2.4 – Industrial (I) Land Use Districts – Permitted Uses

Uses	Status of Use in District	
Use Categories <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	General Industrial (GI)	Industrial Commercial (IC)
Retail Sales and Service,  - less than 10,000 square feet floor area  - greater than 10,000 square feet floor area, per Section 2.4.140  See also, Drive-Up Uses	CU  N	P  CU+S
Self-Service Storage	P	CU
<b>Industrial Categories<sup>12</sup></b>		
Industrial Service (See also Drive-Up Uses)  - fully enclosed (e.g., office)  - not enclosed	P  P	P  CU
Manufacturing and Production  - fully enclosed  - not enclosed	P  P	P  CU
Warehouse and Freight Movement	P	CU
Waste-Related	CU	N
Wholesale Sales, per Section 2.4.140  - fully enclosed  - not enclosed	S  S	S  CU+S
<b>Institutional Categories</b>		
Basic Utilities	P	P

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.4 – Industrial (I) Land Use Districts – Permitted Uses

Uses	Status of Use in District	
	General Industrial (GI)	Industrial Commercial (IC)
<b>Use Categories</b> (Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)		
Colleges	N	CU
Community Service	CU	CU
Daycare, adult or child day care; does not include Family Daycare (12 or fewer children) under ORS 657A.250	N	CU
<b>Parks and Open Space</b>		
- pedestrian amenities	P	P
- parks and recreation facilities	CU	CU
- other open space	P	P
<b>Religious Institutions and Houses of Worship,</b>		
- lawfully existing as of [effective date]	P	P
- new	N	CU
<b>Schools</b>		
- lawfully existing as of [effective date]	P	P
- new	N	N
<b>Other Categories<sup>13</sup></b>		
Accessory Structures (with a permitted use)	P	P
<b>Agriculture – Animals, when</b>		
- existing use as of [effective date]	P	P
- accessory to a permitted industrial use	P	N
- new use	N	N
<b>Agriculture – Nurseries and similar horticulture</b> (See also, Wholesale and Retail Uses)	P	CU
<b>Buildings and Structures Exceeding the Height Limits in Table 2.3.120</b>	CU	CU
<b>Mining</b>	CU	N

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 2.2.210)
- CU = Conditional Use permit required (Chapter 4.4)
- N = Not permitted

2.4 – Industrial (I) Land Use Districts – Permitted Uses

Uses	Status of Use in District	
Use Categories <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	General Industrial (GI)	Industrial Commercial (IC)
Radio Frequency Transmission Facilities <ul style="list-style-type: none"> <li>- within height limit of district</li> <li>- exceeds height limit (free-standing or building-mounted facilities)</li> </ul>	P  CU	P  CU
Rail Lines and Utility Corridors, except those existing prior to effective date of Development Code are allowed.	CU	CU
Temporary Uses (limited to "P" and "CU" uses), per Section 4.9.100.	P/CU	P/CU
Transportation Facilities (operation, maintenance, preservation, and construction in accordance with the City's Transportation System Plan)	P	P

**2.4.120 Industrial Districts – Setback Yards; Industrial Buffers**

**A. Purpose.** Setback yards and buffers provide separation between industrial and non-industrial uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation.

**B. Applicability.** The setback yard and buffer standards in subsections 2.4.120.C-F are minimum standards that apply to buildings, accessory structures, parking areas, mechanical equipment, and other development, but not buffers as required under subsection F). In granting a Conditional Use Permit, the approval body may increase the standard yards and/or buffers consistent with the criteria in Chapter 4.4. The approval body may also decrease the standard yards and/or buffers through the CUP process, provided that all applicable building and fire safety codes (subsection G) are met.

**C. Front and Street Yard Setbacks.**

1. General Industrial (GI) District: Minimum of 20 feet;
2. Industrial-Commercial (IC) District: Minimum of 10 feet

**D. Rear Yard Setbacks.**

A minimum of 10 feet is required where an Industrial district abuts a Commercial district or another Industrial district, except common wall buildings with zero-setback are allowed. Fire Codes must be met. Where abutting a Residential District, a minimum of 30 feet, and conformance with the RL height step-down standards in Section 2.2.170.C, is required.

**E. Side Yard Setbacks.** There are no required side-yard setbacks, except a minimum of 30 feet and conformance with the RL height step-down standards in Section 2.2.170.C is required when an Industrial District (GI or IC) abuts an RL District.

**F. Buffering Other Yard Requirements.**

1. Buffering. The approval body may require landscaping, fences, walls or other buffering that exceed the landscaping standards in Chapter 3.2 when it finds through Site Design Review (Chapter 4.2), Conditional Use Permit review (Chapter 4.4), and/or Master Planned Development review (Chapter 4.5), as applicable, that more or different buffering is necessary mitigate adverse noise, light, glare, and/or aesthetic impacts to adjacent properties.
2. Pedestrian Access. The approval body may require the construction of pedestrian access ways through required buffers to ensure pedestrian connections within large developments, between multiple development phases, or connecting to public sidewalks, walkways, or multi-use pathways. Access way design shall conform to Section 3.1.300.

## **2.4 – Industrial (I) Land Use Districts – Lot Coverage; Site Layout and Design; Building and Structure Height**

### **2.4.130 Industrial Districts – Lot Coverage**

- A. General Industrial (GI) District:** Maximum lot coverage, 90 percent; maximum area of impervious surfaces, 90 percent.
- B. Industrial Commercial (IC) District:** Maximum lot coverage, 80 percent; maximum area of impervious surfaces, 80 percent.

### **2.4.140 Industrial Districts – Site Layout and Design**

- A. Development Compatibility.** Industrial uses and developments shall be oriented on the site to minimize adverse impacts (e.g., noise, glare, smoke, dust, exhaust, vibration, etc.) and to provide compatibility with adjacent uses to the extent practicable. The following standards shall apply to all development in the General Industrial and Industrial Commercial Districts:
  - 1. Mechanical equipment, lights, emissions, shipping/receiving areas, and other components of an industrial use that are outside enclosed buildings, shall be located away from residential areas, schools, parks and other non-industrial areas to the maximum extent practicable; and
  - 2. The City may require a landscape buffer, or other visual or sound barrier (fence, wall, landscaping, or combination thereof), to mitigate adverse impacts that cannot be avoided, as provided in Section 2.4.120.
- B. Large-Scale Commercial Development – IC District Only.** Developments containing 40,000 square feet or more commercial, retail, wholesale, or office floor area in an Industrial-Commercial (IC) District shall have pedestrian-oriented design. This standard is satisfied when the approval body finds that a development meets the all of the following criteria:
  - 1. The architectural standards in Section 2.3.170 are met on all buildings. For the purpose of meeting the build-to line standards in subsection 2.3.170.B(4), the build-to line is parallel to all abutting street property lines at a distance of 20 feet from the street property line; and
  - 2. Developments containing more than one building, including commercial or industrial subdivisions containing outlying commercial pads, shall meet the commercial block layout standards in Section 2.3.150.D.
- C. Landscape Area –** Minimum 5 percent of site in GI and 10 percent of site in I-C.

### **2.4.150 Industrial Districts – Building and Structure Height**

The maximum allowable height of buildings and structures in the GI and IC districts is 35 feet, except that taller buildings and structures are allowed when approved as part of a Conditional Use Permit, provided they conform to the RL height step-down standards in Section 2.2.170.C.

## Chapter 2.5 — Park, Recreation or Open Space (PRO-S) District

### Sections:

<b>2.5.100</b>	<b>Purpose</b>
<b>2.5.200</b>	<b>Permitted Uses</b>
<b>2.5.300</b>	<b>Conditional Uses</b>
<b>2.5.400</b>	<b>Development Standards and Requirements</b>

### **2.5.100 Purpose**

- A. It is the purpose of this zone to preserve and protect park, recreation and open space lands that contribute to the general welfare and safety, the full enjoyment or the economic well-being of persons who reside, work or travel in, near or around them.
- B. This zone may be established, when found necessary, in order:
  - 1. To preserve any existing open land type of use that has been established or is proposed; to encourage development around it, such as a golf course, country club, park and recreation facility, etc., and investments have been or will be made in reliance upon the retention of such open type use.
  - 2. To buffer an otherwise incompatible use or zone.
  - 3. To preserve and maintain wetlands, creeks, natural drainage ways, lakes (natural or artificial) areas unsuitable for intensive development by virtue of physical limitations and environmental control areas for the protection of resource areas and wildlife habitat.
  - 4. To preserve a valuable scenic vista or an area of historical significance.
  - 5. To preserve sensitive lands.
- C. When establishing this zone, due regard shall be given the percentage of a total holding being zoned, the investment made or proposed to be made by private or public interests in reliance upon the retention of the open space, the proper balancing of public and private interest that are affected by such action.
- D. When used as a buffer, the land being zoned as a PRO-S District shall be part of the holding that creates the necessity for the buffer.
- E. In each instance, when this zone is established, the Planning Commission and City Council must establish the findings and purpose for establishment of the zone or the values to be obtained, encouraged or preserved.



**2.5.200 Permitted Uses**

- A. Public parks and playgrounds.
- B. Golf courses and country clubs, if compatible with the stated purposes of adoption.
- C. Historical areas, structures, interpretive signs and monuments.
- D. Natural features and vistas unique to the urban growth area.
- E. Community and Recreation Centers.
- F. Accessory structures and uses normal and incidental to uses permitted in this Section.
- G. Agricultural uses.
- H. Recreational facilities, to include tennis courts, swimming pools, etc., which may be indoor or outdoor.
- I. Nature preserves, land trusts, and conservation areas.
- J. Wetland and/or wildlife mitigation areas.
- K. Interpretive signs.
- L. Benches.
- M. Trails and pathways.
- N. Lights.

**2.5.300 Conditional Uses**

- A. Private recreation uses involving no above ground structure except dressing rooms, swimming pool covers, recreation shelters or comfort stations.
- B. Cemeteries, provided the only accessory buildings are chapels, administration and maintenance buildings and the only interment facilities are at ground level or below, and no mounds extend above ground level.
- C. Public and semi-public buildings related to health and safety services—fire stations, substations, reservoirs, waste water treatment facilities—essential to the physical, social and economic welfare of the area.
- D. Equestrian arenas, trails and paths and support facilities.

**2.5.400 Development Standards and Requirements**

Trails and pathways shall be constructed according to Chapter 3.1 Access and Circulation or as specified as a condition of approval for a Conditional Use Permit or a Planned Unit Development Permit.

## Chapter 2.6 — Public Facilities District

**Sections:**

- 2.6.100 Purpose**
- 2.6.200 Allowed Land Uses**
- 2.6.300 Development Standards**
- 2.6.400 Vision Clearance**
- 2.6.500 Parking**
- 2.6.600 Solar Access**
- 2.6.700 Signs**
- 2.6.800 Landscaping**
- 2.6.900 Loading Standards**

**2.6.100 Purpose**

It is the purpose of this zone to provide for the public and quasi-public structures and services necessary for the operation, minimum health and safety, and desired present and future quality of life for the City of Creswell.

**2.6.200 Allowed Land Uses**

Table 2.6.200 identifies the land uses that are allowed in the Public Facilities District. The specific uses are defined in Chapter 1.4 however, uses consistent with the purpose of the district but not included in Chapter 1.4 may also be allowed.

<i>Uses</i>	<i>Status of Use in District</i>
<b>Institutional Categories</b>	
Basic Utilities	
Colleges	
Schools	
Government Buildings	
Fire station or substation	
Airport	
Community Services	CU
Museums and Interpretive Centers	CU
Libraries	CU
High impact recreation facilities such as sports complexes, stadiums, equestrian arenas, golf courses, and swimming pools.	CU
Bus or train terminal	CU

**2.6.300 Development Standards**

Except as otherwise provided in this Section, the development standards in Table 2.6.300 apply to all uses, structures, buildings, development, and major remodels in this zone. Heights of conditional use structures that are not buildings shall be reviewed through the conditional use permit process. See Article 3 for additional development standards.

<b>Table 2.6.300 Development Standards for Public Facilities District</b>	
<b>Standard</b>	
<b>Minimum Lot Area* (square feet)</b>  *Development must conform to lot width, depth, yard setback and coverage standards.	No Standard
<b>Minimum Lot Width</b>  For flag lots, width is measured at the front building line.	No Standard
<b>Minimum Lot Depth</b>	No Standard
<b>Building/Structure Height*</b> Maximum Height	36 ft.
Building Height Transition required adjacent to RL District, per section 2.2.170	Yes
<b>Lot Coverage</b>  When minimum loading space, parking, and setbacks are provided	100%
<b>Minimum Landscape Area (% site area)</b>	10%

**2.6.400 Vision Clearance**

Vision clearance shall be provided in accordance with Section 3.1.200(N).

**2.6.500 Parking**

Off-street parking shall be provided in accordance with Chapter 3.3.

**2.6.600 Solar Access**

For the purpose of protecting solar access, the north side setback shall be sufficient to insure that the proposed structure shall not shade the south facing walls and/or the rooftops of permitted buildings in the Residential Districts, nor the rooftops of permitted buildings in the Commercial Districts, nor the protected area of adjacent vacant north lots in the Residential Districts between the hours of 9:30 a.m. and 2:30 p.m. on December 21<sup>st</sup>.

The Planning Commission during site review may grant exceptions to this setback requirement allowing the shading of all or a portion of the south facing walls, rooftops, or protected areas, after finding that substantial difficulties exist with respect to topography, north facing slopes, unusual lot configurations and orientation and practical building design.

**2.6.700 Landscaping**

Landscaping shall be consistent with Chapter 3.2 Landscaping, Street Trees, Fences and Walls.

**2.6.800 Loading Standards**

All necessary loading spaces for public facilities shall comply with Section 3.3.500 Loading Areas.

## Chapter 2.7 — Flood Plain (FP) Overlay

### Sections:

- 2.7.100 Purpose**
- 2.7.200 Designation of Special Flood Hazard Areas**
- 2.7.300 Designation of the Administrator**
- 2.7.400 Provisions for Flood Hazard Reduction**
- 2.7.500 Review of all Proposed Construction Required**
- 2.7.600 Criteria and Standards**
- 2.7.700 Site Investigation Report**
- 2.7.800 General Requirements**
- 2.7.900 Grading, Excavating and Filling - General Requirements**
- 2.7.910 Variances**
- 2.7.920 Fees**

### **2.7.100 Purpose**

The FP Flood Plain Overlay designation shall be applied in any zone hereinafter set forth where the area is subject to inundation by flooding shall be shown on the Creswell Flood Hazard Map and the Creswell Zoning Map, which designate regulated floodways and areas subject to a one (1) percent or 100-year flood. Its purpose is to minimize property loss, danger of injury and health hazards. To accomplish such purposes, floor elevations will be established by the City prior to issuing any building permits.

- A. The Flood Plain Overlay establishes special concern requirements for the placement and construction of buildings and development site improvements in areas that may be subject to flooding or surface water in order to safeguard the life and health of people in the area of the general public.
- B. The Flood Plain Overlay shall be any zone in combination with the symbol "FP" as an overlay district of special concern. (For example, R/FP means a Residential Zone with combining Flood Plain District regulations.)
- C. The regulations governing the /FP Overlay shall be those of the zone in which it lies and additionally, the provisions of this Section applicable to the development.

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

**2.7.200 Designation of Special Flood Hazard Areas**

- A. The area of Creswell's jurisdiction within the flood hazard area identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Lane County Oregon and incorporated cities, dated June 2, 1999, with accompanying Flood Insurance Maps, is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the Creswell City Hall. The City Council may adopt subsequent Flood Insurance Maps and studies and make them applicable without a change to this Ordinance.
  
- B. In areas where base flood elevations have not been provided in accordance with Section A above, the Planning Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer this Section. When only approximate flood information is available, the property owner shall be cautioned that the property is within an identified flood hazard area.

**2.7.300 Designation of the Administrator**

The Planning Director is hereby authorized as administrator, having authority to make all necessary inquiries and determinations to obtain assurances that compliance with this Section is achieved. In areas of special flood hazard, the Planning Director may review all development proposals to determine that the requirements of this Section have been satisfied and that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C 1334. Where applicable, a requirement to obtain such permits can be made a condition for approval of any application within areas of flood hazard.

**2.7.400 Provisions for Flood Hazard Reduction - Development Permits**

All structures being erected, repaired, or relocated in areas of special flood hazard must first obtain a development permit. The degree of flood hazard will dictate precautions that must be taken to protect the structure and contents from base flood levels unless exempted by the current state building code or amendments. A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 2.7.2 A. The development permit shall be for all structures including manufactured homes, as set forth in Section 22 of this Ordinance, and for all development including fill and other activities, also as set forth in Section 22 of this Ordinance.

Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for development permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs or past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

**2.7.500 Review of All Proposed Construction Required**

Notwithstanding any other provision of this Ordinance, any proposed construction or development within any area of special flood hazard shall require review to assure compliance with the provisions of Sections 2.7.600 through 2.7.900 of this Ordinance. Review to assure compliance with the provisions of Sections 2.7.600 through 2.7.900 of this Ordinance shall include a conditional use permit process for all development proposed within any area of special flood hazard as identified in the Creswell Flood Hazard Map. Where other review is required, (i.e., site review or conditional use review triggered by the base zone) the determination of compliance with the standards of Sections 2.7.600 through 2.7.900 may be combined with and made part of that review.

**2.7.600 Criteria and Standards**

Development Permits, Site Review Approval, Conditional Use Permits and other land use approvals for development within the flood hazard area may be approved by the Planning Director, the Planning Commission or the City Council (whichever is appropriate) after determination that:

- A. The proposed development site will not during potential future flooding be so inundated by flood water so as to result in injury to property or to the health, safety and welfare of residents or potential residents of the immediate area as well as the general public (for example those that might be exposed to flood damage by needing to travel on roads through areas experiencing flooding or those who might suffer impacts from debris carried by flood waters).
- B. All new construction, relocation or substantial improvements of structures within "FP" areas shall have the lowest floor (including basement and mechanical systems) elevated to at least one (1) foot above the 100-year flood level. Non-residential structures may be floodproofed in lieu of the elevation of the lowest floor. Flood proofing plans shall be prepared by an engineer licensed by the State of Oregon to practice civil or structural engineering.
- C. No improvements are proposed that will have a serious tendency to change the flow of surface water during potential future flooding so as to endanger the health, safety and welfare of residents or potential residents or other property in the area.
- D. That emergency vehicles such as ambulances, police and fire will have access to the site during occurrence of any such flooding, for the purpose of evacuating residents or inhabitants of any residential structures or living quarters within the Flood Plain area.
- E. The lowest floor elevation, (including basement and mechanical systems) foundation elevation, ground elevation or top of floodproofing elevation required in conjunction with building permit issuance shall be certified in mean sea level datum by a Land Surveyor and the certification filed with the City Recorder. The certifications must be filed within 30 days of completion of that part of the structure to be certified. An unsatisfactory certification will not be accepted. Failure to comply will represent a Creswell Code infraction.



- F. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages and shall be constructed with materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- G. All new and replacement water supply and sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sewage systems shall also be designed to minimize or eliminate discharge from the systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- H. All proposals shall be consistent with the need to minimize flood damage, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage and shall have adequate drainage provided to reduce exposure to flood damage. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated by the applicant for proposals and other proposed developments that contain at least 50 lots or 5 acres (whichever is less).
- I. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this criteria must either be certified by a registered engineer or architect or meet or exceed the following minimum criteria:
  - 1. A minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
  - 2. The bottom of all openings shall be not higher than one (1) foot above grade.
  - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

**2.7.700 Investigation Report**

As a part of the review prior to approval, a site investigation report shall be required that provides information on the site of the development and adjacent land that is likely to be affected. Site Investigation Reports will require third party review at the expense of the applicant. The site investigation report shall provide topographic information of the area in sufficient detail to assess accurately potential flooding elevations based on the recognized definition of area flood potential; identify existing natural drainage ways and potential drainage ways; and other characteristics of the area and their significance as related to the proposed

development flooding potential. A description of whether and the extent to which a watercourse will be altered or relocated as the result of proposed development shall be included in the report. The report also may serve to refine boundaries shown on the Comprehensive Plan and/or Zoning Map that classify land areas within the Flood Plain Overlay. In an effort to site structures as far away from any watercourses and protected areas as possible, the report shall include elevations of the 10-year and 50-year floods and location of any proposed structures in relation to these elevations. The purpose of including and mapping these elevations is to show that risk has been minimized to the greatest extent possible. The report shall comply with the standards for the kind of area being investigated and the kind of development being proposed.

The site investigation report shall be prepared by a person or team of persons qualified by experience and training to assemble and analyze physical conditions in a flood potential area. The person or team shall be employed by the applicant but shall be subject to approval as to qualifications by the City. The site investigation report shall also be reviewed by a qualified third party as retained by the City. The comments and recommendations of the third party reviewer shall be incorporated into the findings prepared by the City.

#### **2.7.710 Alterations and Relocations of Watercourses**

- A. Generally, no alterations or relocations of watercourses should be allowed unless the primary function of the action is to restore ecological functioning. Alteration or relocation requires approval of the U.S. Army Corps of Engineers (ACE) and possibly the Department of State Lands (DSL). If a watercourse is to be altered or relocated, notice shall be provided to adjacent properties, Department of Environmental Quality (DEQ), and Oregon Department of Fish and Wildlife (ODFW). Proof of notification and required state and federal permits shall be submitted to the Federal Insurance Administration.
- B. When an alteration or relocation does occur, maintenance within the altered or relocated portion of the watercourse shall be provided so the flood carrying capacity is not diminished.
- C. Alterations or relocations, including stabilization projects, shall not degrade fish and wildlife habitat or the physical processes that create and maintain habitat, or cause increased flood hazard or erosion to other properties and shall be subject to the following provisions:
  - 1. Any culverts that are used on fish-bearing streams must conform with ODFW standards for fish passage and protection.
  - 2. Bridges or other crossing must allow for uninterrupted downstream movement of wood and gravel, must be close to perpendicular to the stream as possible, be designed to minimized fill and to pass 100-year flood flows allowing full channel migration and conveyance of 100-year flood water flows.
  - 3. Alterations must maintain natural meander patterns, channel complexity and floodplain connectivity. Such characteristics must be restored as part of the alteration.
  - 4. The applicant shall identify the channel migration zone for the stream at the project site

and for a reasonable reach upstream and downstream of the site, and shall not undertake actions as part of the alteration that would in any way inhabit the channel.

5. Wherever feasible as part of an alteration, existing culverts not in compliance with ODFW fish habitat requirements must be removed or replaced with those meeting the standards.
6. Alteration projects shall not result in blockage of side channels. If at the time of alteration there are known barriers to fish passage into side channels, they shall be removed.
7. If man-made side channels are part of an alteration project for irrigation, industrial, or similar purposes they shall be adequately screened and conform to all state and federal requirements.

#### **2.7.800 General Requirements**

A. In a special flood hazard area where base flood elevations have not been established:

1. The applicant shall be notified that the building site is in an Approximate Study Flood Hazard Area and extra precautions may be appropriate to assure that the building site will be reasonably safe from flooding.
2. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. All manufactured homes must be anchored to prevent flotation, collapse, or lateral movement, shall be installed using methods and practices that minimize flood damage, and shall be installed within 30 days of placement. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors and shall be installed in a manner to comply with State standards.
3. A time extension to the tie-down requirement may be granted for hardship by the Building Official between May and October based on written appeal. A request shall contain a time schedule for achieving compliance and an agreement not to remonstrate against enforcement action for failure to comply.
4. Require that development greater than 50 lots or five acres, whichever is the lesser, include within such proposals base flood elevation data.

B. Where base flood elevation data is provided through the Flood Insurance Study or required as in Section 2.7.200.B, the City shall:

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not

the structure contains a basement.

2. For all new or substantially improved floodproofed structures:
  - a. Verify and record the actual elevation (in relation to mean sea level), and
  - b. Maintain the floodproofing certifications required in Section 2.7.200.A.
3. Maintain for public inspection all record pertaining to the provisions of this Section.
4. Apply the following standards for construction and improvements of residential structures other than manufactured homes (see subsection 6 below).
  - a. Require that all construction and substantial improvements of residential structures have the lowest floor (including the basement and mechanical systems) elevated to one (1) foot above the base flood elevation. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
  - b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - (2) The bottom of all openings shall be no higher than one foot above grade.
    - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
5. Apply the following standards to all construction and improvements of non-residential structures:
  - a. Require that all new construction and substantial improvements of nonresidential structures have the lowest floor (including the basement and mechanical systems) elevated to one (1) foot above the base flood elevation; or
  - b. Require that, together with attendant utility and sanitary facilities, all new construction and substantial improvements of nonresidential structures shall:

- (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
  - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
  - (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in this Section.
  - (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in part 2.7.800.B.4.b. of this Section.
  - (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level.)
6. Apply the following standards to all construction and improvements of manufactured homes:
- a. All manufactured homes must be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over the top or frame tie to ground anchors.
  - b. All manufactured homes to be placed or substantially improved within Zones A1-A30, AH, and AE on sites:
    - (1) Outside of a manufactured home park or subdivision,
    - (2) In a new manufactured home park or subdivision,
    - (3) In an expansion to an existing manufactured home park or subdivision, or
    - (4) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as the result of a flood;Shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one (1) foot about the base flood elevation and

be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

- c. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-A30, AH, and AE that are not subject to the above manufactured home provisions be elevated so that either:

- (1) The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
- (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- 7. Require that all recreational vehicles placed on sites within Zones A1-30, AH, or AE either:

- a. Be on the site for fewer than 180 consecutive days,
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions or
- c. Meet the permit requirements in Section 2.7.400 and the anchoring requirements for manufactured homes.

- C. In all designated regulatory floodways the City shall:

- 1. Require that no partitions or land divisions be permitted, if the development site for the structure is inside the floodway boundary or unless an engineering analysis can demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood levels during the occurrence of a base flood discharge. The analysis shall also be reviewed by a qualified third party as retained by the City. The comments and recommendations of the third party reviewer shall be incorporated into the findings prepared by the City.
- 2. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

3. Mobile homes on single lots or in new or improved mobile home parks or subdivisions are prohibited in designated regulatory floodways.
- D. Replacement in kind shall comply with standards for new construction.
- E. Requirements of this Section shall not apply when specifically waived in accordance with Federal or State laws governing the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places.
- F. Development permitted under this subsection shall also be subject to the requirements of Sections 2.7.800.A2 and B.
- G. Adjacent communities and the Department of Land Conservation and Development shall be notified prior to any alteration or relocation of a watercourse, and evidence of such notification shall be furnished to the Federal Insurance Administration.
- H. Maintenance shall be required within the altered or relocated portion of altered or relocated watercourses so that the flood carrying capacity is not diminished.

**2.7.900 Grading, Excavating and Filling - General Requirements**

All areas identified as special flood hazard are subject to the following:

- A. No development will occur within 50 feet of any primary or secondary stream channel, including but not exclusive to the Coast Fork of the Willamette River, Camas Swale and Hill Creek and no swale or other low area necessary to discharge water downstream during periods of flooding shall be obstructed unless a grading plan is approved in accordance with Article 3.
- B. Channel improvement or bank protection shall be performed only after receiving approval of a site review permit.
- C. The site review permit shall not authorize any work that is not in compliance with local zoning or other local, state or federal regulations pertaining to the operations authorized by the permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under the site review permit.
- D. Require that in riverine situations, adjacent communities and Division of State Lands State Coordinating Officer be notified prior to any alteration or relocation of a watercourse, and that copies of such notification be submitted to the Federal Administrator.
- E. That the flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

**2.7.910 Variances**

- A. The issuance of the variance described in this Section is for flood plain management purposes only and is generally limited to a lot size less than one-half acre. Insurance premium rates are determined by statute and will not be modified by the granting of a variance.
- B. Variances shall not be issued by the City within any designated regulatory floodway if any increase in base flood discharge would result.
- C. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- D. Variances shall only be issued by the City upon showing good and sufficient cause based on scientific technical data compiled by a surveyor, engineer or architect submitted by the applicant. There must be a determination that failure to grant the variance would result in exceptional hardship to the applicant. It must be determined that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with local laws or ordinances.
- E. In all cases, the applicant is charged with the responsibility of obtaining all technical or other evidence for review and filing.
- F. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- G. The applicant shall be notified in writing that:
  - 1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and,
  - 2. Such construction below the base flood level increases risks to life and property.
- H. Records will be maintained on all variance actions, including justification for their issuance, and reported in the annual or biennial report submitted to the Administrator.
- I. Variances may be issued for new construction and substantial improvements and for other development necessary for conduct of a functionally dependent use provided that items C through H of Section 2.6.910 are met and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.



**2.7.920 Fees**

Fees established by the resolution of the City Council for the floodplain permits or variances will be required by this Section to defray the cost of processing the application.

## Chapter 2.8 — Airport (A) Overlay

### Sections:

- 2.8.100 Purpose**
- 2.8.200 Imaginary Surface and Noise Impact Boundary Delineation**
- 2.8.300 Height Limitations on Allowed Uses in Underlying Zone**
- 2.8.400 Procedures**
- 2.8.500 Land Use Compatibility Requirements**
- 2.8.600 Water Impoundments within Approach Surfaces**
- 2.8.700 Wetland Mitigation, Creation, Enhancement and Restoration within Area Regulated in Chapter 2.8, Airport Overlay**
- 2.8.800 Nonconforming Uses**
- 2.8.900 Avigation Easement**

### **2.8.100 Purpose**

The purpose of the Airport Overlay District is to encourage and support the continued operation of Creswell Municipal Airport (Hobby Field) by establishing compatibility and safety standards to promote air navigational safety and to mitigate the impact of the airport on surrounding land uses. The Airport Overlay shall be used in conjunction with the underlying district, which shall control the primary land use but is subject to the additional standards and limitations imposed by this Overlay. All Overlay approaches and zones shall be consistent with the Airport Layout Plan currently approved and/or adopted, and hereafter amended and updated.

### **2.8.200 Imaginary Surface and Noise Impact Boundary Delineation**

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, approach surface, horizontal surface, conical surface and transitional surface are delineated for the area and maps are available at the Creswell City Hall. All lands, waters, and airspace, or portions thereof, that are located within these boundaries or surfaces are subject to the requirements of this Overlay.

### **2.8.300 Height Limitations on Allowed Uses in Underlying Zone**

All uses permitted by the underlying zone must comply with the height limitations in this Section. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations shall apply.

- A. Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth is permitted to penetrate an airport imaginary surface.
- B. For areas within airport imaginary surfaces but outside the approach and transition surfaces, where the terrain is at higher elevations than the airport runway surfaces such that existing structures and permitted development penetrate or would penetrate the airport imaginary surfaces, a local government may authorize structures up to 35 feet in height.

- C. Other height exceptions or variances may be permitted when supported in writing by the airport sponsor, the Department of Aviation, and the FAA. Applications for height variances must follow the procedures for other variances in Chapter 5.1, Variances, and are be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.

#### **2.8.400 Procedures**

Refer to Chapter 4.1, Types of Review Procedures, for materials to be included with building permits, development permits, or any other permits or approval required by this Ordinance. In addition to those requirements, the following shall be submitted:

- A. A map or drawing showing the location of the property in relation to the airport imaginary surfaces. The City Administrator will provide the applicant with appropriate base maps upon which to locate the property.
- B. Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.
- C. If a height variance is requested, letters of support from the airport sponsor, the Department of Aviation, and the FAA.

#### **2.8.500 Land Use Compatibility Requirements**

Applications for development or building permits for properties within the boundaries of this Overlay zone must comply with the requirements of this Section as provided herein.

- A. Noise within Noise Impact Boundaries. Within airport noise impact boundaries, land uses must be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels must be attached to any subdivision or partition approval or other land use approval or building permit affecting land within airport noise impact boundaries. In areas where the noise level is anticipated to be at or above 55 Ldn (also abbreviated DNL by some sources), prior to issuance of a building permit for construction of a noise sensitive land use (real property normally used for sleeping or as a school, church, hospital, public library or similar use), the permit applicant is be required to demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn.
- B. Outdoor lighting. No new or expanded industrial, commercial, or recreational use is permitted to project lighting directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel. Lighting for these uses must incorporate shielding in their designs to reflect light away from airport approach surfaces. No use is permitted to imitate airport lighting or impede the ability of pilots to distinguish between airport lighting and other lighting.
- C. Glare. No glare producing material, including but not limited to unpainted metal or reflective

glass, is permitted to be used on the exterior of structures located within an approach surface or on nearby lands where glare could impede a pilot's vision.

- D. Industrial emissions. No new industrial, mining, or similar use, or expansion of an existing industrial, mining, or similar use is permitted to cause emissions of smoke, dust, or steam as a part of its regular operations that could obscure visibility within airport approach surfaces, except upon demonstration, supported by substantial evidence, that mitigation measures imposed as approval conditions will reduce the potential for safety risk or incompatibility with airport operations to an insignificant level. The review authority may impose such conditions as necessary to ensure that the use does not obscure visibility.
- E. Communications Facilities and Electrical Interference. No use is permitted to cause or create electrical interference with navigational signals or radio communications between an airport and aircraft. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this Overlay zone must be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radiocommunication towers on leased property located within airport imaginary surfaces are to be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security is required to ensure this result.
- F. Bird Strike Hazards. Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as create bird strike hazards.
- G. Use prohibitions and development standards in Runway Protection Zone (RPZ).  
Notwithstanding the underlying zoning, the following land use limitations apply to the RPZ:
1. New residential development is prohibited.
  2. Public assembly facilities are prohibited.
- H. Landfills. No new sanitary landfills, sewage lagoons, sewage sludge disposal facilities or similar facilities are permitted within 5,000 feet from any airport runway used by only piston-type aircraft or within 10,000 feet of any airport runway used by turbojet aircraft. Expansions of existing landfill or sewage treatment or disposal facilities within these distances are permitted only upon demonstration that the landfills are designed and will operate so as not to increase the likelihood of bird/aircraft collisions. Timely notice of any proposed expansion must be provided to the airport sponsor, Aviation and the FAA, and any approval must be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.

#### **2.8.600 Water Impoundments within Approach Surfaces**

Any use or activity that would result in the establishment or expansion of a water impoundment must comply with the requirements of this Section. No new or expanded water impoundments of

one-quarter acre in size or larger are permitted:

- A. Within an approach surface and within 5,000 feet from the end of a runway; or
- B. On land owned by the airport sponsor that is necessary for airport operations.

**2.8.700 Wetland Mitigation, Creation, Enhancement and Restoration within Area Regulated in Chapter 2.8, Airport Overlay**

- A. Notwithstanding the requirements of this Ordinance, wetland mitigation, creation, enhancement or restoration projects located within areas regulated under this Chapter are allowed upon demonstration of compliance with this requirements of this Section. When conflicting provisions exist, the more restrictive provision applies.
- B. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this Ordinance and located within areas regulated under this Chapter are recognized as lawfully existing uses.
- C. To help avoid increasing safety hazards to air navigation near public use airports, the establishment of wetland mitigation banks in the vicinity of such airports but outside approach surfaces is encouraged.
- D. Applications to expand wetland mitigation projects in existence as of the effective date of this Ordinance, and new wetland mitigation projects, that are proposed within areas regulated under this Chapter are to be considered utilizing the review process applied to applications for Chapter 4.4, Conditional Use Permits, and are permitted upon demonstration that:
  - 1. It is not practicable to provide off-site mitigation; or
  - 2. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an approach surface.
- E. Wetland mitigation permitted under subsection D must be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or approach surfaces.
- F. Applications to create, enhance, or restore wetlands that are proposed to be located within approach surfaces or within areas regulated under this Chapter, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, must be considered utilizing the review process applied to applications under Chapter 4.4, Conditional Use Permits, and are permitted upon demonstration that:
  - 1. The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge; and

2. The wetland creation, enhancement or restoration is designed and will be maintained in perpetuity in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.
- G. Proposals for new or expanded wetland mitigation, creation, enhancement, or restoration projects regulated under this Section must be coordinated with the airport sponsor, the Department of Aviation, the FAA and FAA's technical representative, the Oregon Department of Fish & Wildlife (ODFW), the Oregon Department of State Lands (DSL), the US Fish & Wildlife Service (USFWS), and the US Army Corps of Engineers (Corps) as part of the permit application.
- H. A decision approving an application under this Section must require, as conditions of approval, measures and conditions deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and approach surfaces.

**2.8.800 Nonconforming Uses**

- A. These regulations are not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations may not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance. Chapter 5.2, Non-Conforming Uses and Developments, governs non-conforming uses and developments.
- B. Notwithstanding subsection A, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation or Airport owner, must install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation or Airport owner, so that the structures become more visible to pilots.
- C. No land use or limited land use approval or other permit can be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on the effective date of this Ordinance.

**2.8.900 Avigation Easement**

Within this Overlay zone, the owners of properties that are the subjects of applications for land use or limited land use decisions, for building permits for new residential, commercial, industrial, institutional or recreational buildings or structures intended for inhabitation or occupancy by humans or animals, or for expansions of such buildings or structures by the lesser of 50% or 1,000 square feet, must, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor. The avigation easement must be in a form acceptable to the airport sponsor and must be signed and recorded in the deed records of the County. The avigation easement must allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. Property owners or their representatives are responsible for providing the recorded instrument prior to issuance of building permits.

## Chapter 2.9 — Resort Commercial (R/C) Overlay

### Sections:

- 2.9.100 Purpose**
- 2.9.200 Permitted Uses**
- 2.9.300 Height Restrictions**
- 2.9.400 Planned Unit Development Procedures Required**

### **2.9.100 Purpose**

The Resort Commercial Overlay is intended to designate those areas identified by the Creswell Comprehensive Plan as suitable for accommodating large-scale concentrations of recreationally-oriented uses. It is the intent of this overlay that such uses represent an internally consistent development pattern that is compatible and closely related to the recreational resources upon which they rely. Examples of such resources are lakes or other bodies of water, golf courses and related amenities, amusement centers and the like. Recreational uses allowed in this overlay must also be compatible with adjacent agricultural uses. The burden of proof is on the applicant to show that all aspects of the development are clearly related to the recreational resource.

### **2.9.200 Permitted Uses**

The following uses are permitted in the Resort Commercial Overlay, subject to the provisions of parts 2.8.300 and 2.8.400 of this Section and subject to any additional requirements of the underlying Commercial zone:

- A. Motels, hotels, and convention centers.
- B. Single-family dwellings and townhouses.
- C. Residential uses primarily marketed under time-sharing provisions and dwellings subject to ORS Ch. 94.
- D. Clubhouses.
- E. Restaurants.
- F. Sports and playground facilities.
- G. Facilities shown to be necessary to the support and service primary recreational uses and that are consistent with the intent of this overlay.
- H. Other recreationally-oriented uses consistent with the development plans for the overlay and that are approved by the Planning Commission.

**2.9.300 Height Restrictions**

The height of structures or objects in this overlay shall not exceed the maximum height prescribed by the underlying commercial zone. Because of the proximity of some portions of this overlay to the Airport Overlay, all persons involved in development within this zone should check to assure compliance with the Airport Overlay requirements.

**2.9.400 Master Planned Development Procedures Required**

Development within the Resort Commercial Overlay shall be subject to the provisions of Chapter 4.5, the Master Planned Development procedure. Specifically, no segment or phase of a development within the Resort Commercial Overlay shall be approved until a conceptual plan for the entire development has been approved by the Planning Commission, pursuant to the requirements of Chapter 4.5. Facilities and improvements proposed for a development must be shown to conform to Creswell Public Facilities Plan(s) and the Creswell Comprehensive Plan. The provisions of Chapter 4.5 shall be implemented by the Planning Commission within the guidelines set out in part 2.9.100 of this Section.



## Chapter 2.10 — Riparian Protection and Wetlands (RPW) Overlay

### Sections:

#### **2.10.100 Purpose**

#### **2.10.200 Establishment of the Riparian Protection and Wetlands Overlay Boundary**

#### **2.10.300 Limitations on Use**

#### **2.10.400 Procedures**

#### **2.10.500 Hardship Variances**

#### **2.10.600 Restoration and Enhancement Exceptions**

#### **2.10.700 Appeals**

#### **2.10.800 Enforcement**

#### **2.10.100 Purpose**

A. The primary purposes of the Riparian Protection and Wetlands (RPW) Overlay are to:

1. Protect and enhance water quality;
2. Achieve and maintain compliance with State and Federal laws and water quality standards;
3. Prevent property damage during floods and storms;
4. Limit development activity in designated riparian corridors and wetlands;
5. Protect native plant species;
6. Maintain and enhance fish and wildlife habitats; and
7. Conserve scenic and recreational values of riparian areas and wetlands.

#### **2.10.200 Establishment of the Riparian Protection and Wetlands Overlay Boundary**

A. The RPW Overlay consists of three component areas defined in subsection C that follows and generally describes: a) the area within the river channel's banks, b) the protective overlay zone as measured from the top of the bank, and c) wetlands. Areas developed prior to adoption of this Section are acknowledged as pre-existing conditions and are allowed to continue as non-conforming uses as governed by Section 5.2 of this Code.

B. For the purposes of this Section, development means buildings and any other development requiring a building permit, or any alteration of land in the overlay by fill, grading, heavy equipment crossings, or construction of an impervious surface, including paved or gravel parking areas or paths and any land clearing activity such as removal of trees or other vegetation.

C. The three components of the RPW Overlay zone are defined as:

- a. The area within the channel limits of a water feature (from top of one bank to top of the opposite bank) identified in (b) of this subsection. For a given stream, river, or channel the top of bank is the same as the “bankfull stage (See Chapter 1.3, Definitions).”
- b. The Overlay zone measured horizontally upland from the top of bank is as follows:
  - i. Overlay zone from top of bank: In average cubic feet per second (CFS)

<u>Average Stream Flow (CFS)</u>	<u>Overlay Zone</u>
1,000 CFS or more	75 feet
Less than 1,000 CFS	50 feet

Figure 2.10.200.C(1) – Typical Stream Diagram

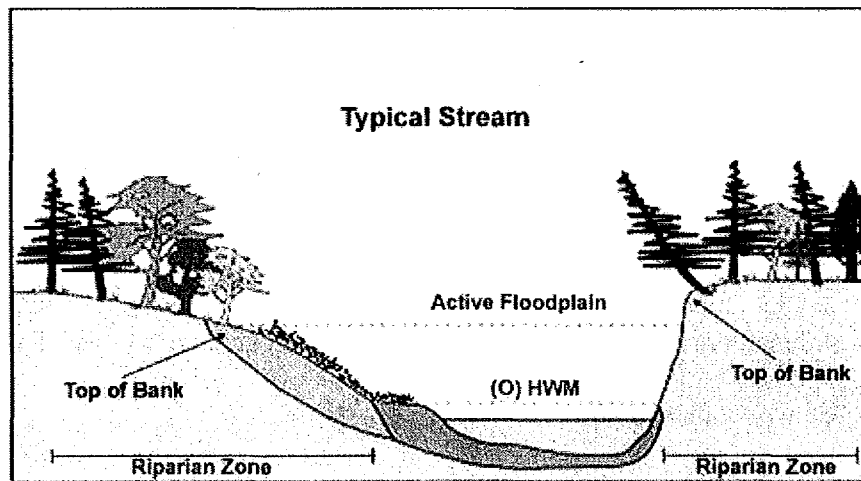
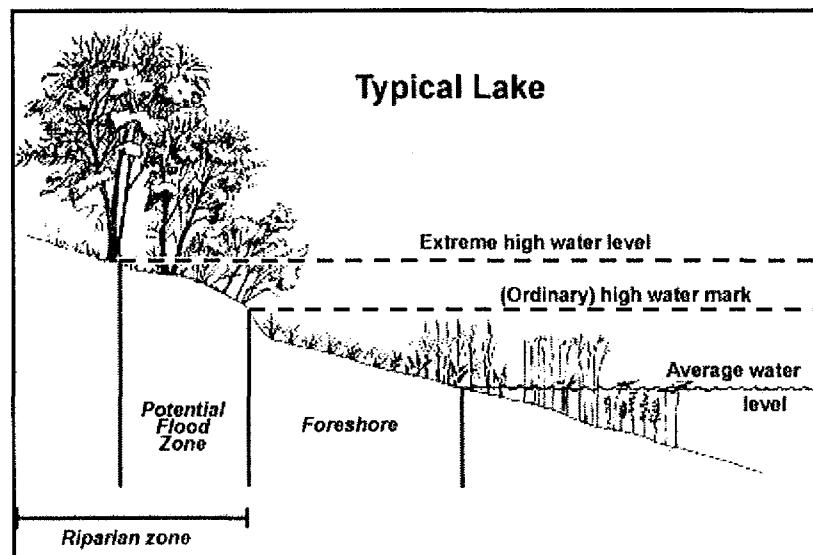


Figure 2.10.200.C(2) – Typical Lake Diagram



- c. The Overlay zone also includes:
  - i. Wetlands (on the Statewide Wetlands Inventory or National Wetland Inventory); or
  - ii. Water (as mapped by the Natural Resource Conservation Service); or
  - iii. Soils listed as hydric or soils with inclusions of hydric soils (as listed by the Natural Resource Conservation Service)
- d. The provisions of the RPW Overlay do not exempt persons or property from state or federal laws that regulate protected lands, water, wetland, or habitat areas. In addition to the restrictions and requirements of this Section, all proposed development activities within any jurisdictional wetland are also subject to applicable state and federal agency standards, permits and approval, including but not limited to the Department of State Lands (DSL) and Army Corps of Engineers (ACE). Copies of application materials submitted to all state and federal agencies (such as but not limited to DSL and ACE) for permitting must be included in the application to the City in order for it to be deemed complete.

**2.10.300 Limitations on Use**

- A. In addition to the requirements of the underlying zone, the following limitations and exceptions shall apply:
  - 1. Removal of Vegetation. The removal of vegetation from the RPW overlay is prohibited, except for the following uses after City Administrator approval:
    - a. Replacement of vegetation with native riparian species as is necessary for restoration activities;
    - b. Removal of non-native vegetation and replacement with native plant species;
    - c. For the development of water-related or water-dependent uses, provided they are designed and constructed to minimize impact on the existing riparian vegetation;
    - d. Removal of emergent in-channel vegetation that has the potential to cause flooding;
    - e. Removal of excess debris deposited by a flood event;
    - f. Removal of trees demonstrated to be a potential hazard to property or human life;
    - g. In-channel erosion or flood control measures that have been approved by DSL, ACE, or any other state or federal regulatory agency.
  - 2. Building, Paving, and Grading Activities. Within the RPW overlay, the placement of

## 2.10– Riparian Protection and Wetland (RPW) Overlay

structures or impervious surfaces, including grading and the placement of fill, is prohibited except as stated below. Exceptions to the RPW overlay restrictions may be made for the following uses, provided they are designed and constructed to minimize adverse impacts to the riparian area:

- a. Replacement of existing structures with structures located on the original building footprint that do not disturb additional riparian surface area;
  - b. Streets, roads, and paths that are included in the Creswell Transportation System Plan and Creswell Parks and Open Space Master Plan;
  - c. Water-related and water-dependent uses, including the drainage facilities, water and sewer utilities, flood control projects, and drainage pumps;
  - d. Routine maintenance or replacement of existing public facilities projects and public emergencies, including emergency repairs to public facilities;
  - e. In-channel erosion or flood control measures that have been approved by DSL, ACE, or another state or federal regulatory agency, and that utilize bio-engineering methods.
3. Land Partitions and Property Line Adjustments. Property boundary amendments that would create parcels that cannot be developed in conformance with RPW overlay regulations are prohibited.
4. Site Maintenance. The limitations imposed by this Section do not preclude the routine maintenance of structures. Maintenance of lawns, planted vegetation and landscaping shall be kept to a minimum and not include the spraying of pesticides or herbicides. Vegetation shall be replanted with native species. Maintenance trimming of existing trees shall be kept at a minimum and under no circumstances can the trimming maintenance be so severe as to compromise the tree's health, longevity, and resource functions. Vegetation within utility easements shall be kept in a natural state and replanted when necessary with native plant species.
5. Hazardous Tree Removal. Hazardous trees are those that pose an obvious and immediate health, safety, or welfare threat to persons or property. Tree removal, except in emergency circumstances, is required to be reviewed by the City Administrator and may be subject to a Tree Removal permit. Any trees removed are required to be replaced by like native species or alternate approved native species.

### 2.10.400 Procedures and Approval

A. The procedure for reviewing any development within the RPW overlay is as follows:

1. Any development or vegetation removal proposal within the RPW overlay shall be submitted to the City Administrator. The proposal will be reviewed through a Type III procedure as defined in Chapter 4.1.400 of this Code.

## 2.10– Riparian Protection and Wetland (RPW) Overlay

2. Copies of application materials submitted to all state and federal agencies (such as but not limited to DSL and ACE) for permitting must be included in the application to the City in order for it to be deemed complete.
3. The applicant shall be responsible for the preparation of a professional quality map showing the precise location of the top-of-bank, 100-year flood elevation, wetlands, wetland edge (if present), riparian setback, significant vegetation, soil types, site improvements or other relevant primary features. The application also shall include:
  - a. Grading Site Plan. The grading plan shall include information on terrain, drainage, location of proposed and existing structures, and finished elevations.
  - b. Vegetation Report. This report shall consist of a survey of existing native vegetation and proposed alterations. Where the removal of native vegetation is proposed, measures for re-vegetation and enhancement with native plant species will be included. A list of native plants is available at City Hall.
4. Approval of any development activity within the RPW overlay shall be contingent upon demonstration by the applicant that:
  - a. DSL/ACE has issued a permit before any physical alteration takes place within the wetlands; or
  - b. Notice from DSL/ACE has been provided that states no permit is required; or
  - c. Activities are as noted in Sections 2.10.300.A.2 or 2.10.300.A.4 above, and are possible exceptions to the RWP overlay restrictions; or
  - d. Activities are shown to meet the criteria in Section 2.10.500, Hardship Variances, or Section 2.10.600, Restoration and Enhancement Exceptions, that follow.

### **2.10.500 Hardship Variances**

For any existing lot or parcel demonstrated to have been rendered not buildable by application of this Code and/or when a Riparian Protection Overlay map error has been verified, the property owner may apply for a hardship variance for waiver of land development restrictions and prohibitions found under 2.10.300, Limitations on Use. A decision regarding hardship variances will follow the Class B procedures and standards of Chapter 5.1, Variances.

### **2.10.600 Restoration and Enhancement Exceptions**

Permanent alteration of the riparian area by placement of structures or impervious surfaces may be permitted upon demonstration that equal or better protection for the remaining on-site Riparian Protection Overlay area will be ensured through restoration of riparian areas, enhanced buffer treatment or similar measures, subject to the requirements of Section 2.10.400, Procedures

## **2.10– Riparian Protection and Wetland (RPW) Overlay**

and Approval. In no case shall such alterations occupy more than 50% of the width of the riparian area measured from the upland edge of the corridor.

### **2.10.700 Appeals**

Planning Commission decisions can be appealed to the City Council using the procedures described in Article 4 of this Code.

### **2.10.800 Enforcement**

This Chapter shall be enforced in accordance with Chapter 1.5, Enforcement, of this Code.

# **Article 3 — Community Design Standards**

## Chapters:

- 3.0. Design Standards Administration
- 3.1. Access and Circulation
- 3.2. Landscaping, Street Trees, Fences and Walls
- 3.3. Parking and Loading
- 3.4. Public Facilities
- 3.5. Other Standards

## Chapter 3.0 - Design Standards Administration

### Sections:

#### 3.0.100 Purpose

#### 3.0.200 Applicability

#### 3.0.100 Purpose

The following provisions describe how to apply the Community Design Standards (Article 3) and the relationship between the standards and the provisions in Article 2 (Land Use Districts).

#### 3.0.200 Applicability

The standards in Article 3 are applied based on whether a project is classified as a *Major Project* or a *Minor Project*. In addition, each Chapter of Article 3 contains “applicability” directions. In general, the Chapters are applied as follows:

- A. Major Project.** Major projects, including developments that require Site Design Review (Chapter 4.2), Land Division approval (Chapter 4.3), Master Planned Development (Chapter 4.5), and amendments to the Comprehensive Plan or Zoning Map (Chapter 4.7), must conform to the applicable sections of:
- Access and Circulation (Chapter 3.1)
  - Landscaping, Street Trees, Fences and Walls (Chapter 3.2)
  - Parking and Loading (Chapter 3.3)
  - Public Facilities (Chapter 3.4)
  - Telecommunication Facilities (Chapter 3.5.100)
- B. Minor Project.** Minor projects are small developments and land use actions that do not fall under the Major Project criteria (i.e., those requiring only Land Use Review or Conditional Use approval). In general, the following chapters apply; however, individual sections will not apply to some minor projects.
- Access and Circulation (Chapter 3.1)
  - Landscaping, Street Trees, Fences and Walls (Chapter 3.2)
  - Parking and Loading (Chapter 3.3)
- C. Non-Conforming Situations.** See Chapter 5.2 for provisions related to non-conforming uses and developments.



## Chapter 3.1 — Access and Circulation

### Sections:

#### 3.1.100 Purpose

#### 3.1.200 Vehicular Access and Circulation

#### 3.1.300 Pedestrian Access and Circulation

#### 3.1.100 Purpose

The purpose of this Chapter is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles. Section 3.1.200 provides standards for vehicular access and circulation. Section 3.1.300 provides standards for pedestrian access and circulation. Standards for street improvements are provided in Section 3.4.100.

#### 3.1.200 Vehicular Access and Circulation

- A. Intent and Purpose.** This Section implements the access management policies of the City of Creswell Transportation System Plan as amended and updated. The intent of this Section is to manage vehicular access and on-site circulation to ensure the continued operational safety, capacity and function of the transportation system.
- B. Applicability.** Section 3.1.200 applies to vehicle access(es) and on-site circulation facilities in the City of Creswell. This Section applies when lots are created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation; and when properties are subject to Land Use Review or Site Design Review. Access to a designated state or county highway is subject to the provisions of this Section in addition to the requirements of the applicable roadway authority. Where regulations of the City conflict with those of the roadway authority the more restrictive requirements apply.
- C. Access Permit Required.** Access to a public street (e.g., a new curb cut or driveway approach) requires an access permit. An access permit may be in the form of a letter from the roadway authority to the applicant, or it may be attached to a land use decision notice as a condition of approval. In either case, approval of an access permit shall follow the procedures and requirements of the applicable road authority, as determined through the review procedures in Article 4.
- D. Traffic Study Requirements.** The City may require a traffic study prepared by a registered traffic engineer to determine access, circulation, and other transportation requirements in conformance with Section 4.1.900, Traffic Impact Study.
- E. Conditions of Approval.** The roadway authority may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.

**F. Corner and Intersection Separation; Backing onto Public Streets.** New and modified accesses shall conform to the following standards:

1. Except as provided under subsection 4, below, the distance from a street intersection to a driveway or other street access shall meet the minimum spacing requirements for the street's classification in the Transportation System Plan;
2. New property access shall not be permitted within twenty-five (25) feet of an intersection unless no other reasonable access to the property is available. Where no other alternatives (e.g., alley, shared access, etc.) exist, the City may allow construction of an access connection at a point less than twenty-five (25) feet from an intersection, provided the access is as far away from the intersection as possible. In such cases, the City may impose turning restrictions (i.e., right in/out, right in only, or right out only). A greater separation may be required for accesses onto a collector or arterial street;
3. Access to and from off-street parking areas shall not permit backing onto a public street, except that single-family and duplex dwellings are exempt;
4. The roadway authority may reduce the required separation distance of access points where the standard would otherwise result in a taking of private property, or conformance to the standard is not feasible due to existing lot dimensions, development, other physical features, or conflicting Code requirements (e.g., driveway grade requirements, or building or fire code requirements). Where the roadway authority finds that reducing the separation distance is warranted, the total number of access points to the site shall be limited to the minimum necessary to provide reasonable access and shared/joint access may be required as described below.

**G. Site Circulation.** New developments shall be required to provide a circulation system that accommodates expected traffic on the site. Pedestrian connections on the site, including connections through large sites, and connections between sites (as applicable) and adjacent sidewalks, must conform to the provisions in Section 3.1.300.

**H. Joint and Cross Access – Requirement.** The number of driveway and private street intersections with public streets should be minimized by the use of shared driveways for adjoining lots where feasible. When necessary for traffic safety and access management purposes, or to access flag lots, the City may require joint access and/or shared driveways in the following situations as follows:

1. For shared parking areas;
2. For adjacent developments, where access onto an arterial street is limited and access spacing standards can not otherwise be met;
3. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:

- a. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable transportation authority's access management classification system and standards;
  - b. A design speed of ten (10) miles per hour and a maximum width of twenty (20) feet, in addition to any parking alongside the driveway; additional driveway width or fire lanes may be approved when necessary to accommodate specific types of service vehicles, loading vehicles, or emergency service provider vehicles;
  - c. Driveway stubs to property lines (for future extension) and other design features to make it easy to see that the abutting properties may be required with future development to connect to the cross-access driveway;
- I. Joint and Cross Access – Reduction in Required Parking Allowed.** When a shared driveway is provided or required as a condition of approval, the land uses adjacent to the shared driveway may have their minimum parking standards reduced in accordance with the shared parking provisions of Section 3.3.300C.
- J. Joint and Cross Access – Easement and Use and Maintenance Agreement.** Pursuant to this Section, and concurrent with final plat recordation, property owners sharing an access drive shall complete items 1-3, below. For projects not involving a land division, the City requires owners to complete items 1-3 prior to issuing Certificate(s) of Occupancy.
1. Record an easement with the deed allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;
  2. Record an agreement with the deed that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
  3. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.
- K. Access Connections and Driveway Design.** All openings onto a public right-of-way (access connections) and driveways shall conform to all of the following design standards:
1. Driveway Approaches. Driveway approaches, including private alleys, shall be designed and located to provide exiting vehicles with an unobstructed view of other vehicles and pedestrians, and to prevent vehicles from backing into the flow of traffic on the public street or causing conflicts with on-site circulation. Construction of driveway accesses along acceleration or deceleration lanes or tapers should be avoided due to the potential for vehicular conflicts. Driveways should be located to allow for safe maneuvering in and around loading areas. See also, Chapter 3.3, Parking and Loading.

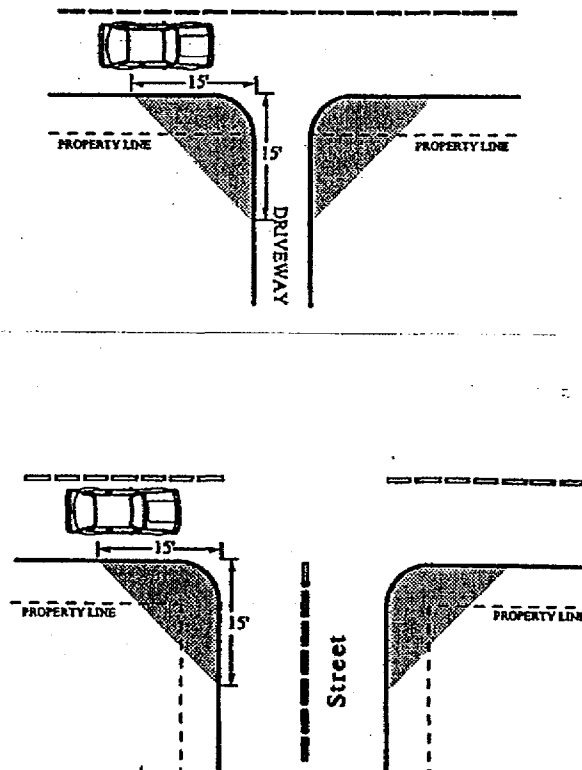
2. **Access Connections.** Access connections shall meet the following standards, subject to review and approval by the Public Works Director:
  - a. Access connections for single-family residences shall have a width of not less than ten (10) feet and not more than twenty-four (24) feet.
  - b. Access connections for all other uses shall be the minimum width practicable based on projected traffic volumes and functional requirements.
3. **Driveways.** Driveways shall meet the following standards, subject to review and approval by the Public Works Director:
  - a. Driveways shall have a minimum width of ten (10) feet, except where a driveway serves as a fire apparatus lane, in which case a city-approved driveway surface shall be provided within an unrestricted, twenty (20) foot aisle.
  - b. Where a driveway is to provide two-way traffic, or more than one lane of traffic, the minimum lane width shall be nine (9) feet and the maximum lane width shall be twelve (12) feet.
  - c. One-way driveways shall have appropriate signage designating the driveway as a one-way connection. Fire apparatus lanes shall be so marked (parking prohibited).
  - d. The maximum allowable driveway grade is fifteen (15) percent, except that driveway grades exceeding fifteen (15) percent may be allowed, subject to review and approval by the Public Works Director and Fire Marshal, provided that the applicant has provided an engineered plan for the driveway. The plan shall be stamped by a geotechnical engineer or civil engineer, as required by the Public Works Director. The engineer must be registered in the State of Oregon.
  - e. Driveway widths within the public right-of-way shall not exceed the following maximum widths unless otherwise directed:

Frontage	One Driveway Maximum Driveway Width	Two Driveways Maximum Driveway Widths
Up to 50 Feet	25 Feet	Not Permitted
50 to 75 Feet	25 Feet	20 Feet Each
75 to 100 Feet	30 Feet	25 Feet Each
Over 100 Feet		

4. **Driveway Construction.** Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive. Driveway aprons shall conform to ADA requirements for sidewalks and walkways, which generally require a continuous unobstructed route of travel that is not less than three (3) feet in width, with a cross slope not exceeding two (2) percent, and providing for landing areas and ramps at intersections. Refer to applicable standard drawings in current ADA/ODOT construction specifications for specific requirements.

- L. **Fire Access and Turnarounds.** When required under the Uniform Fire Code, fire access lanes with turnarounds shall be provided. Except as waived in writing by the Fire Marshal, a fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive. The drive shall contain unobstructed aisle width of 20 feet and turn-around area for emergency vehicles. The fire lanes shall be marked as “No Stopping/No Parking.” For requirements related to cul-de-sacs or dead-end streets, refer to Section 3.4.100.0.
  
- M. **Vertical Clearances.** Driveways, private streets, aisles, turn-around areas and ramps shall have a minimum vertical clearance of 13' 6” for their entire length and width.
  
- N. **Vision Clearance.** No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) between three (3) feet and eight (8) feet in height shall be placed in “vision clearance areas” on streets, driveways, alleys, or mid-block lanes where no traffic control stop sign or signal is provided, as shown in Figure 3.1.200N. The sides of the minimum vision clearance triangle are the curb line or, where no curb exists, the edge of pavement. Vision clearance requirements may be modified by the City Engineer upon finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). This standard does not apply to light standards, utility poles, trees trunks and similar objects.

**Figure 3.1.200N Vision Clearance Areas  
(solid lines indicate curbs or edge of pavement)**



**O. Construction.** The following development and maintenance standards shall apply to all driveways and private streets, except that the standards do not apply to driveways serving one single-family detached dwelling:

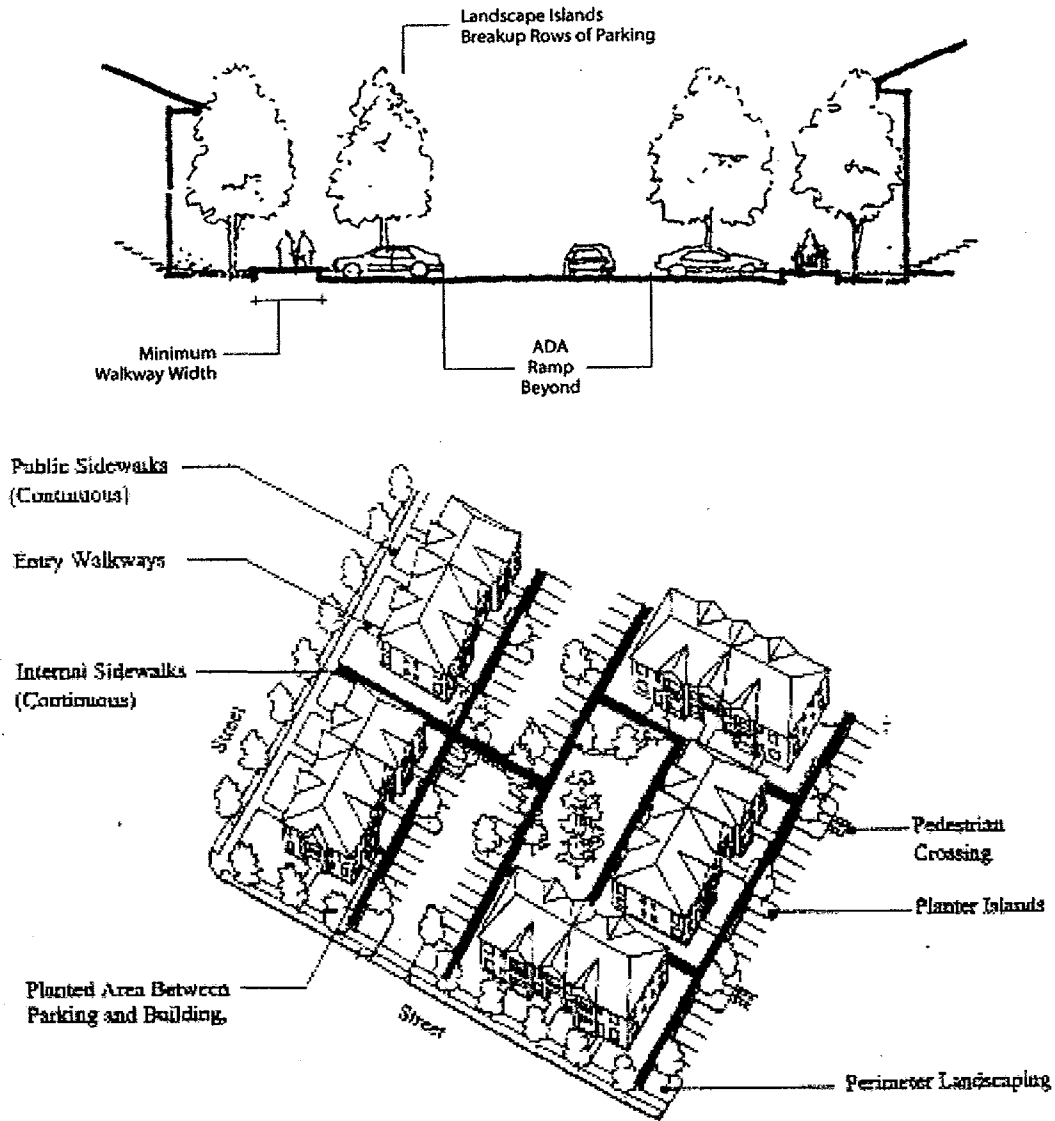
1. Surface Options. Driveways, parking areas, aisles, and turnarounds may be paved with asphalt or concrete. Other paving materials may be used, subject to approval by the City Administrator. For example, porous paving materials such as porous concrete, pavers set in sand, or concrete blocks that allow grass to grow through may be permitted to reduce surface water runoff and protect water quality.
2. Surface Water Management. When non-porous paving is used, all driveways, parking areas, aisles, and turnarounds shall have on-site collection of surface waters to eliminate sheet flow of such waters onto public rights-of-way and abutting property. Surface water facilities shall be constructed in conformance with applicable engineering standards.
3. Driveway Aprons. When driveway approaches or “aprons” are required to connect driveways to the public right-of-way, they shall be paved with concrete surfacing and conform to the City’s engineering design criteria and standard specifications. (See general illustrations in Section 3.1.200K.)

### 3.1.300 Pedestrian Access and Circulation

**A. Site Layout and Design.** To ensure safe, direct, and convenient pedestrian circulation, all developments, except single-family detached housing (i.e., on individual lots), shall provide a continuous pedestrian system. The pedestrian system shall be based on the standards in subsections 1-4, below:

1. Continuous Walkway System. The pedestrian walkway system shall extend throughout the development site and connect to all future phases of development, and to existing or planned off-site adjacent trails, public parks, and open space areas to the greatest extent practicable. The developer may also be required to connect or stub walkway(s) to adjacent streets and to private property with a previously reserved public access easement for this purpose in accordance with the provisions of Section 3.1.200, Vehicular Access and Circulation, and Section 3.4.100, Transportation Standards.
2. Safe, Direct, and Convenient. Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets, based on the following criteria:
  - a. Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for likely users.
  - b. Safe and convenient. Routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.
  - c. "Primary entrance" for commercial, industrial, mixed use, public, and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.
  - d. "Primary entrance" for residential buildings is the front door (i.e., facing the street). For multi-family buildings in which units do not have their own exterior entrance, the "primary entrance" may be a lobby, courtyard, or breezeway that serves as a common entrance for more than one dwelling.
3. Connections Within Development. Connections within developments shall be provided as required in subsections a-c, below:
  - a. Walkways shall connect all building entrances to one another to the extent practicable, as generally shown in Figure 3.1.300A(1);
  - b. Walkways shall connect all on-site parking areas, storage areas, recreational facilities and common areas, and shall connect off-site adjacent uses to the site to the extent practicable. Topographic or existing development constraints may be cause for not making certain walkway connections, as generally shown in Figure 3.1.300A(1); and

Figure 3.1.300A(1) Pedestrian Pathway System (Typical)



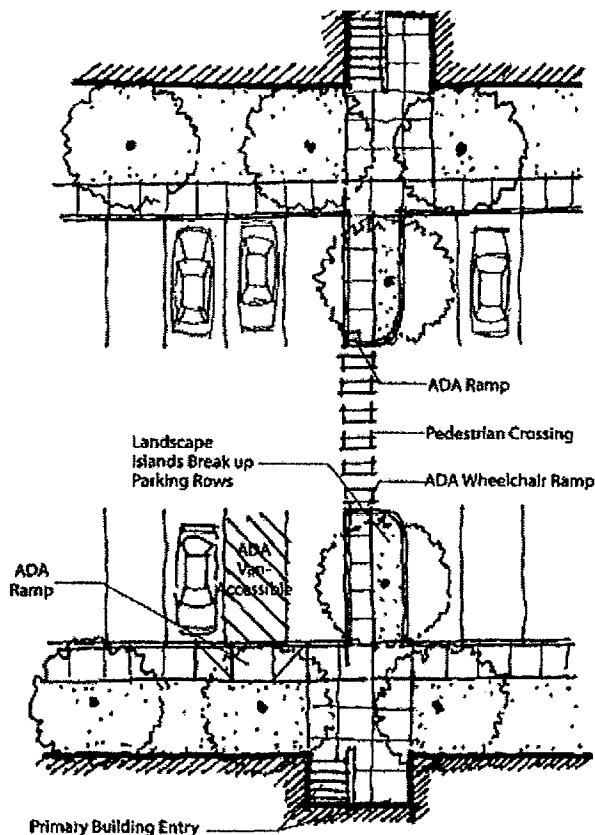
- c. Large parking areas shall be broken up so that no contiguous parking area exceeds three (3) acres. Parking areas may be broken up with plazas, landscape areas with pedestrian accessways (20-foot minimum total width), streets or driveways with street-like features. For the purpose of this Section, street-like features means a raised sidewalk of at least four (4) feet in width, six (6) inch curb, accessible curb ramps, street trees in planter strips or tree wells, and pedestrian-oriented lighting.

**B. Walkway Design and Construction.** Walkways, including those provided with pedestrian accessways, shall conform to all of the standards in subsections 1-4, as generally illustrated in Figure 3.1.300B:



1. **Vehicle/Walkway Separation.** Except for crosswalks (subsection 2), where a walkway abuts a driveway or street it shall be raised six (6) inches and curbed along the edge of the driveway/street. Alternatively, the decision body may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is protected from all vehicle maneuvering areas. An example of such protection is a row of decorative metal or concrete bollards designed to withstand a vehicle’s impact, with adequate minimum spacing between them to protect pedestrians.
  
2. **Crosswalks.** Where a walkway crosses a parking area, driveway, or street (“crosswalk”), it shall be clearly marked with contrasting paving materials (e.g., light-color concrete inlay between asphalt), which may be part of a raised/hump crossing area. Painted or thermo-plastic striping and similar types of non-permanent applications may be approved for crossings of not more than twenty-four (24) feet in length.
  
3. **Walkway Width and Surface.** Walkway and accessway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, as approved by the City Engineer, at least six (6) feet wide. Multi-use paths (i.e., for bicycles and pedestrians) shall be concrete or asphalt, at least ten (10) feet wide. (See also, Section 3.4.100, Transportation Standards.)
  
4. **Accessible routes.** Walkways shall conform to applicable Americans with Disabilities Act (ADA) requirements. The ends of all raised walkways, where the walkway intersects a driveway or street shall provide ramps that are ADA accessible, and walkways shall provide direct routes to primary building entrances.

Figure 3.1.300B Pedestrian Walkway Detail (Typical)



## Chapter 3.2 — Landscaping, Street Trees, Fences and Walls

### Sections:

- 3.2.100 Purpose
- 3.2.200 Landscape Conservation
- 3.2.300 Landscaping
- 3.2.400 Street Trees
- 3.2.500 Tree Removal
- 3.2.600 Fences and Walls

### 3.2.100 Purpose

The purpose of Chapter 3.2 is to promote community health, safety, and welfare by protecting natural vegetation and 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. Trees and other plants can also buffer pedestrians from traffic. 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. The Chapter is organized into the following sections:

**Section 3.2.200, Landscape Conservation**, prevents the indiscriminate removal of significant trees and other vegetation, including vegetation associated with streams, wetlands, and other protected natural resource areas.

**Section 3.2.300, Landscaping**, sets standards for and requires landscaping of all development sites that require Site Design Review. This section also requires buffering for parking and maneuvering areas, and between different land use districts. Note that other relevant standards are provided in Article 2, Land Use Districts, for specific types of development.

**Section 3.2.400, Street Trees**, sets standards for and requires planting of street trees for shading, comfort, water quality, and aesthetic purposes.

**Section 3.2.500, Tree Removal**, regulates the removal of trees, shrubs, plants, or vegetation in any parking strip or other public place, as well as public nuisance trees or shrubs.

**Section 3.2.600, Fences and Walls**, regulates the design of fences and walls, including allowable height and materials, to promote security, personal safety, privacy, and aesthetics.

**3.2.200 Landscape Conservation**

- A. Applicability.** All development sites containing Significant Vegetation, as defined below, shall comply with the standards of this Section. The purpose of this Section is to incorporate significant native vegetation into the landscapes of development and to protect vegetation in sensitive natural areas. The use of mature, native vegetation within developments is a preferred alternative to removal of vegetation and re-planting. Mature landscaping provides summer shade and wind breaks, controls erosion, and allows for water conservation due to larger plants having established root systems.
- B. Significant Vegetation.** “Significant vegetation” means plants within designated sensitive land areas such as flood plains and wetlands, and trees not within such area that have a caliper of six (6) inches or larger; except that protection shall not be required for non-native, invasive plants and any plants designated by the City as prohibited.
- C. Mapping and Protection Required.** Significant vegetation shall be mapped as required by Chapter 4.2, Site Design Review. Significant trees shall be mapped individually and identified by species and diameter or caliper at four (4) feet above grade. A “protection” area shall be defined around the edge of all branches (drip-line) of each tree. Drip lines may overlap between trees. The City also may require an inventory, survey, or assessment prepared by an arborist or other qualified professional to determine tree health, construction boundaries, building setbacks, and/or recommended protection or mitigation requirements.
- D. Protection Standards.** Significant vegetation identified as meeting the criteria in subsection B, above, shall be retained to the extent practicable to protect environmental values and to minimize the risk of erosion, landslide, and stormwater runoff. Where protection is impracticable because it would prevent reasonable development of public streets, utilities, or land uses permitted by the applicable land use district, the City may allow removal of significant vegetation from the building envelope as defined by required yard setbacks. Where yard areas must be disturbed to install streets or utilities, the applicant may be required to restore such areas after construction with landscaping or other means to prevent erosion and to protect the public health, safety, and welfare. With the owner’s consent, the City may accept a land dedication or become a party to a conservation easement on private property for conservation purposes.
- E. Construction.** All significant vegetation on a site that is not otherwise designated and approved by the City for removal shall be protected prior to, during, and after construction in accordance with a limit-of-clearing and grading plan approved by the City Administrator. The City may limit grading activities and operation of vehicles and heavy equipment in and around significant vegetation areas to prevent erosion, pollution, or landslide hazards. A City permit shall be required for proposed removal of all significant vegetation on a development site.
- F. Exemptions.** The protection standards in “D” and “E” shall not apply to:

### 3.2.200 – Landscape Conservation

1. Dead or Diseased Vegetation. Dead or diseased vegetation meeting the criteria for “significant vegetation” may be removed after approval of a Type I Land Use Review.
2. Hazardous Vegetation and Other Emergencies. Significant vegetation may be removed without land use approval when the vegetation poses an immediate threat to life or safety or protection of property (e.g., windstorm damage, fallen over house, road or power line, blocked drainage way, or similar circumstance).

### 3.2.300 Landscaping

**A. Applicability.** This Section shall apply to all new developments requiring Site Design Review.

**B. Landscaping Plan Required.** A landscape plan is required. All landscape plans shall conform to the requirements in Chapter 4.2.500, Section B.5.

**C. Landscape Area Standards.** The minimum percentages of required landscaping are:

1. Residential Low Density (RL) District. Ten (10) percent of the site.
2. Residential Medium-Density (RM) District. Seven (7) percent of the site.
3. Residential-Commercial (RC). Seven (7) percent of the site.
4. Downtown Commercial (DC) District. Five (5) percent of the site.
5. General Commercial (GC) District. Ten (10) percent of the site.
6. General Industrial (GI) District. Five (5) percent of the site.
7. Industrial-Commercial (IC) District. Ten (10) percent of the site.

**D. Landscape Materials.** Permitted landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features, as described below. “Coverage” is based on the projected size of the plants at maturity, i.e., typically three (3) or more years after planting.

1. Existing Vegetation. Existing non-invasive vegetation may be used in meeting landscape requirements. When existing mature trees are protected on the site (e.g., within or adjacent to parking areas) the decision making body may reduce the number of new trees required by a ratio of one (1) inch caliper of new tree(s) for every one (1) inch caliper of existing tree(s) protected.
2. Plant Selection. A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions. When new vegetation is planted, soils shall be amended, as necessary, to allow for healthy plant growth.
3. “Non-native, invasive” plants, as per Section 3.2.200.B, shall be removed during site development and the planting of new invasive species is prohibited.
4. Hardscape features, such as plazas, pathways, patios and other pedestrian amenities may count toward ten (10) percent of the required landscape area, except in the Downtown Commercial District where hardscape features may count toward 100 percent of the

landscape area, provided that street trees are required. Swimming pools, sports courts, decks and similar facilities may not be counted toward fulfilling the landscape requirement in any zone.

5. Ground Cover Standard. All landscaped areas, whether or not required, that are not planted with trees and shrubs, or covered with non-plant material (subsection 8, below), shall have ground cover plants that are sized and spaced with a minimum of one (1) plant per twelve (12) inches on center in triangular spacing, or other planting pattern that is designed to achieve fifty (50) percent or greater coverage of all areas not covered by shrubs or trees.
  6. Tree Size. Trees shall have a minimum diameter or caliper four (4) feet above grade of two (2) inches or greater at time of planting.
  7. Shrub Size. Shrubs shall be planted from five (5) gallon containers or larger.
  8. Non-plant Ground Covers. Bark dust, chips, aggregate, or other non-plant ground covers may be used, but shall cover no more than fifty (50) percent of the area to be landscaped and shall be confined to areas underneath plants. Non-plant ground covers cannot be a substitute for ground cover plants.
  9. Significant Vegetation. Significant vegetation protected in accordance with Section 3.2.200 may be credited toward meeting the minimum landscape area standards. Credit may be granted for trees at a ratio of one (1) caliper inch per inch of tree(s) protected, except that parking lot landscaping shall be provided as required by subsection E.2, below. The Street Tree standards of Section 3.2.400 may be waived by the City when existing significant trees protected within the front yard provide the same or better shading and visual quality as would otherwise be provided by street trees.
  10. Stormwater Facilities. Stormwater facilities (e.g., detention/retention ponds and swales designed for water quality treatment), when required under Section 3.4.400, shall be landscaped with water-tolerant, native plants. A list of native plants is available at City Hall.
- E. Landscape Design Standards.** All yards, parking lots, and required street tree planter strips shall be landscaped to provide, as applicable, erosion control, visual interest, buffering, privacy, open space and pathway identification, shading, and wind buffering, based on the following criteria:
1. Yard Setback Landscaping. Landscaping in yards shall:
    - a. Encourage visual screening and privacy within side and rear yards; while leaving front yards and building entrances mostly visible for security purposes;
    - b. Use shrubs and trees as wind breaks;

- c. Retain natural vegetation;
  - d. Define pedestrian pathways and open space areas with landscape materials;
  - e. Provide focal points within a development, for example, by preserving large or unique trees or groves, hedges, and flowering plants;
  - f. Use trees to provide summer shading within common open space areas and within front yards when street trees cannot be provided;
  - g. Use a combination of plants for year-long color and interest;
  - h. Use landscaping to screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales, and detention/retention ponds.
2. Parking areas. A minimum ten (10) percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of “evenly distributed” shade trees with shrubs and/or ground cover plants that conform to the criteria in Section 3.2.300.E.1.a-h, above. “Evenly distributed” means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial canopy. At a minimum, one tree per six (6) parking spaces on average shall be planted to create a partial tree canopy over and around the parking area. All parking areas with more than twenty (20) spaces shall include landscape islands with trees to break up the parking area into rows of not more than twelve (12) contiguous (side-by-side) parking spaces. All parking area landscapes shall have dimensions of not less than twenty-four (24) square feet of area, or not less than four (4) feet in width by six (6) feet in length, to ensure adequate soil, water, and space for healthy plant growth. Such areas shall have irrigation, to ensure plant survival and success. See Section 3.2.300.F for maintenance and irrigation requirements.
3. Buffering and Screening Required. Buffering and screening are required under the following conditions:
- a. Parking/Maneuvering Area Adjacent to Streets and Drives. Where a parking or maneuvering area is adjacent and parallel to a street or driveway, an evergreen hedge; decorative wall (masonry or similar quality material) with openings, arcade, trellis, or similar partially opaque structure 3-4 feet in height shall be established between street and driveway. The required screening shall have breaks or portals to allow visibility (natural surveillance) into the site and to allow pedestrian access to any adjoining walkways. Hedges used to comply with this standard shall be a minimum of 36 inches in height at maturity, and shall be of such species, number, and spacing to provide year-round screening within one (1) year after planting. Vegetative ground cover is required on all surfaces between the wall/hedge and the street/driveway line.
  - b. Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering

area or driveway is adjacent to a building, the area shall be separated from the building by a curb and a raised walkway, plaza, or landscaped buffer not less than five (5) feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect pedestrians, landscaping, and buildings from being damaged by vehicles. Where parking areas are located adjacent to residential ground-floor living space, a four (4) foot wide landscape buffer with a curbed edge may fulfill this requirement.

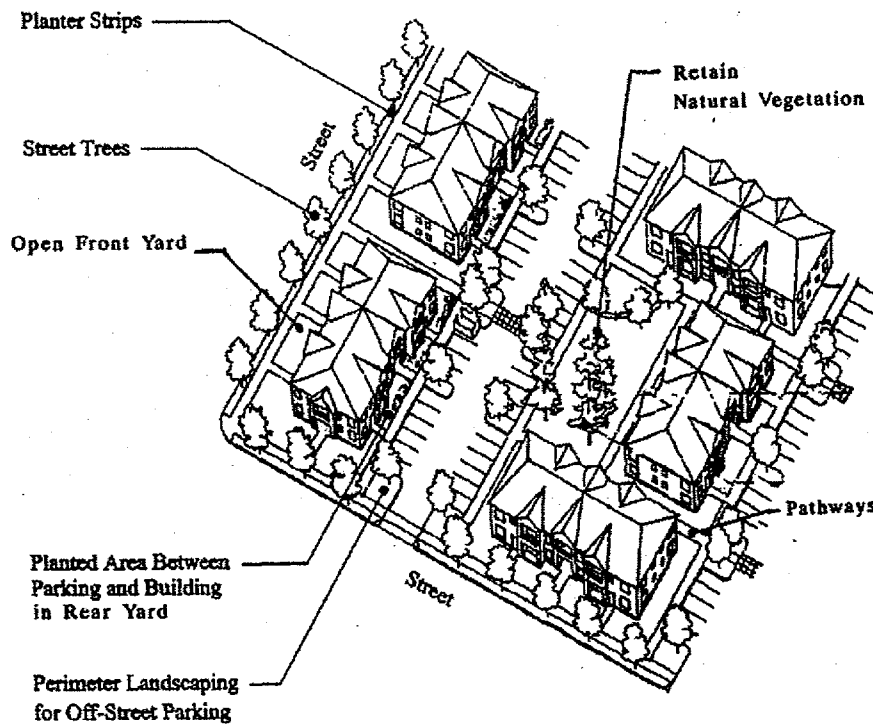
- c. Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Other Screening When Required. All mechanical equipment, outdoor storage and manufacturing, and service and delivery areas, shall be screened from view from all public streets and adjacent Residential districts. When these or other areas are required to be screened, such screening shall be provided by:
1. A decorative wall (i.e., masonry or similar quality material),
  2. Evergreen hedge,
  3. Opaque fence complying with Section 3.2.600, or
  4. A similar feature that provides an opaque barrier.

Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with Chapter 3.1, Access and Circulation. (See Section 3.2.600 for standards specific to fences and walls.)

- d. Flag Lot Screen. In approving a flag lot, the City may require a landscape screen and/or fence be installed along property line(s) of the flag lot, for privacy of adjoining residents, in accordance with the provisions of Section 4.3.115. A flag lot screen shall not be required if the abutting property owner(s) indicate in writing that they do not want a screen or fence, however, the owner may install one at his or her discretion.



Figure 3.2.300E General Landscape Areas (Typical)



- F. Maintenance and Irrigation.** The use of drought-tolerant plants is encouraged, and may be required where exposure, slope or soil conditions warrant. Permanent irrigation shall be provided for plants that are not drought-tolerant. If the plantings fail to survive, the property owner shall replace them with an equivalent specimen (i.e., evergreen shrub replaces evergreen shrub, deciduous tree replaces deciduous tree, etc.) within six (6) months of their dying or removal, whichever comes first. All man-made features required by this Code shall be maintained in good condition, or otherwise replaced by the owner within six (6) months of any such feature being removed or irreversibly damaged (whichever comes first).

### 3.2.400 Street Trees

Street trees shall be planted for all developments that are subject to Subdivision or Site Design Review. Requirements for street tree planting strips are provided in Section 3.4.100, Transportation Standards. Planting of street trees shall generally follow construction of curbs and sidewalks, however, the City may defer tree planting until final inspection of completed dwellings to avoid damage to trees during construction. The planting and maintenance of street trees shall conform to the following standards and guidelines and any applicable road authority requirements.

- A. Street Tree Plan Required.** A street tree plan is required. All street tree plans shall conform to the requirements in Chapter 4.2.500, Section B.5 and Chapter 4.3.100, Approval Criteria - Preliminary Plat.
- B. Growth Characteristics.** Trees shall be selected based on climate zone, growth characteristics and site conditions, including available space, overhead clearance, soil conditions, exposure, and desired color and appearance. The following should guide tree selection by developers and approval by the City and shall be used in combination with the City's approved list of street trees (available at City Hall).
1. Provide a broad canopy where shade is desired, except where limited by available space per subsection 4.
  2. Use low-growing trees for spaces under low utility wires.
  3. Select trees that can be "limbed-up" to comply with vision clearance requirements.
  4. Use narrow or "columnar" trees where awnings or other building features limit growth, or where greater visibility is desired between buildings and the street.
  5. Use species with similar growth characteristics on the same block for design continuity.
  6. Avoid using trees that are susceptible to insect damage and trees that produce excessive seeds or fruit.
  7. Select trees that are well-adapted to the environment, including soil, wind, sun exposure, temperature tolerance, and exhaust. Drought-resistant trees should be chosen where they suit the specific soil type.
  8. Select trees for their seasonal color if desired.
  9. Use deciduous trees for summer shade and winter sun, unless unsuited to the location due to soil, wind, sun exposure, annual precipitation, or exhaust.
  10. The diameter of the tree trunk at maturity shall not exceed the width and size of the planter strip or tree well.

- C. Caliper Size.** The minimum diameter or caliper size at planting, as measured four (4) feet above grade, is two (2) inches.
- D. Spacing and Location.** Street trees shall be planted within the street right-of-way within existing and proposed planting strips or in sidewalk tree wells on streets without planting strips, except when utility easements occupy these areas. Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity and, at a minimum, the planting area shall contain sixteen (16) square feet, or typically, a (4) foot square. Trees shall be spaced no more than an average of thirty (30) feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. All street trees shall be placed outside utility easements.
- E. Soil Preparation, Planting and Care.** The developer shall be responsible for planting street trees, including soil preparation, ground cover material, staking, and temporary irrigation for two years after planting. The developer shall also be responsible for tree care (pruning, watering, fertilization, and replacement as necessary) during the first two years after planting, after which the adjacent property owners shall maintain the trees.
- F. Irrigation.** The developer shall be responsible for installing an underground irrigation system and associated backflow device in the planter strip, after which the property owner shall maintain the irrigation system.
- G. Assurances.** The City shall require the developer to provide a performance and maintenance bond in an amount determined by the City Administrator, to ensure the planting of the tree(s) and care during the first two years after planting.
- H. Street Tree List.** A list of suitable street trees is available at City Hall.

**3.2.500 Tree Removal**

- A. Trimming or Removal.** The City may cause to be trimmed, pruned or removed, any trees, shrubs, plants or vegetation in any parking strip or other public place, or may require any property owner to trim, prune or remove any trees, shrubs, plants or vegetation in a parking strip abutting upon said owner's property, and failure to comply therewith, after thirty (30) days' notice by the City Administrator, shall be deemed a violation of this Chapter. Removal of any trees, shrubs, plants or vegetation shall be deemed to include removal of the stump and major roots thereof.
- B. Dangerous Trees a Nuisance.** Any tree or shrub growing in parking strip or any public place, or in private property, which is endangering or that in any way may endanger the security or usefulness of any public street, sewer or sidewalk, is hereby declared to be a public nuisance, and the City Administrator may cause to be removed or trimmed such tree, or may require the property owner to remove or trim such tree. Failure to remove or trim such tree as required by the City Administrator after thirty (30) days' notice by the City shall be deemed a violation of this Chapter, and the City may then remove or time said tree and assess the costs against the property.
- C. Topping, Abuse or Mutilation of Trees.** It shall be a violation of this Chapter to abuse, destroy or mutilate any tree, shrub or plant in a public parking strip or any other public place, or to attach or place any rope or wire (other than one used to support a young or broken tree), sign, poster, handbill or other thing to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to come in contact with any such tree, or to allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with their roots or leaves. It shall be unlawful and a violation of this chapter to top any tree located in a public parking strip, park or any other public place, except for city electrical franchisee shall have the right to trim or top trees that are creating unsafe conditions or interfering with power lines.
- D. Enforcement.** This Chapter shall be enforced in accordance with Chapter 1.5, Enforcement, of this Code. In addition to all remedies set forth in Chapter 1.5, the City may also:
1. Require that any property owner, developer, or other person found in violation of Chapter 3.2.500 replace any trees unlawfully removed;
  2. Replace the tree itself and assess the cost against the Property;
  3. Require that the property owner, developer, or other person found in violation of Chapter 3.2.500 pay tree replacement costs into an appropriate City fund to be used by City for tree planting as needed within the City, as identified in City's sole discretion.

### 3.2.600 Fences and Walls

Construction of fences and walls shall conform to all of the following requirements:

**A. General Requirements.** All fences and walls shall comply with the height limitations of the respective zoning district (Article 2) and the standards of this Section. The City may require installation of walls and/or fences as a condition of development approval, in accordance with land division approval (e.g., flag lots), approval of a conditional use permit, or site design review approval. When required through one of these types of approvals, no further land use review is required. If not part of a prior land use approval, new fences and walls require Land Use Review (Type I) approval; if greater than 6 feet in height, a building permit is also required. (See also, Section 3.2.300 for landscape screening wall requirements.)

#### **B. Dimensions.**

1. Except as provided under subsections 2 and 3, below, the height of fences and walls within a front yard setback shall not exceed 4 feet as measured from the grade closest to the street right-of-way.
2. A retaining wall exceeding 4 feet in height within a front yard setback, which is necessary for site grading and development, may be approved through a land division or site development review.
3. One arbor, gate, or similar garden structures not exceeding eight (8) feet in height and six (6) feet in width is allowed within the front yard, provided that it is not within a required clear vision area.
3. Walls and fences to be built for required buffers shall comply with Section 3.2.300.
4. Fences and walls shall comply with the vision clearance standards of Section 3.1.200.

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

#### **D. Materials.**

1. Permitted materials: wood; chain-link steel, iron, bricks, stone; stucco, or similar masonry, and non-prohibited evergreen plants.
2. Prohibited materials: unfinished concrete blocks; straw bales; barbed or razor wire; scrap lumber or other scrap materials; sheet metal; and hedges taller than eight (8) feet.
3. Masonry walls exceeding four (4) feet in height shall be subject to review and approval by the City Engineer. Fences and walls taller than six (6) feet require a building permit.

## Chapter 3.3 — Parking and Loading

### Sections:

- 3.3.100 Purpose**
- 3.3.200 Applicability**
- 3.3.300 Automobile Parking Standards**
- 3.3.400 Bicycle Parking Standards**
- 3.3.500 Loading**

#### **3.3.100 Purpose**

The purpose of Chapter 3.3 is to provide basic and flexible standards for development of vehicle and bicycle parking. The design of parking areas is critically important to the economic viability of some commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability. Historically, some communities have required more parking than is necessary for some land uses, paving extensive areas of land that could be put to better use. Because vehicle parking facilities occupy large amounts of land, they must be planned and designed carefully to use the land efficiently, minimize stormwater runoff, and maintain the visual character of the community. This Chapter recognizes that each development has unique parking needs and provides a flexible approach for determining parking space requirements (i.e., “minimum” and “performance-based” standards). This Chapter also provides standards for bicycle parking because many people use bicycles for recreation, commuting, and general transportation. Children as well as adults need safe and adequate spaces to park their bicycles throughout the community.

#### **3.3.200 Applicability**

All developments subject to site design review (Chapter 4.2), including development of parking facilities, shall comply with the provisions of this Chapter.

**3.3.300 Automobile Parking Standards**

**A. Vehicle Parking - Minimum Standards by Use.** The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 3.3.300A, *or* alternatively, through a separate parking demand analysis prepared by the applicant and subject to a Type II Land Use Review (or Type III review if the request is part of an application that is already subject to Type III review). Where a use is not specifically listed in this table, parking requirements are determined by finding that a use is similar to one of those listed in terms of parking needs, or by estimating parking needs individually using the demand analysis option described above. Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, shared parking, and designated on-street parking. In recognition that downtown is the most compact and walkable part of Creswell, there are no minimum off-street parking requirements in the Downtown Commercial (DC) District.

**Table 3.3.300A – Minimum Required Parking by Use**

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Minimum Parking per Land Use</b> <i>(fractions rounded down to the closest whole number)</i>
<b>Residential Categories</b> Note: if a subdivision is created with streets that have no parking on either side, parking bays must be provided per Section 3.300.G.3	
<b>Household Living</b>	
Accessory Dwelling	None
Single-Family Dwelling, including attached and detached dwellings and manufactured homes	None, except attached dwellings shall conform to the parking requirements for multi-family uses
Duplex	3 spaces per duplex
Multi-family	1 space per studio or 1-bedroom unit 1.5 spaces/unit per 2-bedroom unit 2 spaces/unit per 3-bedroom or larger unit
Group Living, such as nursing or convalescent homes, rest homes, assisted living, congregate care, and similar special needs housing	0.5 space per 4 bedrooms

3.3.300 – Automobile Parking Standards

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Minimum Parking per Land Use</b> <i>(fractions rounded down to the closest whole number)</i>
<b>Commercial Categories</b>	
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 2.3.190	No requirement. See Section 2.3.190 for queuing area requirements
Bed and Breakfast Inn	1 space per bedroom
Educational Services, not a school (e.g., tutoring or similar services)	2 space per 1,000 sq. ft. floor area
Entertainment, Major Event	per CU review (Chapter 4.4)
Offices	2 spaces per 1,000 sq. ft. floor area
Outdoor Recreation, Commercial	per CU review (Chapter 4.4)
Parking Lot (when not an accessory use)	per CU review (Chapter 4.4)
Quick Vehicle Servicing or Vehicle Repair. (See also Drive-Up/Drive-In/Drive-Through Uses, per Section 2.3.190)	2 spaces, or per CU review (Chapter 4.4)
Retail Sales and Service (See also Drive-Up Uses)	<u>Retail</u> : 2 spaces per 1,000 sq. ft., except bulk retail (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales) 1 per 1,000 sq. ft.
	<u>Restaurants and Bars</u> : 8 spaces per 1,000 sq. ft. floor area
	<u>Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys)</u> : 3 space per 1,000 sq. ft.
	<u>Lodging (hotels, motels, inns)</u> , (see also Bed and Breakfast Inns): 0.75 per rentable room; for associated uses, such as restaurants, entertainment uses, and bars, see above
	Theaters and Cinemas: 1 per 6 seats
Self-Service Storage	No standard



3.3.300 – Automobile Parking Standards

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Minimum Parking per Land Use</b> <i>(fractions rounded down to the closest whole number)</i>
<b>Industrial Categories<sup>1</sup></b>	
Industrial Service (See also Drive-Up Uses)	1 space per 1,000 sq. ft. of floor area
Manufacturing and Production	1 space per 1,000 sq. ft. of floor area
Warehouse and Freight Movement	0.5 space per 1,000 sq. ft. of floor area
Waste-Related	per CU review (Chapter 4.4)
Wholesale Sales - fully enclosed - not enclosed	1 space per 1,000 sq. ft. per CU review (Chapter 4.4)
<b>Institutional Categories</b>	
Basic Utilities	None
Colleges	per CU review (Chapter 4.4)
Community Service	1 space per 200 sq. ft. of floor area
Daycare, adult or child day care; does not include Family Daycare (12 or fewer children) under ORS 657A.250	1 space per 500 sq. ft. of floor area
Parks and Open Space	Determined per CU review (Chapter 4.4) for active recreation areas, or no standard
Religious Institutions and Houses of Worship	1 space per 75 sq. ft. of main assembly area; or per CU review, as applicable
Schools	<u>Grade, elementary, middle, junior high schools:</u> 1 space per classroom, or per CU review (Chapter 4.4)
	<u>High schools:</u> 7 per classroom, or per CU review (Chapter 4.4)
<b>Other Categories<sup>2</sup></b>	
Accessory Uses (with a permitted use)	No standard, except some uses may be required to provide parking under the minimum standards for primary uses, as determined by the decision body through Land Use Review, Conditional Use Permit review, or Site Design Review.

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.4; definitions are in Chapter 1.3.)</i>	<b>Minimum Parking per Land Use</b> <i>(fractions rounded down to the closest whole number)</i>
Agriculture – Animals	None, or per CU review (Chapter 4.4)
Agriculture – Nurseries and similar horticulture	See Retail Sales and Wholesale, as applicable
Radio Frequency Transmission Facilities	None
Rail Lines and Utility Corridors, except those existing prior to effective date of Development Code are allowed.	None
Temporary Uses (limited to "P" and "CU" uses), per Section 4.9.100.	As determined per Section 4.9.100
Transportation Facilities (operation, maintenance, preservation, and construction)	None

**B. Vehicle Parking - Minimum Accessible Parking**

1. Accessible parking shall be provided for all uses in accordance the standards in Table 3.3.300B; parking spaces used to meet the standards in Table 3.3.300B shall be counted toward meeting off-street parking requirements in Table 3.3.300A;
2. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;
3. Accessible spaces shall be grouped in pairs where possible;
4. Where covered parking is provided, covered accessible spaces shall be provided in the same ratio as covered non-accessible spaces;
5. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than 42 inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.

**Table 3.3.300B - Minimum Number of Accessible Parking Spaces**

Source: ADA Standards for Accessible Design 4.1.2(5)

Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (with 60" access aisle, or 96" aisle for vans*)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	<i>Column A</i> 1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A**	7/8 of Column A***
1001	20 plus 1 for each 100 over 1000	1/8 of Column A**	7/8 of Column A***
*vans and cars may share access aisles **one out of every 8 accessible spaces ***7 out of every 8 accessible parking spaces			

**C. On-Street Parking.** On-street parking shall conform to the following standards:

1. Dimensions. The following constitutes one on-street parking space:
  - a. Parallel parking, each twenty-two (22) feet of uninterrupted curb;
  - b. diagonal (45-60 degree) parking, each with twelve (12) feet of curb;
  - c. 90-degree (perpendicular) parking, each with twelve (12) feet of curb.
2. Location. Parking may be counted toward the minimum standards in Table 3.3.300A when it is on the block face abutting the subject land use. An on-street parking space must not obstruct a required clear vision area and must not violate any law or street standard.
3. Public Use Required for Credit. On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.

**D. Shared parking.** Required parking facilities for two (2) or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. The City may approve owner requests for shared parking through Land Use Review.

**E. 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 500 feet of the use it serves and the City has approved the off-site parking through Land Use Review. 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.

**F. General Parking Standards.**

1. **Location.** Parking is allowed only on streets, within garages, carports, and other structures, or on driveways or parking lots that have been developed in conformance with this Code. Article 2, Land Use Districts, prescribes parking location for some land uses (e.g., the requirement that parking for some multi-family and commercial developments be located to side or rear of buildings), and Chapter 3.1, Access and Circulation, provides design standards for driveways. Street parking spaces shall not include space in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pedestrian accessway, landscape, or other undesignated area.
2. **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). The City may reduce the total parking required accordingly through Land Use Review.
3. **Availability of facilities.** Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers, and/or employees.
4. **Lighting.** Parking areas shall have lighting to provide at least two (2) foot-candles of illumination over parking spaces and walkways. Light standards shall be directed downward only and shielded to prevent lighting spillover into any adjacent residential district or use.
5. **Screening of Parking Areas.** Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses, per Section 3.2.300E.

**G. Parking Stall Design and Minimum Dimensions.** All off-street parking spaces shall be improved to conform to City standards for surfacing, stormwater management, and striping. Standard parking spaces shall conform to the following standards and the dimensions in Figures 3.3.300F(1) through (3), and Table 3.3.300F:

1. Motor vehicle parking spaces shall measure eight (8) feet six (6) inches wide by eighteen (18) feet long or by sixteen (16) feet long, with not more than a two (2) foot overhang when allowed;
2. All parallel motor vehicle parking spaces shall measure eight (8) feet six (6) inches by twenty-two (22) feet;
3. Parking bays shall be provided at a ratio of 0.5 parking spaces per dwelling unit and shall conform to parallel parking stall design dimensions. No ADA parking spaces are required. No more than 15 spaces may be grouped together.
4. Parking area layout shall conform to the dimensions in Figure 3.3.300F(1) and (2), and Table 3.3.300F, below;
5. Parking areas shall conform to Americans with Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines; and
6. Bicycle parking shall be on a two (2) feet by six (6) feet minimum concrete pad per bike, or within a garage or patio of residential use.

**Figure 3.3.300F(1) - Parking Area Layout**

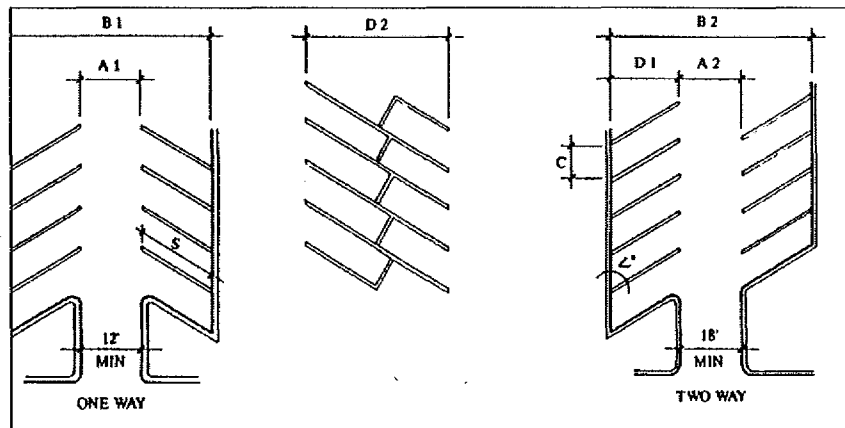


Figure 3.3.300.F(2) - Disabled Person Parking Requirements

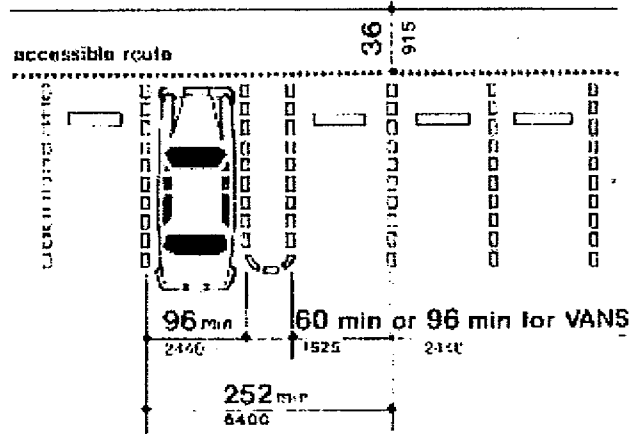


Table 3.3.300F - Parking Area Layout

	PARKING ANGLE < °	CURB LENGTH	STALL DEPTH		AISLE WIDTH		BAY WIDTH		STRIPE LENGTH
			SINGLE D1	DOUBLE D2	ONE WAY A1	TWO WAY A2	ONE WAY B1	TWO WAY B2	
<b>Standard Space</b>	90°	8'-6"	18'	36'	23'	23'	59'	59'	18'
(See Figure 3.3.300F(2) for ADA space requirements)	60°	10'	20'	40'	17'	18'	57'	58'	23'
	45°	12'	18'-6"	37'	13'	18'	50'	55'	26'-6"
	30°	17'	16'-6"	33'	12'	18'	45'	51'	32'-8"
	0°	22'	8'-6"	17'	12'	18'	29'	35'	8'-6"

**Important cross-references:**

See also, Article 2, Land Use District standards, for parking location requirements for some multi-family and commercial land uses; Chapter 3.1, Access and Circulation, for driveway standards; and Chapter 3.2, Landscaping.

### 3.3.400 Bicycle Parking Requirements

All uses that are subject to Site Design Review shall provide bicycle parking, in conformance with the standards in Table 3.3.400, and subsections A-H, below.

**A. Minimum Required Bicycle Parking Spaces.** Uses shall provide long- and short-term bicycle parking spaces, as designated in Table 3.3.400. Where two options are provided (e.g., 2 spaces, or 1 per 8 bedrooms), the option resulting in more bicycle parking is used.

**Table 3.3.400 - Minimum Required Bicycle Parking Spaces**

Use Categories	Specific Uses	Long-term Spaces (covered or enclosed)	Short-term Spaces (near building entry)
<b>Residential Categories</b>			
Household Living	Multifamily	1 per 4 units	2, or 1 per 20 units
Group Living		2, or 1 per 20 bedrooms	None
	Dormitory	1 per 8 bedrooms	None
<b>Commercial Categories</b>			
Retail Sales And Service		2, or 1 per 12,000 sq. ft. of floor area	2, or 1 per 5,000 sq. ft. of floor area
	Lodging	2, or 1 per 20 rentable rooms	2, or 1 per 20 rentable rooms
Office		2, or 1 per 10,000 sq. ft. of floor area	2, or 1 per 40,000 sq. ft. of floor area
Commercial Outdoor Recreation		8, or 1 per 20 auto spaces	None
Major Event Entertainment		8, or 1 per 40 seats or per CU review	None
<b>Industrial Categories</b>			
Manufacturing And Production		2, or 1 per 15,000 sq. ft. of floor area	None
Warehouse And Freight Movement		2, or 1 per 40,000 sq. ft. of floor area	None
<b>Institutional Categories</b>			
Basic Utilities	Bus transit center	8	None
Community Service		2, or 1 per 10,000 sq. ft. of floor area	2, or 1 per 10,000 sq. ft. of floor area
	Park and ride	8, or 5 per acre	None
Parks (active recreation areas only)		None	8, or per CU review
Schools	Grades 2-5	1 per classroom, or per CU review	1 per classroom, or per CU review
	Grades 6-12	2 per classroom, or per CU review	4 per school, or per CU review
Colleges	Excluding dormitories (see Group Living, above)	2, or 1 per 20,000 sq. ft. of net building area, or per CU review	2, or 1 per 10,000 sq. ft. of net building area, or per CU review

3.3.400 – Bicycle Parking

Use Categories	Specific Uses	Long-term Spaces (covered or enclosed)	Short-term Spaces (near building entry)
Medical Centers		2, or 1 per 70,000 sq. ft. of net building area, or per CU review	2, or 1 per 40,000 sq. ft. of net building area, or per CU review
Religious Institutions and Places of Worship		2, or 1 per 4,000 sq. ft. of net building area	2, or 1 per 2,000 sq. ft. of net building area
Daycare		2, or 1 per 10,000 sq. ft. of net building area	None
<b>Other Categories</b>			
Other Categories	Determined through Land Use Review, Site Design Review, or CU Review, as applicable		

- B. Exemptions.** Section 3.3.400, Bicycle Parking Requirements, does not apply to single-family and two-family housing (attached, detached, or manufactured housing), home occupations, agriculture and livestock uses.
- C. Location and Design.** Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space, or fifty (50) feet, whichever is less. Long-term (i.e., covered) bicycle parking should be incorporated whenever possible into building design. Short-term bicycle parking, when allowed within a public right-of-way, should be coordinated with the design of street furniture, as applicable.
- D. Visibility and Security.** Bicycle parking for customers and visitors of a use shall be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.
- E. Options for Storage.** Long-term bicycle parking requirements for multiple family uses and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building.
- F. Lighting.** For security, bicycle parking shall be at least as well lit as vehicle parking.
- G. Reserved Areas.** Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.
- H. Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards (Chapter 3.1, Access and Circulation).



**3.3.500 Loading Areas.**

- A. Purpose.** The purpose of this section of the Code is to provide standards (1) for a minimum number of off-street loading spaces that will ensure adequate loading areas for large uses and developments, and (2) to ensure that the appearance of loading areas is consistent with that of parking areas.
- B. Applicability.** Section 3.3.500 applies to residential projects with fifty (50) or more dwelling units, and non-residential and mixed-use buildings with 20,000 square feet or more total floor area.
- C. Number of Loading Spaces.**
1. Residential buildings. Buildings where all of the floor area in residential use shall meet the following standards:
    - a. Fewer than fifty (50) dwelling units on a site that abuts a local street: No loading spaces are required.
    - b. All other buildings: One (1) space.
  2. Non-residential and mixed-use buildings. Buildings where any floor area in non-residential uses shall meet the following standards:
    - a. Less than 20,000 square feet total floor area: No loading spaces required.
    - b. 20,000 to 50,000 square feet of total floor area: One (1) loading space.
    - c. More than 50,000 square feet of total floor area: Two (2) loading spaces.
- D. Size of Spaces.** Required loading spaces shall be at least thirty-five (35) feet long and ten (10) feet wide, and shall have a height clearance of at least thirteen (13) feet.
- E. Placement, setbacks, and landscaping.** Loading areas shall conform to the setback and perimeter landscaping standards in Articles 2 and 3. Where parking areas are prohibited between a building and the street, loading areas are also prohibited. The decision body may approve a loading area adjacent to or within the street right-of-way through Site Design Review or Conditional Use Permit review, as applicable, where it finds that loading and unloading operations are short in duration (i.e., less than one hour), do not obstruct traffic during peak traffic hours, or do not interfere with emergency response services.

**3.3.600 Stacking and Queuing Areas.**

- A. Purpose.** The purpose of this section of the Code is to provide standards (1) for a minimum number of off-street loading spaces that will ensure adequate loading areas for large uses and developments in order to prevent and minimize congestion of public roadways, improve safety for the loading and unloading of people, and (2) to ensure that the appearance of loading areas is consistent with that of parking areas.
- B. Applicability.** Uses that involve queuing of vehicles, loading and unloading of goods, materials, or people are required to have an area for vehicle stacking to prevent or minimize congestion of public streets. Examples of uses include but are not limited to schools and drive-through services such as banks, car washes, and coffee stands.
- C. Number of Loading Spaces.** A stacking space shall be a minimum of nine feet (9') in width and 20' in length and shall not be located within or interfere with any other circulation driveway, parking space, fire lane, or maneuvering area.

In all Districts, at the time any building or structure is erected or altered, stacking spaces shall be provided in the number and manner set forth in the following list of property uses:

- **Automated Teller Machine (ATM):** Three (3) stacking spaces.
- **Automobile Oil Change and Similar Establishments:** Three (3) stacking spaces per bay.
- **Car Wash (Full Service):** Six (6) stacking spaces per bay.
- **Car Wash (Self-Service – Open Bay):** Two (2) stacking spaces per bay.
- **Car Wash (Self-Service – Drying Areas and Vacuum Islands):** Two (2) stacking spaces per drying area and/or vacuum island.
- **Dry Cleaning, Pharmacy, or Other Retail Establishments with Drive-thru:** Three (3) stacking spaces for first service window.
- **Financial Institution:** Five (5) stacking spaces per window or service lane.
- **Elementary, Middle, Day Schools and Similar Child Training and Care Establishments:** One (1) stacking space per 10 students provided on a through “circular” drive.
- **Kiosk (coffee):** Three (3) stacking spaces per window or service lane.
- **Kiosk (with Food Service):** Five (5) stacking spaces for first window, order board, or other stopping point.

### 3.3.500 – Queuing Areas

- **Kiosk (without Food Service):** Two (2) stacking spaces for first window, order board, or other stopping point.
- **Restaurant with Drive-thru:** Five (5) stacking spaces for first window, order board, or other stopping point.

Other uses not specifically listed above shall furnish stacking and queuing spaces as required by the Planning Commission. The Planning Commission shall use the above list as a guide for determining requirements for said other uses.

An alternate number of required stacking spaces can be approved by the Planning Commission through variance procedures and criteria in Section 5.1.400 (E).

## Chapter 3.4 — Public Facilities

### Sections:

- 3.4.010 Purpose and Applicability**
- 3.4.100 Transportation Standards**
- 3.4.200 Public Use Areas**
- 3.4.300 Sanitary Sewers, Water, Street Lights, and Fire Protection**
- 3.4.400 Storm Drainage and Erosion Control**
- 3.4.500 Utilities**
- 3.4.600 Easements**
- 3.4.700 Construction Plan Approval and Assurances**
- 3.4.800 Installation**

### **3.4.010 Purpose and Applicability**

- A. Purpose.** The purpose of this Chapter is to provide planning and design standards for public and private transportation facilities and utilities. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this Chapter is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth and provide a range of transportation options, including options for driving, walking, transit and bicycling. This Chapter is also intended to implement the City's Transportation System Plan and Oregon's Transportation Planning Rule.
- B. When Standards Apply.** Unless otherwise provided, the standard specifications for construction, reconstruction, or repair of transportation facilities, utilities, and other public improvements within the City shall occur in accordance with the standards of this Chapter. No development may occur unless the public facilities related to development comply with the public facility requirements established in this Chapter.
- C. Engineering Design Criteria, Standard Specifications and Details.** The current combined and subsequent amendments to the Standard Specifications for Public Works Construction, Oregon Chapter A.P.W.A.-ODOT, as may be amended by the City of Creswell, are incorporated by reference. The design criteria, standard construction specifications and details adopted by the City, or any other agency with jurisdiction, shall supplement the general design standards of this Development Code. The City's specifications, standards, and details are hereby incorporated into this Code by reference.
- D. Conditions of Development Approval.** No development may occur unless required public facilities are in place or guaranteed, in conformance with the provisions of this Code. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate whether rough proportionality exists between the benefit to be derived from the condition imposed and the projected impact or burden of the proposed development. The applicant may be requested to provide evidence of impacts as part of the City's completeness review, as a basis for these findings.

**3.4.100 Transportation Standards**

**A. Development Standards.** The following standards shall be met for all new uses and developments:

1. All new lots created, consolidated, or modified through a land division, partition, lot line adjustment, lot consolidation, or street vacation must have frontage or approved access to a public street.
2. Streets within or abutting a development shall be fully improved in accordance with the Transportation System Plan and the provisions of this Chapter. Half- or three-quarter-street improvements may be accepted only in the case of a collector or arterial street, and only when requiring a full-width street improvement can not be justified based on the proportionate impact of the development on the transportation system. Where a less than full street is allowed, the minimum total paved width shall not be less than twenty-eight (28) feet to provide for two travel lanes and bicycle lanes, subject to review and approval by the City Engineer.
3. Development of new streets, and additional street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Section, and public streets shall be dedicated to the applicable road authority;
4. New streets and drives shall be paved.

**B. Guarantee.** The City may accept a future improvement guarantee (e.g., owner agrees to provide cash or letter of credit prior to signature of the final plat) in lieu of street improvements if one or more of the following conditions exist:

1. A partial improvement does not create a potential safety hazard to motorists, bicyclists, or pedestrians;
2. Due to the developed condition of adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, reduce street safety or capacity;
3. The improvement would be in conflict with an adopted capital improvement plan; or
4. The improvement is associated with an approved land partition in the RL or RM District and the proposed land partition does not create any new streets.

- C. Creation of Rights-of-Way for Streets and Related Purposes.** Streets shall be created through the approval and recording of a final subdivision or partition plat; except the City may approve the creation of a street by acceptance of a deed, provided that the street is deemed in the public interest by the City Council for the purpose of implementing the Transportation System Plan, and the deeded right-of-way conforms to the standards of this Code.
- D. Creation of Access Easements.** The City may approve an access easement when the easement is necessary to provide for access and circulation in conformance with Chapter 3.1, Access and Circulation. Access easements shall be created and maintained in accordance with the Uniform Fire Code Section 10.207.
- E. Street Location, Width, and Grade.** Except as noted below, the location, width and grade of all streets shall conform to the Transportation System Plan and an approved street plan or subdivision plat. Street location, width, and grade shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets:
1. Street grades shall be approved by the City Engineer in accordance with the design standards of this Section; and
  2. Where the location of a street is not shown in an existing street plan, the location of streets in a development shall either:
    - a. provide for the continuation and connection of existing streets in the surrounding areas, conforming to the street standards of this Section, or
    - b. conform to a street plan adopted by the City if it is impractical to connect with existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets, and the need for public convenience and safety.
- F. Minimum Rights-of-Way and Street Sections.** Street rights-of-way and improvements shall be the widths in Table 3.4.100. A variance shall be required to vary the standards in Table 3.4.100. Where a range of width is indicated, the width shall be the narrower in the range unless unique and specific conditions exists as determined by the decision-making authority based upon the following factors:
1. Street classification in the Transportation System Plan;
  2. Anticipated traffic generation;
  3. On-street parking needs;
  4. Sidewalk and bikeway requirements based on anticipated level of use;
  5. Requirements for placement of utilities;

6. Street lighting;
7. Minimize drainage, slope, and sensitive lands impacts;
8. Street tree location, as provided for in Chapter 3.2;
9. Protection of significant vegetation, as provided for in Chapter 3.2;
10. Safety and comfort for motorists, bicyclists, and pedestrians;
11. Street furnishings (e.g., benches, lighting, bus shelters, etc.), when provided;
12. Access needs for emergency vehicles; and
13. Transition between different street widths (i.e., existing streets and new streets).

Table 3.4.100F Street Standards

Street Type	Ave. Daily Trips (ADT)	Right-of-Way Width	Curb-to-Curb Paved Width	Within Curb-to-Curb Area				Curbs	Planting Strips or Tree Wells**	Side-walks **
				Motor Vehicle Travel Lanes	Median/Center Turn Lane	Bike Lanes	On-Street Parking			
<b>Arterials</b>	8,000-30,000 ADT									
<b>Boulevards:</b>										
2-Lane Boulevard		61'-87'	34'	11'	None	2 at 6'	8' bays	6"	7'-12'	5'-12'
3-Lane Boulevard		73'-99'	46'	11'	12'	2 at 6'	8' bays	6"	7'-12'	5'-12'
5-Lane Boulevard		95'-121'	68'	11'	12'	2 at 6'	8' bays	6"	7'-12'	5'-12'
<b>Avenues:</b>										
2-Lane Avenue	3,000 to 10,000 ADT	59'-86'	32'-33'	10'-10.5'	none	2 at 6'	8' bays	6"	7'-12'	5'-12'
3-Lane Avenue		70.5'-97.5'	43.5'-44.5'	10'-10.5'	11.5'	2 at 6'	8' bays	6"	7'-12'	5'-12'
<b>Collectors</b>	1,500-5,000 ADT									
<b>Residential:</b>										
No Parking		49'-51'	22'-32'	11'		2 at 5'	None	6"	7'-8'	5'-12'
Parking One Side		50'-56'	25'-35'	9'-10'		2 at 5'	7' lane	6"	7'-8'	5'-12'
Parking Both Sides		57'-63'	32'-42'	9'-10'		2 at 5'	7' lanes	6"	7'-8'	5'-12'
<b>Commercial (Collectors and Local Streets):</b>										
Parallel One Side		55'-65'	28'	10'			8' lane	6"	7'-8'	6'-12'
Parallel Both Sides		63'-73'	36'	10'			8' lanes	6"	7'-8'	6'-12'



3.4.100 – Transportation Standards

Street Type	Ave. Daily Trips (ADT)	Right-of-Way Width	Curb-to-Curb Paved Width	Within Curb-to-Curb Area				Curbs	Planting Strips or Tree Wells**	Sidewalks**
				Motor Vehicle Travel Lanes	Median/Center Turn Lane	Bike Lanes	On-Street Parking			
Diagonal Parking One Side		65'-74'	37'	10'			Varies	6"	7'-8'	6'-12'
Diagonal Parking Both Sides		81'-91'	54'	10'			Varies	6"	7'-8'	6'-12'
<b>Local Streets</b>	Less than 1,500 ADT									
<b>Residential:</b>										
Parking Both Sides		56'-60'	32'	14' (queuing)			7' lanes	6"	7'-8'	5'-6'
No Parking		44'-50'	22'	22'			None	6"	7'-8'	5'-6'
<b>Commercial:</b>	See Collector standards for commercial streets.									
<b>[Reserved for Additional Standards, as needed]</b>										

\*Where the standards provide a range, roadways shall be the minimum width practicable given site conditions and available alternate routes (i.e., for emergency responders). Sidewalk and planter strips should generally be designed at the maximum width, except where reduced widths would help in the protection of significant trees, wetlands, or other sensitive lands. The planter strip may be waived and sidewalks installed curb-tight to protect sensitive lands.

Figure 3.4.100F(1) Three-Lane Arterial-Boulevard Street Section

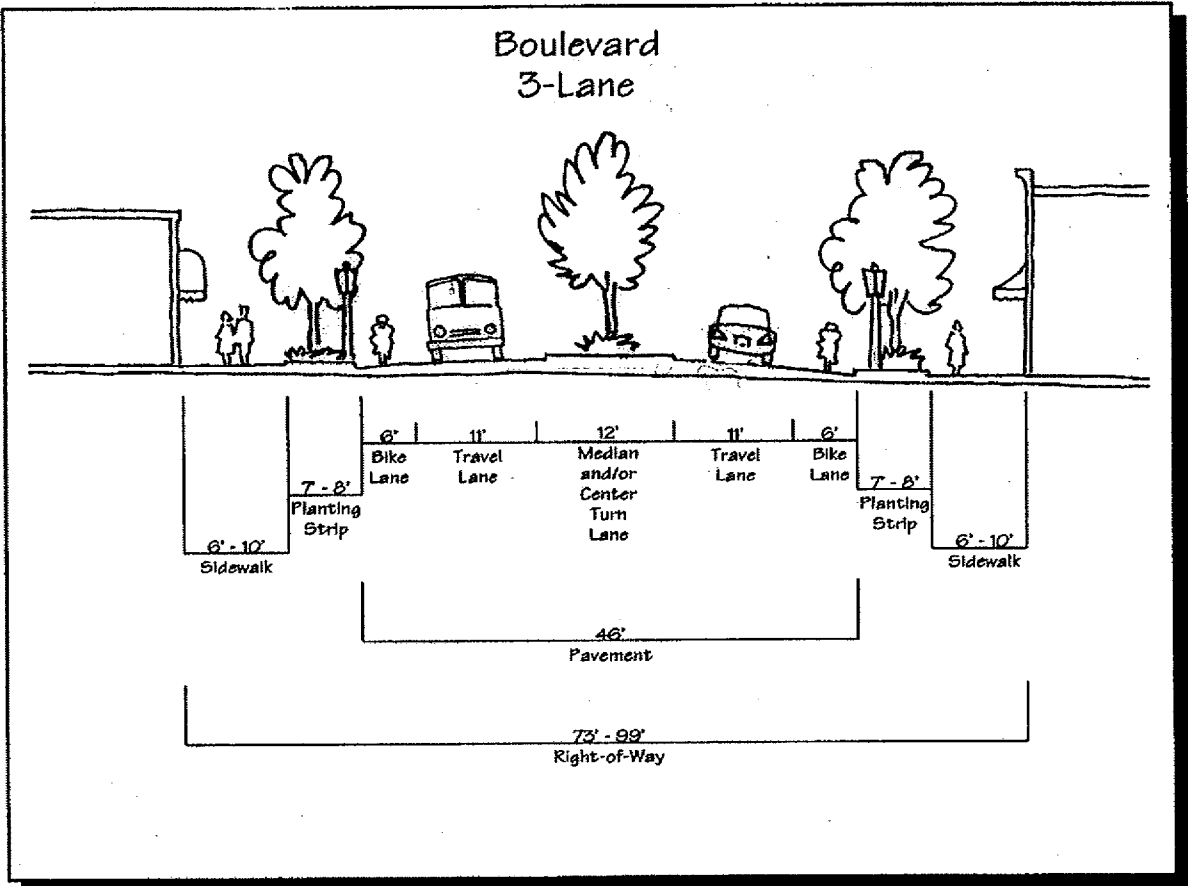
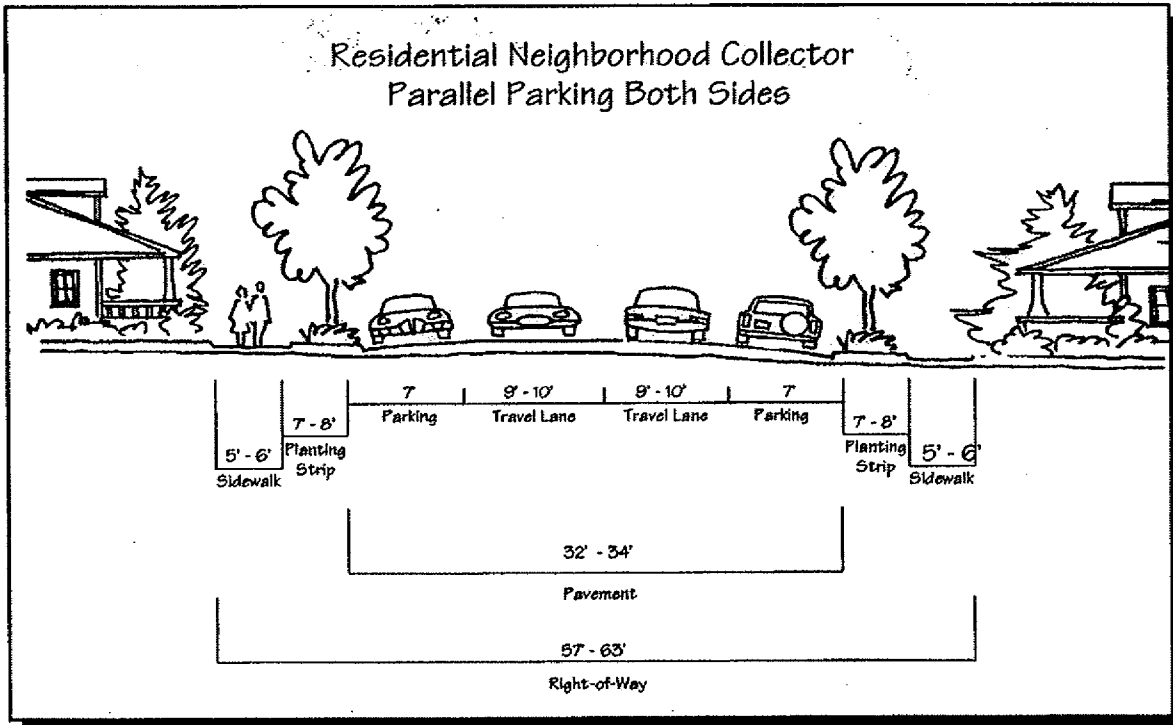
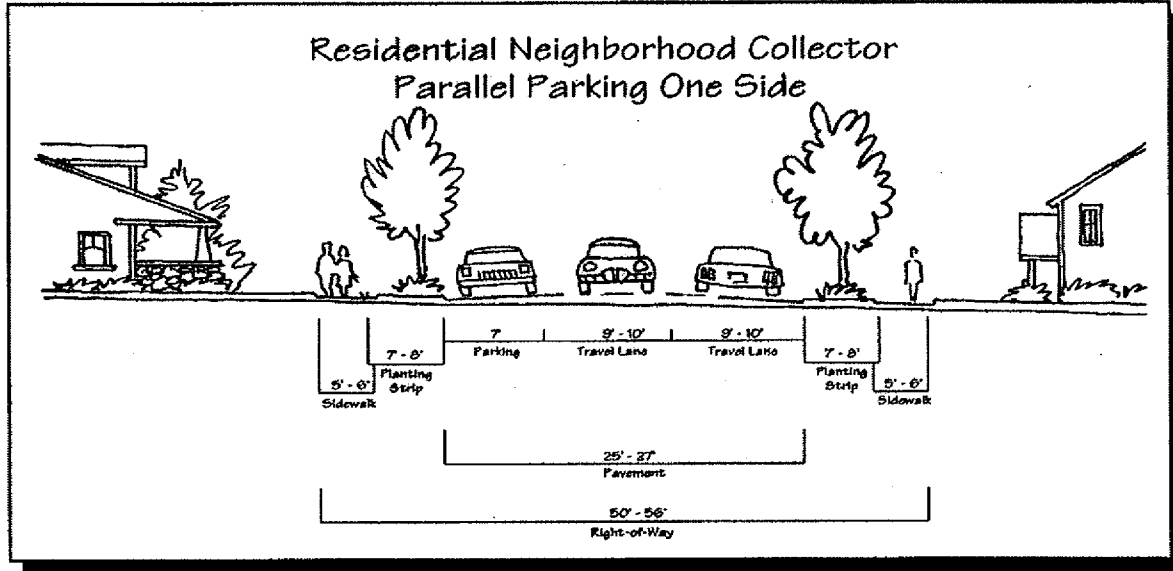


Figure 3.4.100F(2) Residential Collector Street Sections



**Figure 3.4.100F(3) Commercial/Industrial Collector Street Sections (Parking One Side)**

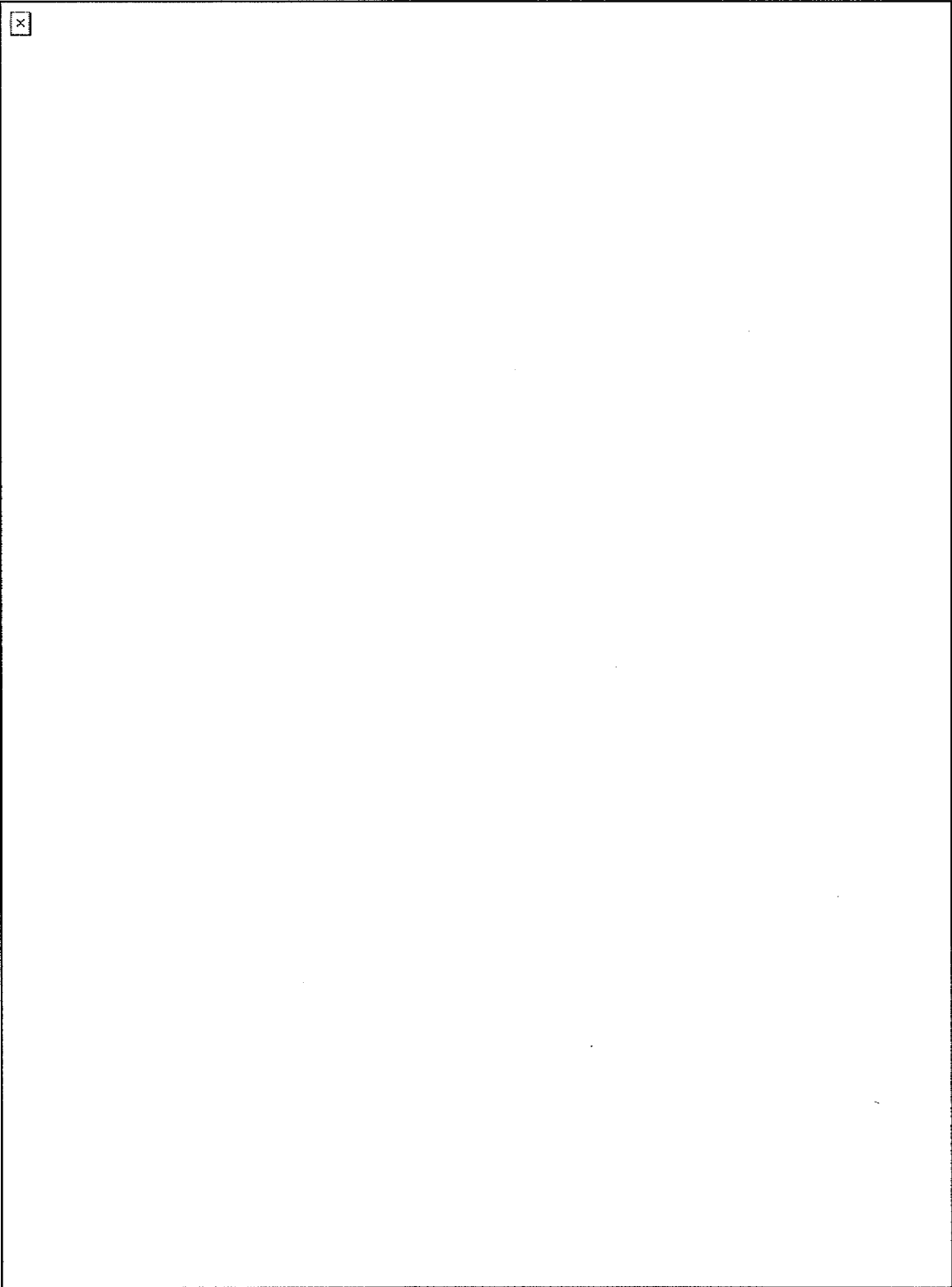
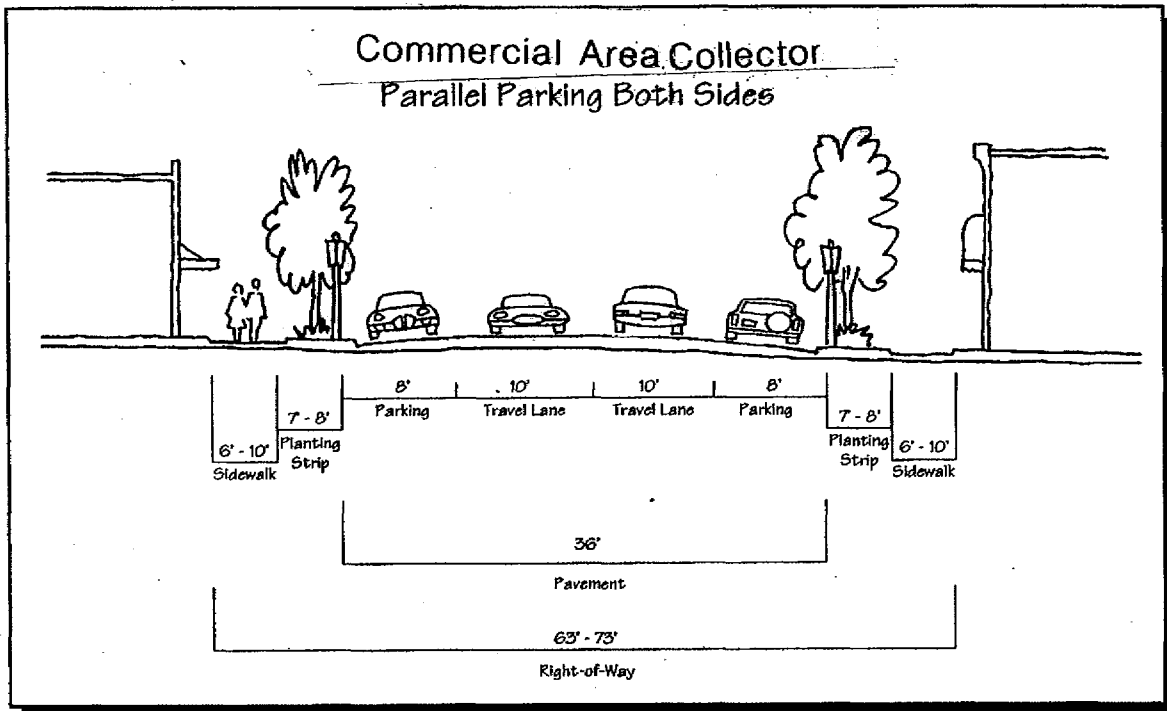
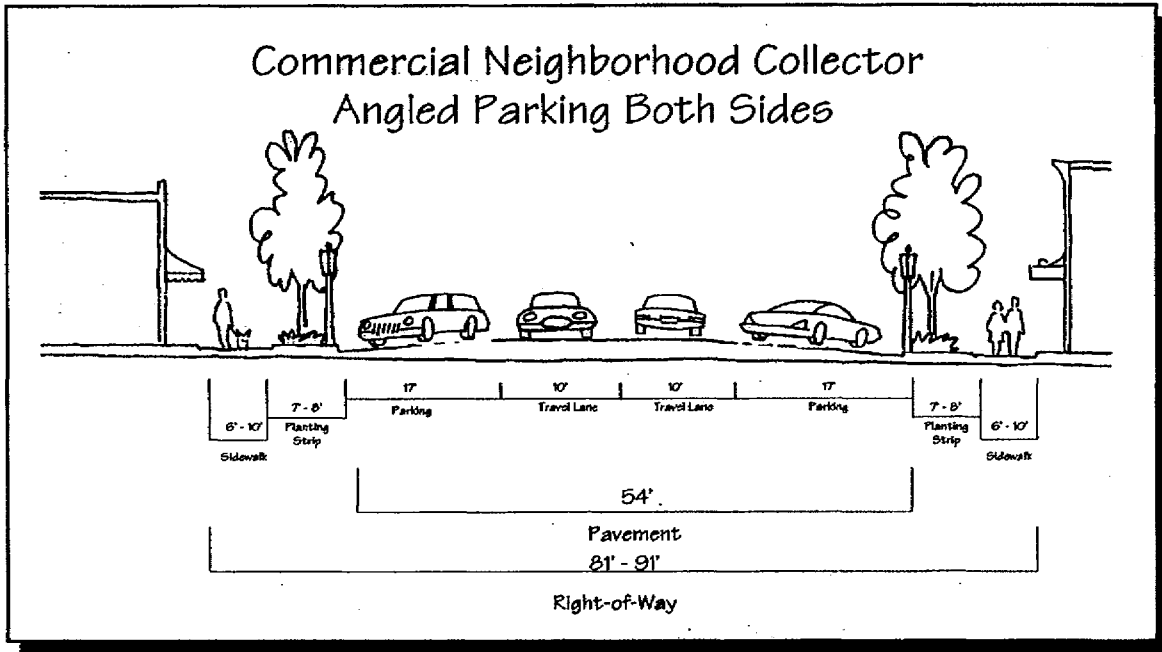
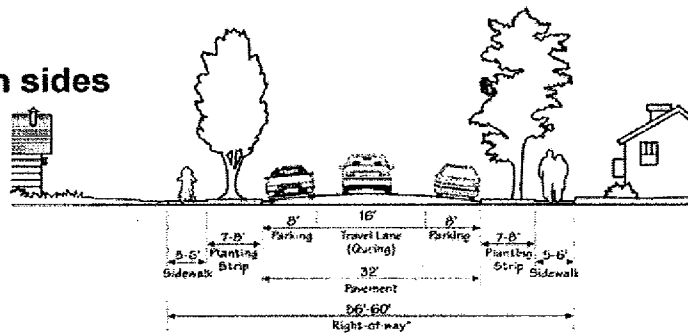


Figure 3.4.100F(4) Commercial/Industrial Collector Street Sections (Parking Two Sides)



**Figure 3.4.100F(5) Local Residential Street Sections**  
 (VARIABLE RIGHTS-OF-WAY SHOWN; ADD'L WIDTH MAY BE REQUIRED DEPENDING ON WHETHER DRIVEWAY OFFSETS, CURVE RADII AND OTHER FACTORS SUPPORT QUEUING)

**32-Ft Street**  
**Parking on both sides**



**22-Ft Street**  
**No on-street parking allowed**

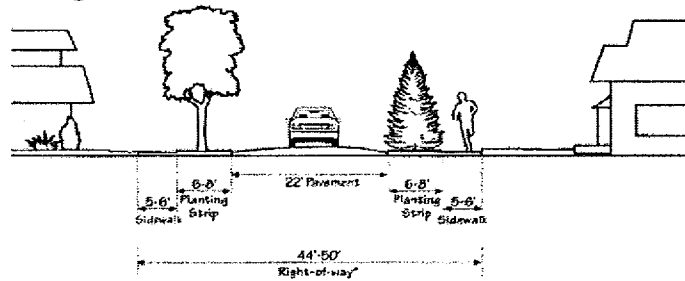
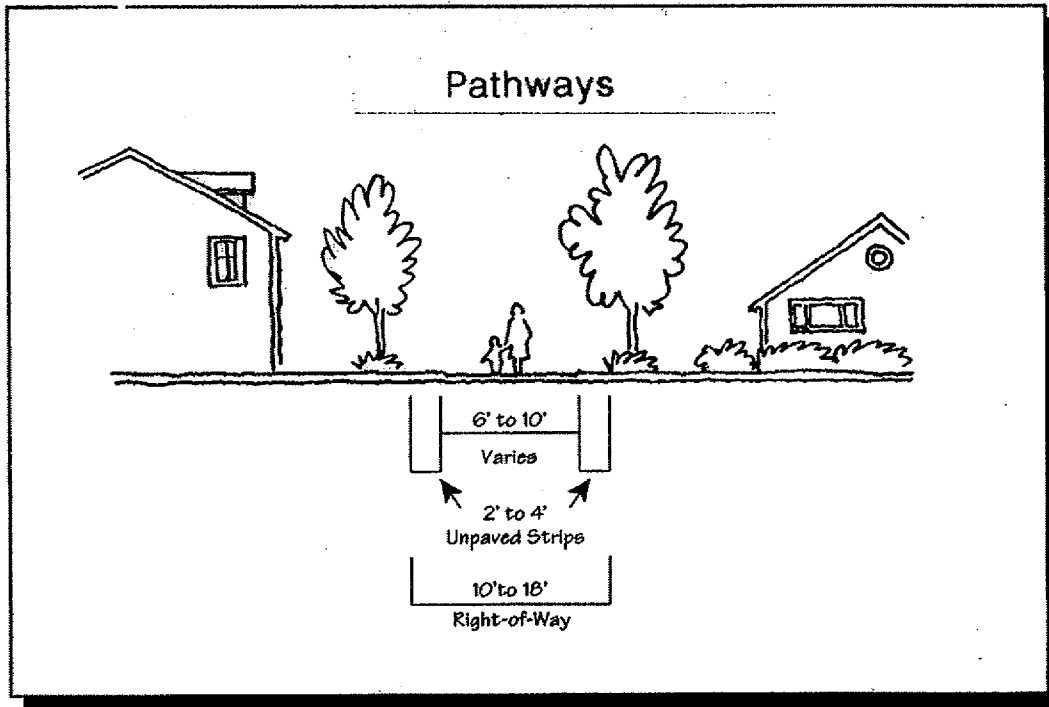
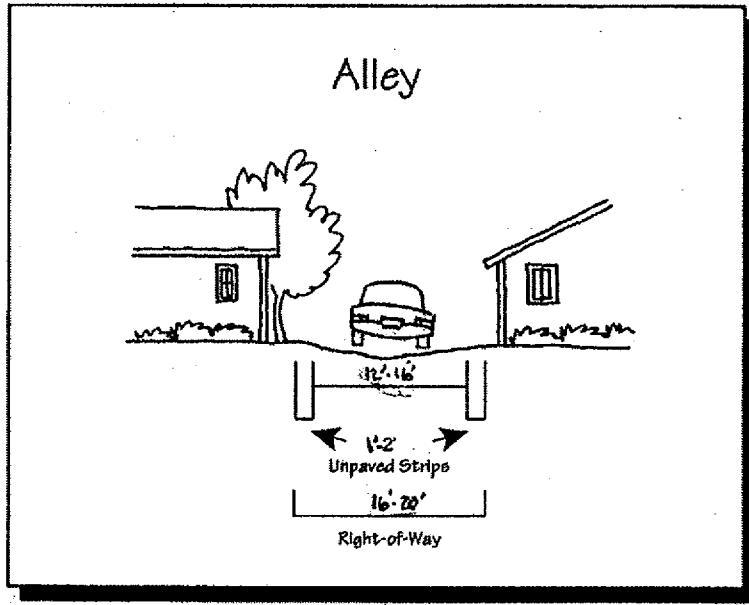


Figure 3.4.100F(2) Alley and Pathway Sections



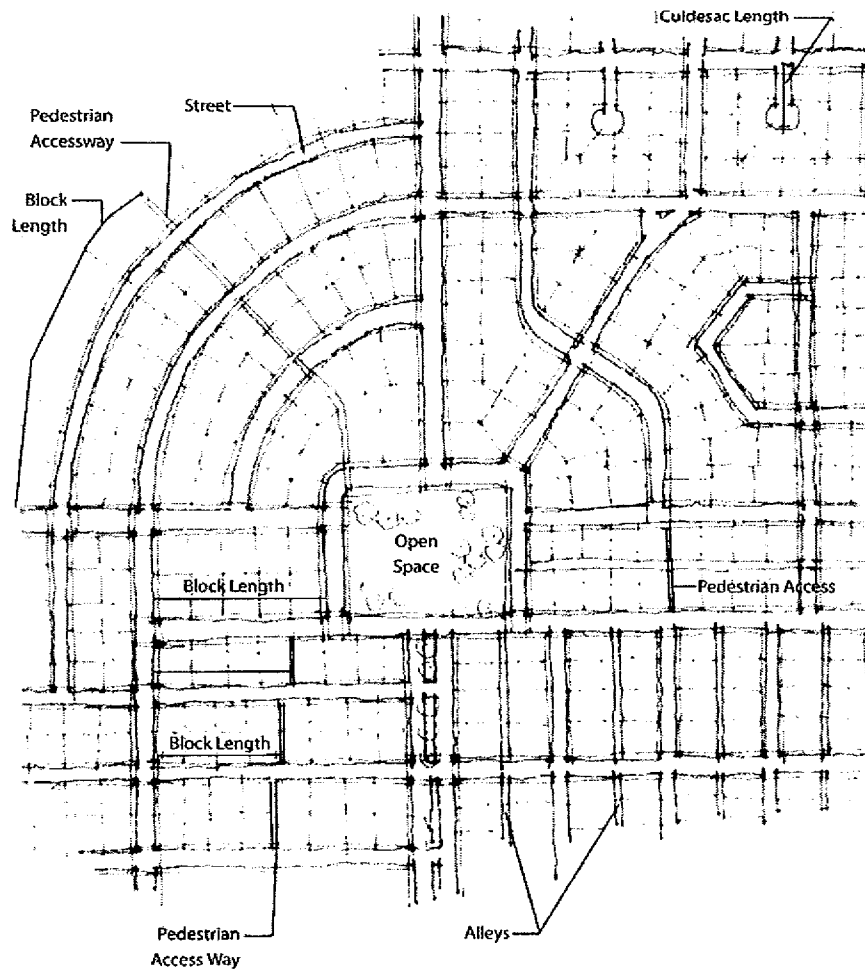
*Note: Where an alley serves as a fire apparatus lane, it must provide twenty (20) feet of unobstructed width*

**H. Subdivision Street Connectivity.** All subdivisions shall conform to all the following access and circulation design standards, as applicable:

1. Connectivity to Abutting Lands. The street system of proposed subdivisions shall be designed to connect with existing, proposed, and planned streets outside of the subdivision as provided in this Section. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. All street stubs shall be provided with a temporary turn-around unless specifically exempted by the Fire Marshal, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.
2. When Abutting an Arterial Street. Property access to abutting arterials shall be minimized. Where such access is necessary, shared driveways may be required in conformance with Section 3.1.2. If vehicle access off a secondary street is possible, then the road authority may prohibit access to the arterial.
3. Continuation of Streets. Planned streets shall connect with surrounding streets to permit the convenient movement of traffic between residential neighborhoods and to facilitate emergency access and evacuation. Connections shall be designed to meet or exceed the standards in subsection 4, below, and to avoid or minimize through traffic on local streets. Appropriate design and traffic control and traffic calming measures, as provided in subsection H, below, are the preferred means of discouraging through traffic.
4. Street Connectivity and Formation of Blocks. In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions and site developments of more than two (2) acres shall be served by a connecting network of public streets and/or accessways, in accordance with the following standards (minimum and maximum distances between two streets or a street and its nearest accessway):
  - a. Residential Districts: Minimum of 100-foot block length and maximum 500-foot length.
  - b. Downtown Commercial District: Block lengths shall be consistent with the existing town plat, as of March 2006. Streets shall not be vacated in the DC District.
  - c. General Commercial and Industrial-Commercial Districts: Minimum of 100-foot block length and maximum 600-foot length.
  - d. Not applicable to the Industrial Districts.



Figure 3.4.100G - Street Connectivity and Formation of Blocks



5. **Accessway Standards.** Where a street connection in conformance with the maximum block length standards in subsection 4 is impracticable, an accessway shall be provided at or near the middle of a block in lieu of the street connection, as generally shown in Figure 3.4.100G. The City may also require developers to provide an accessway where a cul-de-sac or other street is planned and the accessway would connect the streets or provide a connection to other developments. Such accessways shall conform to all of the following standards:
- Accessways shall be no less than ten (10) feet wide and located within a right-of-way or easement allowing public access and, as applicable, emergency vehicle access;
  - If the streets within the subdivision or neighborhood are lighted, all accessways in the subdivision shall be lighted. Accessway illumination shall provide at least two (2)-foot candles;
  - A right-of-way or public access easement provided in accordance with subsection b that is less than twenty (20) feet wide may be allowed on steep slopes where the decision body finds that stairs, ramps, or switch-back paths are required;
  - All accessways shall conform to applicable ADA requirements; and

- e. The City may require landscaping as part of the required accessway improvement to buffer pedestrians from adjacent vehicles, or to screen accessways from view of adjacent residences where a fence is not otherwise installed, provided that landscaping or fencing adjacent to the accessway shall not exceed four (4) feet in height.

**I. Traffic Signals and Traffic Calming Features.**

1. Traffic signals shall be required with development when traffic signal warrants are met, in conformance with the Highway Capacity Manual and Manual of Uniform Traffic Control Devices. The location of traffic signals shall be noted on approved street plans. Where a proposed street intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed in conformance with the road authority's requirements. The developer's cost and the timing of improvements shall be included as a condition of development approval.
2. When an intersection meets or is projected to meet traffic signal warrants, the City may accept alternative mitigation, such as a roundabout, in lieu of a traffic signal, if approved by the City Engineer and applicable road authority.
3. The City may require the installation of calming features such as traffic circles, curb extensions, reduced street width (parking on one side), medians with pedestrian crossing refuges, and/or special paving to slow traffic in neighborhoods or commercial areas with high pedestrian traffic.

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

1. A future street plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other divisible parcels within 600 feet surrounding and adjacent to the proposed land division. The street plan is not binding; rather it is intended to show potential future street extensions with future development.
2. Streets shall be extended to the boundary lines of the parcel or tract to be developed when the City determines that the extension is necessary to give street access to, or permit a satisfactory future division of, adjoining land. The point where the streets temporarily end shall conform to a-c, below:
  - a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets when the adjoining property is developed.
  - b. A barricade (e.g., fence, bollards, boulders or similar vehicle barrier) shall be constructed at the end of the street by the subdivider and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade shall be included in the street construction cost.

- c. Temporary street ends shall provide turnarounds constructed to Uniform Fire Code standards for streets over 150 feet in length. See also, Section 3.1.200.

**K. Street Alignment, Radii, Connections and Completion of Half Streets.**

1. Staggering of streets making "T" intersections at collectors and arterials shall not be designed so that offsets of less than 300 feet on such streets are created, as measured from the centerline of the street.
2. Spacing between local street intersections shall have a minimum separation of 125 feet as measured from the centerline of the street, except where more closely spaced intersections are designed to provide an open space, pocket park, common area, or similar neighborhood amenity. This standard applies to four-way and three-way (off-set) intersections.
3. All local and collector streets that stub into a development site shall be extended within the site to provide through circulation unless prevented by environmental or topographical constraints, existing development patterns, or compliance with other standards in this Code. This exception applies when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the environmental or topographic constraint precludes some reasonable street connection.
4. Proposed streets or street extensions shall be located to allow continuity in street alignments and to facilitate future development of vacant or redevelopable lands. Developments abutting an existing half- or three-quarter street shall be required to build out the street to its full dimensions and specifications.
5. In order to promote efficient vehicular and pedestrian circulation throughout the City, the design of subdivisions and alignment of new streets shall conform to block length standards in Article 2 and Section 3.4.100(H)(4).
6. Corner curb radii shall be at least twenty (20) feet, except where smaller radii are approved by the City Engineer.

- L. Sidewalks, Planter Strips, Bicycle Lanes.** Sidewalks, planter strips, and bicycle lanes shall be installed in conformance with the standards in Table 3.4.100, applicable provisions of Transportation System Plan, the Comprehensive Plan, and adopted street plans. Maintenance of sidewalks and planter strips in the right-of-way is the continuing obligation of the adjacent property owner. Replacement costs due to damage of sidewalk and/or planter strips in the right-of-way shall be the obligation of the property owner as determined by the City Engineer.

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

1. Streets shall have at least twenty-five (25) feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance;
2. Intersections that are not at right angles shall have a minimum corner radius of twenty (20) feet along the right-of-way lines of the acute angle; and
3. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than twenty (20) feet.

**N. Existing Rights-of-Way.** Whenever existing rights-of-way adjacent to a proposed development are less than standard width, additional rights-of-way shall be provided at the time of subdivision or development, subject to the provision of Section 3.4.100.

**O. Cul-de-sacs.** A cul-de-sac street shall only be used when environmental or topographical constraints, existing development patterns, or compliance with other standards in this code preclude street extension and through circulation. When cul-de-sacs are provided, all of the following shall be met:

1. The cul-de-sac shall not exceed a length of 600 feet; the length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac;
2. The cul-de-sac shall terminate with a circular or hammer-head turnaround meeting the Uniform Fire Code. Circular turnarounds shall have a radius of no less than 35 feet, and not more than a radius of 45 feet (i.e., from center to edge of pavement), subject to approval by the City Engineer; except that turnarounds shall be larger when they contain a landscaped island or parking bay at their center. When an island or parking bay is provided, there shall be a fire apparatus lane of twenty (20) feet in width; and
3. The cul-de-sac shall provide, or not preclude the opportunity to later install, a pedestrian and bicycle accessway connection between it and adjacent streets accessways, parks, or other right-of-way. Such accessways shall conform to Section 3.1.400.

**P. Grades and Curves.** Grades shall not exceed 10% on arterials, 12% on collector streets, or 12% on any other street (the maximum street grade permitted for hillside developments is 15%, except that grades in excess of 15%, but not more than 20%, may be allowed for a distance not to exceed 200 feet. Street intersections and curb cuts are never allowed at grades in excess of 15%), and:

1. Centerline curve radii shall not be less than 700 feet on arterials, 500 feet on major collectors, 350 feet on minor collectors, or 100 feet on other streets; and

2. Streets intersecting with a minor collector or greater functional classification street, or streets intended to be posted with a stop sign or signalization, shall provide a landing averaging five percent or less. Landings are that portion of the street within twenty (20) feet of the edge of the intersecting street at full improvement.

**Q. Curbs, Curb Cuts, Ramps, and Driveway Approaches.** Concrete curbs, curb cuts, wheelchair ramps, bicycle ramps, and driveway approaches shall be constructed in accordance with standards specified in Chapter 3.1, Access and Circulation.

**R. Streets Adjacent to Railroad Right-of-Way.** When a transportation improvement is proposed within 300 feet of a public railroad crossing, or a modification is proposed to an existing public crossing, the Oregon Department of Transportation and the rail service provider shall be notified and given an opportunity to comment, in conformance with the provisions of Article 4. Private crossing improvements are subject to review and licensing by the rail service provider.

**S. Development Adjoining Arterial Streets.** Where a development adjoins or is crossed by an existing or proposed arterial street, the development design shall separate residential access from through traffic and minimize traffic conflicts. (See also, the access requirements under Section 3.1.200, Vehicular Access and Circulation.) The development design shall include one or more of the following:

1. A parallel access street (frontage road) along the arterial with a landscape median (raised curbs) of not less than ten (10) feet in width separating the two streets;
2. Deep lots (120 feet or greater) abutting the arterial or major collector to provide at least ten (10) feet of landscape buffering along the arterial and receive access from a secondary street. Where a secondary street is not available, such lots shall combine and share driveways;
3. Screen planting within a non-access reservation (e.g., public easement or tract) of not less than ten (10) feet in width at the rear or side property line along the arterial; or
4. Other treatment approved by the City that is consistent with the purpose of this Section.

**T. Alleys, Public or Private.** Alleys shall conform to the standards in Table 3.4.100. Alley intersections and sharp changes in alignment shall be avoided. The corners of necessary alley intersections shall have a radius of not less than twelve (12) feet.

**U. Private Streets.** Private streets are discouraged. Where they are necessary or otherwise allowed, they shall conform to City standards of construction and shall include sidewalks or pathways as approved by the City. Private streets shall not be used to avoid public access connectivity required by this Chapter. Gated streets (i.e., where a gate limits access to a development from a public street) are prohibited. Legal assurance for construction and maintenance shall be required of the developers and owners.

**V. Street Names.** The developer shall submit proposed street names to the Lane County Road

Naming Committee for approval prior to preliminary plat approval. No new street name shall be used that duplicates or could be confused with the name of an existing street in the vicinity. Street names, signs, and numbers shall conform to the established pattern in the surrounding area, except as requested by emergency service providers.

- W. Survey Monuments.** Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments shall be reestablished and protected.
- X. Street Signs.** The city, county, or state with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.
- Y. Mail Receptacles.** Plans, including placement of mail receptacles, shall be approved by the City of Creswell in coordination with the United States Postal Service. Mail receptacles are subject to the requirements of Section 632 of the Postal Operations Manual, which requires Centralized Boxed Units.
- Z. Street Light Standards.** Street lights shall be installed in accordance with City standards.
- AA. Street Cross-Sections.** The final lift of asphalt or concrete pavement shall be placed on all new constructed public roadways prior to final City acceptance of the roadway unless otherwise approved by the City Engineer.

**3.4.200 Public Use Areas****A. Dedication of Public Use Areas.**

1. Where a proposed park, playground, or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision or master plan, the City may require the dedication or reservation of this area on subdivision plat(s), and improvement thereof for public use, provided that the impact of the development on the City park system is roughly proportionate to the dedication or reservation being made.
2. The City may purchase or accept voluntary dedication or reservation of areas within the subdivision or master plan that are suitable for the development of parks and other public uses; however, the City is under no obligation to accept such areas offered for dedication or sale.
3. The amount of land and park improvements required shall be proportionate to number of dwelling units proposed and conform to the level of service standards in the City Creswell Parks and Open Space as adopted or hereafter amended and updated. At a minimum, 217.8 square feet of park land per dwelling unit or single family lot shall be improved and dedicated to the City. This equals approximately  $\frac{1}{4}$  acre (10,890 square feet) of park land per fifty (50) dwelling units. The required park land is in addition to any street tree planter strips, storm water facilities, wetland protection areas, or other open space dedications that may be donated or otherwise required.
4. When the following conditions preclude dedication of land and park improvements outlined in subsection 3 above, the Creswell Parks and Open Space Master Plan proposed standards in acres per 1,000 (page 19 of the Creswell Parks and Open Space Master Plan as adopted or hereafter amended and updated) for dedication may be applied:
  - a. Sensitive or unbuildable areas that include steep slopes, wetlands, or natural areas designated for protection or conservation by the Comprehensive Plan or refinements to the Comprehensive Plan (e.g., Parks and Open Space Master Plan) and provided that these resources are preserved.
  - b. Significant trees and other on-site vegetation provided that these resources are preserved.
  - c. Utility dedications outside the right-of-way.
5. Commercial, industrial and civic development shall include mini-parks to serve the employees generated by such uses. Mini-parks are required at a ratio of 0.5 acres per 1,000 population, using 10 employees per net acre, parcel size and road frontage to calculate the required acreage. At a minimum, mini-parks shall contain seating and weather protection canopies, awnings, or similar weather protection.
6. The Creswell City Council may permit a non-City (public or private) entity to own and

manage the park area required in subsection 3, provided that the City and park provider shall first enter into a legal agreement assuring that City residents will have public access to the park. The agreement, at a minimum, shall also describe the types of park uses and facilities that are to be provided, park operating hours, and ongoing maintenance responsibilities. All property taxes are the responsibility of the owner.

7. Connectivity with existing and proposed multi-use paths and trails is encouraged.

**B. System Development Charge Credit.** Dedication of land or facilities to the City for parks, voluntary or otherwise, may be eligible for credit toward any required system development charge for parks. A third party certified appraiser shall be retained by the developer to determine a price per acre.



**3.4.300 Sanitary Sewers, Water, Street Lights, Wells, and Fire Protection.**

- A. Sewers and Water Mains Required.** Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City’s Sanitary Sewer Master Plan and Water System Master Plan as adopted or hereafter amended and updated, and the applicable construction specifications. When streets are required to be stubbed to the edge of the subdivision, sewer and water system improvements shall also be stubbed with the streets, except as may be waived by the City Engineer.
- B. Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the City Engineer has approved all sanitary sewer and water plans in conformance with City standards, and approval has been granted by applicable state agencies.
- C. Over-Sizing.** The City may require as a condition of development approval that sewer, water, and/or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable Water, Sewer, and/or Storm Drainage Master Plan as adopted or hereafter amended and updated, provided that the City may grant the developer credit toward any required system development charge for the same.
- D. Street Lights.** Street lights shall be provided in all developments within the City and shall be provided in accordance with the following standards:

  - 1. **New Streets.** Street lighting shall be installed at intersections and at a maximum distance of 220 feet apart at a height of 25 to 30 feet with the following exceptions:

    - a. A cul-de-sac where the terminus is less than 150 feet from the nearest lighted intersection; otherwise, a street light shall be installed at the end of a cul-de-sac.
    - b. For streets serving industrial areas, there shall be a minimum of one (1) street light at each intersection.
    - c. **Existing Streets.** Development having 200 feet or more of frontage on an existing street shall install a minimum of one (1) street light for the first 200 feet, plus one (1) street light per 220 feet of additional frontage. A development with less than 200 feet of frontage on an existing street shall enter into a deferred improvement agreement for future light installation. Street lights shall be 25 to 30 feet in height.
    - d. All street lighting shall be constructed to cast light downward and minimize light pollution.
- E. Wells.**

  - 1. Drilling of private well is not allowed within the city limits.

**3.4.300 – Sanitary Sewer, Water, Street Lights and Fire Protection**

2. Upon development, wells shall be abandoned per applicable standards of the state of Oregon Administrative Rules, Division 220, 690-220-005 through 690-220-0140.
- F. Fire Protection.** All new development shall conform to the applicable provisions of the IFC, as determined in the City's sole discretion. Developers shall provide third party verification of existing hydrant flow. Fire flow analyses and plans for hydrants shall be subject to review and approval as part of the Land Use Review, Site Design Review, and/or Preliminary Subdivision/Partition process.
- G. Inadequate Facilities.** Development permits may be restricted by the City where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and that if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems.

### 3.4.400 Storm Drainage and Erosion Control

**A Statement of Purpose.** This Section addresses the management plan requirements, pollution reduction, and flow control for stormwater generated from new and redevelopment. For the purpose of this Code, “new” and “redevelopment” refer to any man-made change to improved or unimproved real estate including, but not limited to the placement of buildings or other structures, dredging, filling, grading, or paving. The primary purposes of this Section are to:

1. Protect and enhance water quality;
2. Meet State and Federal water quality standards;
3. Prevent property damage during floods and storms;
4. Reduce pollution and runoff;
5. Protect native plant species, and fish and wildlife habitats;
6. Conserve scenic and recreational values of open areas, including stream enhancement.

**B. Applicability.** No permit for construction of new development or tenant improvements greater than 10,000 square feet within the City shall be issued until a stormwater management plan is approved. Development projects shall not be phased or segmented in such a manner to avoid the requirement of these Rules and Regulations.

#### C. General Provisions

1. Issuance of permit. The City shall issue a development permit only where adequate provisions for stormwater and flood water runoff have been made in conformance with the City of Creswell Storm Drainage Master Plan as adopted or hereafter amended and updated.
2. All development shall be planned, designed, constructed and maintained to:
  - a. Provide a system by which storm/surface water within the development will be managed without causing damage or harm to the natural environment, or to property or persons.
  - b. Protect property from flood hazards.

#### C. Stormwater Management Pre-Construction, Post-construction Submittal Requirements, and Plan Review Standards.

1. Pre-construction plans shall include the following analyses and descriptions:

### 3.4.400 – Storm Drainage and Erosion Control

- a. An analysis of stormwater mitigation strategies to increase infiltration and evapotranspiration (use of water by plants) and reduce the amount of stormwater runoff generated from the site.
  - b. Calculations of the amount of impervious surface before development and the amount of impervious surface after development. Impervious surface refers only to strictly impervious surfaces including roofs of buildings, impervious asphalt and concrete pavements, and other specifically impervious pavement materials such as mortared masonry and gravel.
  - c. An analysis of vegetative and other treatment methods used to reduce pollutants.
  - d. An analysis of flow reduction methods including, infiltration, and detention and techniques.
  - e. Statement of consistency with the City's stormwater management purposes stated in Section A above.
2. Post-construction plans shall include the following information:
- a. As-built plans, stamped by a certified engineer indicating all stormwater mitigation and management strategies are installed per approved plans and approved changes.
  - b. Maintenance plans for all stormwater facilities installed to comply with this Code. The maintenance program must be approved by the City. Proof of maintenance shall be submitted annually.
3. Plan Review Standards. Plans shall be submitted to the City for review. All plans and calculations must be stamped and signed by a certified engineer. Plan approval will be based on the following criteria:
- a. Design, construction and maintenance of proposed stormwater management plan will result in post construction stormwater volumes flowing off site that are substantially the same as preconstruction volumes for all storms less than or equal to the 2-year design storm.
  - b. All culvert installations must allow fish passage in accordance with Department of State Lands (DSL) and the US Army Corps of Engineering (COE) and any other authorized federal, state, or local agency.
  - c. Installation of culverts, spans or stormwater outfalls along natural water features shall be designed to emphasize preservation of natural flow conditions, allow for natural obstructions, and pursue stream enhancement opportunities.
  - d. Culverts and other drainage facilities shall be large enough to accommodate

existing and potential future runoff from the entire upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the City Engineer.

- e. Stormwater mitigation strategies, such as retention of existing trees, and use of porous paving surfaces, as well as stormwater treatment and flow control facilities used to meet the requirements of this Code must be included in the plans.

- D. Effect on Downstream Drainage.** Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with City standards.
- E. Existing Watercourse.** Where a proposed development is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety.
- F. Over-Sizing.** The City may require as a condition of development approval that sewer, water, and/or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable Water, Sewer, and/or Storm Drainage as adopted or hereafter amended and updated, provided that the city may grant the developer credit toward any required system development charge for the same.
- G. Erosion Control.** Erosion control is required prior to, during and after construction activities for projects that disturb one (1) or more acres of land over a period of time. A National Pollution Discharge Elimination System (NPDES) Permit must be obtained from the Department of Environmental Quality prior to the issuance of a development permit or land use permit.
- H. Wetlands.** Development within a wetland is subject to compliance with the following.
  - 1. **Notification.** The City shall provide notice to the Department of State Lands (DSL), the applicant, and property owner of record in areas identified as:
    - a. Wetlands (on the Statewide Wetlands Inventory or National Wetland Inventory); or
    - b. Water (as mapped by the Natural Resource Conservation Service); or
    - c. Soils listed as hydric or soils with inclusions of hydric soils (as listed by the Natural Resource Conservation Service)
  - 2. **Application Type.** The following application types shall require notification:
    - a. Any complete application for subdivisions;

- b. Building permits for new structures;
  - c. Other development permits and approvals that allow physical alteration of land involving excavation and grading, including permits for removal or fill, or both, or development in the floodplain;
  - d. Conditional uses and variances that involve physical alteration of land or construction of new structures; and
  - e. Master planned development approvals that are wholly or partially completed. This provision does not apply if a permit from DSL has been issued for the proposed activity.
3. Approval. Approval of any activity described above shall include one of the following:
- a. Issuance of a permit by DSL required for the project before any physical alteration takes place within the wetlands;
  - b. Notice from DSL that no permit is required; or
  - c. Notice from DSL that no permit is required until specific proposals to remove fill or alter the wetlands are submitted.
  - d. Copies of application materials submitted to all state and federal agencies (such as but not limited to the DSL and ACE) for permitting must be included in the application to the City in order for it to be deemed complete.

**3.4.500 Utilities****A. Underground Utilities.**

1. Generally. All new and existing utility lines including, but not limited to, those required for electric, communication, lighting, and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, and high capacity electric lines operating at 50,000 volts or above.
2. Subdivisions. The following additional standards apply to all new subdivisions, in order to facilitate underground placement of utilities:
  - a. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic (Chapter 3.1);
  - b. The City reserves the right to approve the location of all surface-mounted facilities;
  - c. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
  - d. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

**B. Exception to Undergrounding Requirement.** The standard applies only to proposed partitions and subdivisions. An exception to the undergrounding requirement may be granted due to physical constraints, such as steep topography, sensitive lands or existing development conditions.

**3.4.600 Easements.**

- A. Provision.** The developer or applicant shall make arrangements with the City, the applicable district, and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The City's standard width for public main line utility easements shall be determined by the City.
- B. Recordation.** As determined by the City, all easements for sewers, storm drainage and water quality facilities, water mains, electric lines, or other public utilities shall be recorded with the final plat. See Chapter 4.2, Site Design Review, and Chapter 4.3, Land Divisions.



**3.4.700 Construction Plan Approval and Assurances**

- A. Plan Approval and Permit.** No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after plans in accordance with City specifications have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. All permit fees shall be established by resolution of the City Council.
  
- B. Performance Guarantee.** The City may require the developer or subdivider to provide bonding, a letter of credit, or other performance guarantee as approved by the City Attorney to ensure completion of required public improvements in a sum approved by City as sufficient to cover the costs of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of City inspection. If the developer fails to complete public improvements per plan, City standards, and City approval, and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit, letter of credit, or other performance guarantee for reimbursement. If the amount of the performance guarantee is less than the cost and expense incurred by the City, the Developer shall be liable to the City for the difference. See Chapter 4.2, Site Design Review, and Chapter 4.3, Land Divisions.

**3.4.800 Installation**

- A. Conformance Required.** Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this Chapter, approved construction plans, and to improvement standards and specifications adopted by the City.
- B. Adopted Installation Standards.** Standard Specifications for Public Works Construction, Oregon Chapter A.P.W.A.-ODOT, are hereby incorporated by reference; compliance with other standards may also be required upon recommendation of the City.
- C. Commencement.** Work shall not begin until the City has been notified in advance in writing.
- D. Resumption.** If work is discontinued for more than one month, it shall not be resumed until the City is notified in writing.
- E. City Inspection.** Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications to the approved design requested by the developer may be subject to review under Chapter 4.6, Modifications to Approved Plans and Conditions of Approval. Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.
- F. Engineer's Certification and As-Built Plans.** A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide two (2) sets of "as-built" plans, in conformance with the City Engineer's specifications, for permanent filing with the City.

## Chapter 3.5 — Other Standards

### Sections:

#### **3.5.100 Telecommunication Facilities**

*[3.5.200 Reserved]*

#### 3.5.100 Telecommunication Facilities

- A. Purpose.** The purpose of this Section is to ensure that telecommunications facilities are located, installed, maintained, and removed in a manner that:
1. Minimizes the number of transmission towers throughout the community;
  2. Encourages collocation of telecommunication facilities;
  3. Encourages the use of existing buildings, light or utility poles or water towers as opposed to construction of new telecommunication towers; and
  4. Ensures that all telecommunication facilities, including towers, antennas, and ancillary facilities are located and designed to minimize the visual impact on the immediate surroundings and throughout the community.
- B. Applicability.** All new towers or antennas within the City of Creswell shall be subject to these regulations, except for the following uses, which shall only be required to comply with the applicable provisions of the underlying zoning district in which they are located and Federal Communications Commission policy:
1. Private Amateur Radio/Direct Home Satellite. Private Amateur Radio (HAM) antennas, their support structures, and direct to home satellite receiving antennas are exempt from this ordinance.
  2. Preexisting Towers or Antennas. Preexisting towers and preexisting antennas are allowed to continue as non-conforming uses as governed by Section 5.2 of this Code.
- C. General Requirements.** The following requirements apply to all wireless telecommunications facilities:
1. Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use or existing structure on the same lot shall not preclude the installation of an antennas or tower on such lot, as long as the facility meets setbacks and other requirements.
  2. Not Essential Services. Wireless Telecommunications facility applications shall be reviewed and if determined to be not essential services by the City Administrator, they shall be regulated and permitted pursuant to this Ordinance

and shall not be regulated or permitted as essential services, public utilities, or private utilities.

3. State and Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antennas at the owner's expense.
4. Building Codes; Safety Standards. To ensure the structural integrity of wireless telecommunications facilities the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building and safety codes and standards. A building permit may be required by the City of Creswell. If, upon inspection, the City of Creswell concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards, unless the tower poses such an imminent public hazard that the City sets a shorter time period, as determined in City's sole discretion. Failure to bring such tower into compliance within said thirty (30) days or other timeline imposed by the City shall constitute grounds for removal of the tower or antennas at the owner's expense.
5. Height. Towers shall not exceed 150 feet. All antennas or other supporting equipment attached to towers are included in the calculation of height. Antennas that are attached to buildings may not exceed the height standards in the base zone in which they are located.
6. Setbacks. All equipment shelters shall be set back from property lines according to the required setbacks of the underlying zone. A tower shall be set back from any residentially zoned district or adjacent lot with a residential dwelling a distance equal to the height of the tower from finished grade, or according to the setbacks of the underlying zone, whichever is greater.
7. Allowed Tower Types. All towers must be monopole type towers. Lattice towers may not be constructed within the City of Creswell.
8. Color. Towers and antennas shall be subject to any applicable standards of the FAA and shall either maintain a galvanized steel finish or be painted a neutral color so as to reduce visual obtrusiveness. Supporting electrical and mechanical

equipment must also be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure.

- 9. Design and Building Materials. At a tower site, the design of the building and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- 10. Lighting. Towers shall not be artificially lighted, unless specifically required by the FAA. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding areas, must be shielded, may not include intermittent or flashing lights unless required by the FAA, and are subject to applicable lighting standards in this Ordinance.
- 11. Landscaping. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.
- 12. Signs. No signs shall be allowed on an antenna or tower.
- 13. Security Fencing. Towers shall be enclosed by security fencing not less than six feet in height.
- 14. Collocation requirements. Towers must be built in a manner that allows antennas for one or more additional users.
- 15. Separation distances between towers. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers within a one-mile radius of the proposed tower. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 3.5.100.

**Table 3.5.100. Separation Distances Between Towers**

Proposed Tower Type	Existing Tower Types	
	Monopole 75 Ft. in Height or Greater	Monopole Less Than 75 Ft. in Height
Monopole 75 ft. in Height or Greater	1,500 ft	750 ft
Monopole less than 75 ft. in Height	750 ft	750 ft

**D. Application requirements.** In addition to any information required for applications for conditional use permits under Chapter 4.4, applicants for a conditional use permit

for a wireless telecommunications facility shall submit the following information:

1. Five (5) copies of the application shall be submitted for the initial review by City staff. An additional fifteen (15) copies of the complete application shall be submitted by a date the City Administrator requires (i.e., for the Planning Commission hearing) and shall include:
  - a. a scaled site plan clearly indicating the location, type, and height of the proposed wireless telecommunications tower,
  - b. on-site land uses and zoning, adjacent land uses and zoning,
  - c. Comprehensive Plan designation of the site and surrounding properties,
  - d. adjacent roadways,
  - e. proposed means of access,
  - f. setbacks from property lines,
  - g. locations of any adjacent existing towers,
  - h. landscaping,
  - i. elevation drawings of the proposed tower and any other structures,
  - j. topography,
  - k. parking,
  - l. and any other information deemed necessary by the Planning Director to be necessary to assess compliance with this ordinance.
2. A description of the type of service offered and the consumer receiving equipment.
3. Identification of the provider and backhaul provider, if different.
4. Legal description of the parent tract and lease parcel (if applicable).
5. The setback distance between the proposed tower and the nearest residentially zoned property
6. Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the City of Creswell an inventory of the applicant's existing towers, antennas, or sites approved for towers or antennas, that are either within the

jurisdiction of the City of Creswell, including specific information about the location, height, and design of each tower. The City of Creswell may share such information with other applicants applying for administrative or conditional use approval under this ordinance or other organizations seeking to locate antennas within the jurisdiction of Creswell, provided, however that the City is not, by sharing this information, in any way representing or warranting that such sites are available or suitable for collocation of facilities.

7. The separation distance from other towers described in Section 3.5.100.C.15 shall be shown on an updated site plan or map in relationship to the proposed tower. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if applicable.
8. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
9. A description of compliance with all applicable federal and state laws.
10. A notarized statement by the applicant as to whether construction of tower will accommodate collocation of additional antennas for future users.
11. An engineer's analysis/report of the recommended site location area for the proposed facility. If an existing structure within the area recommended by the engineer's report provides an opportunity for collocating, reasons for not collocating shall be provided and must demonstrate at least one of the following deficiencies:
  - a. the structure is not of sufficient height to meet engineering requirements;
  - b. the structure is not of sufficient structural strength to accommodate the facility;
  - c. electromagnetic interference for one or both facilities will result from collocation;
  - d. the radio frequency coverage objective cannot adequately be met.
12. A copy of that portion of the lease agreement with the property owner that includes collocation provisions (where applicable), facility removal within 90 days of abandonment and a bond to guarantee removal.

**E. Procedures for Approval.** The following procedures apply to wireless telecommunications facilities:

1. Type I Approval. Any antennas that are not attached to a tower may be approved ministerially provided that:

- a. The antenna is located in the General Commercial (GC), Downtown Commercial (DC), Industrial Commercial (IC), General Industrial (GI), Public Facilities (PF), or Parks, Recreation, and Open Space (PRO-S) zoning districts.
  - b. The antenna does not exceed the height standards of the base zone.
  - c. The antenna complies with all general requirements of this Ordinance including Section 4.1.200 (Type 1 procedures), all applicable FCC and FAA regulations, and all applicable building codes and safety regulations.
2. Type II Approval. Type II review is available towers, and includes notice to property owners within 100' of the subject site and the opportunity for a Planning Commission public hearing if requested. The following towers must reviewed through a Type II procedure:
- a. Towers that are of a stealth design, as defined in Chapter 1.3, and are to be located in either the Industrial Commercial (IC) or General Industrial (GI) zoning districts.
  - b. Towers that are located in the Public Facilities (PF) zoning district.
3. Conditional Use Permits. All other towers shall be processed through a Type III process, which requires a public hearing before the Planning Commission. All towers allowed under the Type III procedure shall be located in the Industrial Commercial (IC) or General Industrial (GI) zoning districts.
- a. An applicant for a conditional use permit shall submit the information described in this Section and in Section 4.4, and a non-refundable fee.
  - b. Criteria in Granting Conditional Use Permits. In addition to any standards for consideration of conditional use permit applicants pursuant to Section 4.4 and the general requirements of this Section, the Planning Commission shall consider the following factors in determining whether to issue a conditional use permit:
    - (1) Design and placement of the tower, with particular reference to design characteristics or placement considerations that have the effect of reducing or eliminating visual obtrusiveness;
    - (2) Proximity of the wireless telecommunications facility to residential district boundaries;
    - (3) Proposed ingress and egress.



- c. In granting a conditional use permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.

**F. Removal of Abandoned Antennas and Towers.** Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Creswell notifying the owner of such abandonment. Failure to remove the tower or antenna within said ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. The city requires the posting of an open ended bond before development permit issuance to insure removal of a wireless telecommunications facility after the facility is no longer being use.

*[3.5.200 Reserved*

## **Article 4 – Administration of Land Use and Development**

### Chapters:

- 4.1. Types of Review Procedures
- 4.2. Land Use Review and Site Design Review
- 4.3. Land Divisions and Property Line Adjustments
- 4.4. Conditional Use Permits
- 4.5. Master Planned Developments
- 4.6. Modifications to Approved Plans and Conditions of Approval
- 4.7. Land Use District Map and Text Amendments
- 4.8. Code Interpretations
- 4.9. Miscellaneous Permits – Temporary Uses, Home Occupations

## Chapter 4.1 Types of Review Procedures

### Sections:

- 4.1.100 Purpose and Applicability of Review Procedures
- 4.1.200 Type I Procedure (Ministerial)
- 4.1.300 Type II Procedure (Administrative)
- 4.1.400 Type III Procedure (Quasi-Judicial)
- 4.1.500 Type IV Procedure (Legislative)
- 4.1.600 General Provisions Applicable to All Reviews
- 4.1.700 Special Procedures – Expedited Land Divisions,
- 4.1.800 Neighborhood Meetings
- 4.1.900 Traffic Impact Studies

### 4.1.100 Purpose and Applicability of Review Procedures

- A. Purpose.** The purpose of this Chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 4.1.100 provides a key for determining the review procedure and the decision-making body for particular approvals.
- B. Applicability of Review Procedures.** All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures: Type I, II, III, and IV. These procedures are described in subsections 1-4 below. Table 4.1.100 lists all of the City’s land use and development approvals and their required review procedure(s).
1. Type I Procedure (Ministerial). Type I decisions are made by the City Administrator, or someone he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applying City standards and criteria requires no use of discretion;
  2. Type II Procedure (Administrative). Type II decisions are made by the City Administrator with public notice, and an opportunity for a Planning Commission public hearing if requested. The appeal of a Type II decision made by the Planning Commission is heard by City Council;
  3. Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission after a public hearing, with appeals made to the City Council. Type III decisions generally use discretionary approval criteria.

4. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts, not just one property). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council. A Type IV hearing may be conducted in a joint meeting of the City Council and Planning Commission.

**C. Number of Days.** All “days” referenced by this Code are calendar days, unless noted otherwise.

4.1 – Types of Applications and Review Procedures

<b>Table 4.1.100 Summary of Approvals by Type of Review Procedure</b>		
<b>Approvals*</b>	<b>Review Procedures</b>	<b>Applicable Regulations</b>
Access Permit (public street)	Type I/II	Chapters 3.1, 4.2, 4.3; Engineering Standards
Appeal of a Land Use Decision	Type III	Section 4.1.400
Building Permit	N/A	Building Code
Code Interpretation	Type II	Chapter 4.8
Development Code Amendment	Type IV	Chapter 4.7
Comprehensive Plan Amendment	Type IV	Comprehensive Plan
Conditional Use Permit	Type III	Chapter 4.4
Flood Plain Development Permit	Type I/II/III	Chapter 2.7, may combine with other permits
Home Occupation exceeding the criteria in Section 2.2.200	Type III	Chapter 4.9
Master Planned Development	Type III	Chapter 4.5
Modification to Approval	Type II/III (minor or major)	Chapter 4.6
Land Use District Map Change Quasi-Judicial (no plan amendment required)	Type III	Chapter 4.7
Legislative (plan amendment)	Type IV	Chapter 4.7
Property Line Adjustments and Lot Consolidations	Type I/II	Chapter 4.3
Lot of Record Determination	Type I	Chapter 5.3
Non-Conforming Use or Development Confirmation	Type I/II	Chapter 5.2
Partition	Type II	Chapter 4.3
Land Use Review	Type I/II	Chapter 4.2, Building Code
Site Design Review	Type III	Chapter 4.2
Subdivision Preliminary Plat Final Plat	Type III Type I	Chapter 4.3
Temporary Use Permit	Type II/III	Chapter 4.9
Tree Removal	Type I/II	Chapter 3.2
Variance		
Class A	Type I/II	Chapter 5.1
Class B	Type II	Chapter 5.1
Class C	Type III	Chapter 5.1

\* The applicant may be required to obtain approvals from other agencies, such as a road authority for some types of approvals. The City notifies agencies of applications that may affect their facilities or services.

**4.1.200 Type I Procedure (Ministerial)**

**A. Application Requirements**

1. Application Forms. Type I applications shall be made on forms provided by the City.
2. Application Requirements. Type I decisions are generally made within thirty (30) days of the City receiving a complete application. Type I applications shall:
  - a. Include the information requested on the application form;
  - b. Address the criteria in sufficient detail for review and action; and
  - c. Be filed with the required, non-refundable fee.

**B. Administrative Decision Requirements.** The City Administrator’s decision shall address all of the approval criteria, including applicable requirements of any road authority. Based on the criteria and the facts contained within the record, the City Administrator shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

**C. Final Decision and Effective Date.** A Type I ministerial decision is the final decision of the City. It cannot be appealed to City officials. It is effective the date it is signed by the decision-maker.

**4.1.300 Type II Procedure (Administrative)**

**A. Pre-application Conference.** A pre-application conference is encouraged for Type II reviews. Pre-application conference procedures are in Section 4.1.600.

**B. Application Requirements.**

1. Application Forms. Type II applications shall be made on forms provided by the City.
2. Submittal Information. Applications to be reviewed by the Planning Commission must be submitted and complete at least forty-five (45) days before the requested Planning Commission meeting date. For staff reviews, a total of five (5) copies of the application shall be submitted. For Planning Commission reviews, an additional twelve (12) copies shall be submitted after the City Administrator has deemed the application complete. A Type II application shall:
  - a. Include the information requested on the application form;
  - b. Be filed with a supplemental form and/or narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval, e.g., Chapters 4.2 (Land Use Review), 4.3 (Land Divisions), 4.6 (Modifications), 4.8 (Code Interpretations), and 4.9 (Miscellaneous Permits);
  - c. Plans, studies, exhibits, and/or other information as may be required by the City Administrator, to assist the City in making findings under the applicable approval criteria; and
  - d. Be accompanied by the required, non-refundable fee and deposit, if applicable.

**C. Notice of Application for Type II Administrative Decision.**

1. Before making a Type II Administrative Decision, the City Administrator shall mail notice to:
  - a. All owners of record of real property within a minimum of 100 feet of the subject site;
  - b. All City-recognized neighborhood groups or associations whose boundaries include the site;
  - c. Any person who submits a written request to receive a notice; and



#### 4.1 – Types of Applications and Review Procedures – Type I (Ministerial)

- d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.
  3. Notice of a pending Type II Administrative Decision shall:
    - a. Provide a 14-day period for submitting written comments before a decision is made on the permit starting from the date notice is mailed;
    - b. List the relevant approval criteria by name and number of Code sections;
    - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
    - d. Include the name and telephone number of a contact person regarding the decision;
    - e. Describe proposal and identify the specific permits or approvals requested;
    - f. Describe the street address or other easily understandable reference to the location of the site;
    - g. State that “issues that may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing and with sufficient specificity to enable the decision-maker to respond to the issue”;
    - h. State that all evidence relied upon by the City Administrator to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
    - i. State that after the comment period closes, the City Administrator shall issue a Type II Administrative Decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;

#### 4.1 – Types of Applications and Review Procedures – Type II (Administrative)

- j. Contain the following notice: “Notice to mortgagee, lien holder, vendor, or seller: The City of Creswell Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

**D. Administrative Decision Requirements.** The City Administrator shall make a Type II written decision addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the City Administrator shall approve, approve with conditions, or deny the requested permit or action. Alternatively, the City Administrator, and/or the applicant, may refer the application to the Planning Commission for review in a public hearing, in which case the review shall follow the Type III procedures in Section 4.1.400. If the applicant refers the application to a Type III hearing, he or she shall pay the fee for a Type III review.

**E. Notice of Decision.**

1. Within five (5) business days after the City Administrator signs the decision, a Notice of Decision shall be sent by mail to:
  - a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
  - b. Any person who submits a written request to receive notice, or provides comments during the application-review period;
  - c. Any City-recognized neighborhood group or association whose boundaries include the site; and
  - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
2. The City Administrator shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.
3. The Type II Notice of Decision shall contain:
  - a. A description of the applicant’s proposal and the City’s decision on the proposal (i.e., may be a summary);
  - b. The address or other geographic description of the property proposed for development, which may include a map of the property in relation to the surrounding area;
  - c. A statement of where the City’s decision can be obtained;

- d. The date the decision shall become final, unless appealed;
- e. A statement that all persons entitled to notice may appeal the decision; and
- f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

**F. Final Decision and Effective Date.** A Type II administrative decision is final for purposes of appeal, when it is signed by the decision-maker. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided. (See also, subsection G, below.)

**G. Appeal.** A Type II administrative decision made by City staff may be appealed to the Planning Commission. A Type II administrative decision made by the Planning Commission may be appealed to City Council. Both types of appeals shall follow the procedure below. When appealed, City Council decisions are subject to review by the State Land Use Board of Appeals (LUBA). An appeal to LUBA does not stay the City's decision, however, any development or other land use activity that commences prior to a LUBA appeal being resolved, is at the owner's/applicant's risk.

1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type II administrative decision;
- c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal filing procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;
- b. *Time for filing.* A Notice of Appeal shall be filed with the City Administrator on a form provided by the City within 14 days of the date the Notice of Decision was mailed;
- c. *Content of notice of appeal.* The Notice of Appeal shall contain:
  - (1) An identification of the decision being appealed, including the date of the decision;

#### 4.1 – Types of Applications and Review Procedures – Type II (Administrative)

- (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
  - (3) A statement explaining the specific issues being raised on appeal;
  - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
  - (5) Filing fee (non-refundable).
- d. Jurisdictional requirements. Failure to comply with any of the 'appeal filing procedure' requirements as set forth in this Section precludes the appeal from moving forward or any further review by a City decision-maker.
3. Scope of appeal. The appeal of a Type II Administrative Decision shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II administrative review. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.
  4. Appeal procedures. Type III notice, hearing procedures and decision process shall also be used for all Type II Administrative Appeals, as provided in Sections 4.1.400.C - E;
  5. Further Appeal to City Council. The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission hearing. The decision of the City Council on an appeal is final and effective on the date it is mailed by the City. The City Council's decision may be appealed to LUBA pursuant to ORS 197.805 – 197.860.

**4.1.400 Type III Procedure (Quasi-Judicial)**

**A. Pre-application Conference.** A pre-application conference is encouraged for all Type III applications. The procedures for a pre-application conference are described in Section 4.1.600.C.

**B. Application Requirements.**

1. Application forms. Type III applications shall be made on forms provided by the City; if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.
2. Submittal Information. Type III applications must be submitted and complete at least forty-five (45) days before the requested Planning Commission hearing date. For the initial staff review, a total of five (5) copies of the application shall be submitted. An additional twelve (12) copies shall be submitted after the City Administrator has deemed the application complete. All Type III applications shall:
  - a. Include the information requested on the application form;
  - b. Be filed with a supplemental form and/or narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval, e.g., Chapters 4.2 (Land Use Review), 4.3 (Land Divisions), 4.6 (Modifications), 4.8 (Code Interpretations), and 4.9 (Miscellaneous Permits);
  - c. Contain plans, exhibits, studies, and/or other information as required by the City Administrator, in order to assist the City in making findings under the applicable approval criteria;
  - d. Be accompanied by the required non-refundable fee and deposit, if applicable; and
  - e. Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application as required in Section 4.1.400.C. The records of the Lane County Assessor's Office are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of a fee noted on the City's fee list, the City shall prepare the public notice mailing list. The City or the applicant shall use the most current County real property assessment records to produce the notice list. The City shall mail the notice of application.

**C. Notice of Hearing.**

1. Mailed notice. The City shall mail the notice of the Type III action. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Administrator in the following manner:
  - a. Notice may be mailed ten (10) business days before the first evidentiary hearing if two or more evidentiary hearings are allowed. If there is to be one hearing only, notice shall be mailed at least 20 days before the hearing date to:
    - (1) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
    - (2) All property owners of record within 100 feet of the site;
    - (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
    - (4) Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;
    - (5) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
    - (6) Any person who submits a written request to receive notice;
    - (7) For appeals, the appellant and all persons who provided testimony in the original decision; and
    - (8) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
  - b. The City Administrator shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.
  - c. At least ten (10) business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's

#### 4.1 – Types of Applications and Review Procedures – Type III (Quasi-Judicial)

affidavit of publication of the notice shall be made part of the administrative record.

2. Content of Notice. Notice of appeal of a Type II Administrative decision or notice of a Type III hearing to be mailed and published per subsection 1 above shall contain the following information:
  - a. The nature of the application and the proposed land use or uses that could be authorized for the property;
  - b. The applicable criteria and standards from the development code(s) that apply to the application;
  - c. The street address or other easily understood geographical reference to the subject property;
  - d. The date, time, and location of the public hearing;
  - e. A statement that “issues that may provide the basis for an appeal to the Land Use Board of Appeals must be raised in writing and with sufficient specificity to enable the decision-maker to respond to the issue”;
  - f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Creswell City Hall at no cost and that copies shall be provided at a reasonable cost;
  - h. A statement that a copy of the City’s staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
  - I. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
  - j. The following notice: “Notice to mortgagee, lien holder, vendor, or seller: The City of Creswell Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

**D. Conduct of the Public Hearing.**

1. At the commencement of the hearing, the hearings body shall state to those in attendance:
  - a. The applicable approval criteria and standards that apply to the application or appeal;
  - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
  - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
  - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a “continuance”) per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven (7) days after the date of the first evidentiary hearing. An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the continued hearing, that the record be left open for at least seven (7) days, so that they can submit additional written evidence or testimony in response to the new written evidence;
3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven (7) days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.
  - a. When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence, arguments, testimony or criteria for decision-making that apply to the matter at issue;



#### 4.1 – Types of Applications and Review Procedures – Type III (Quasi-Judicial)

- b. An extension of the hearing or record granted pursuant to Section 4.1.400.D is subject to the limitations of ORS 227.178 (“120-day rule”), unless the continuance or extension is requested or agreed to by the applicant;
  - c. If requested by the applicant, the City shall allow the applicant at least seven (7) days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant’s final submittal shall be part of the record but shall not include any new evidence. The seven (7) days granted to the applicant after the record is closed is not subject to the limitations of ORS 227.178 (the 120-day rule);
  - d. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;
  - e. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
  - f. The review authority shall retain custody of the record until the City issues a final decision.
4. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing *ex parte* contacts (see Section 4.1.400.D(5)) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
- a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing *ex parte* contacts (as defined in Section 4.1.400.D(5)) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

#### 4.1 – Types of Applications and Review Procedures – Type III (Quasi-Judicial)

- c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
- d. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Sections 4.1.400.D(4) through (5). In this case, a member of the City Council appointed by a majority vote of the City Council may substitute for a member of the Planning Commission.
- e. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
- f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

#### 5. Ex parte communications.

- a. Members of the hearings body shall not:
  - (1) Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per Section C, Notice of Hearing;
  - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
- b. No decision or action of the hearings body shall be invalid due to *ex parte* contacts or bias resulting from *ex parte* contacts, if the person receiving contact:
  - (1) Places in the record the substance of any written or oral *ex parte* communications concerning the decision or action; and
  - (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

#### 4.1 – Types of Applications and Review Procedures – Type III (Quasi-Judicial)

- c. A communication between City staff and the hearings body is not considered an *ex parte* contact.
6. Presenting and receiving evidence.
    - a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
    - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section 4.1.400.D;
    - c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

#### **E. The Decision Process.**

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or of a Type III application shall be based on standards and criteria in the Code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations and Comprehensive Plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City within ten (10) business days after the close of the deliberation;
5. Notice of Decision. Written notice of a Type II Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within

#### 4.1 – Types of Applications and Review Procedures – Type III (Quasi-Judicial)

ten (10) business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

6. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is signed by the decision-maker. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after all appeals are decided. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing. An appeal of a land use decision to LUBA must be filed within 21 days of the City Council's written decision. City Council decisions are subject to review by LUBA and an appeal to LUBA does not stay a City's decision; any development or land use activity that commences prior to resolution of the appeal is at the owner/applicant's risk.

**4.1.500 Type IV Procedure (Legislative)**

**A. Pre-Application Conference.** A pre-application conference is required for all Type IV applications initiated by a party other than the City of Creswell. The requirements and procedures for a pre-application conference are described in Section 4.1.600.C.

**B. Timing of Requests.** The City Council may establish a calendar for the purpose of accepting Type IV requests only at designated time(s). At a minimum, Type IV requests shall be filed not less than sixty (60) days prior to the requested initial hearing date. The City Council may initiate its own legislative proposals at any time.

**C. Application Requirements.**

1. Application forms. Type IV applications shall be made on forms provided by the City.
2. Submittal Information. For initial staff review, a total of five (5) copies of the application shall be submitted. An additional twelve (12) copies shall be submitted after the City Administrator has deemed the application complete, and additional copies may be required after the Planning Commission has completed its review and has forwarded a recommendation to City Council. All Type IV applications shall:
  - a. Include the information requested on the application form;
  - b. Contain plans, exhibits, studies, and/or other information, as required by the City Administrator, to assist the City in addressing the applicable criteria and standards in sufficient detail for review and decision;
  - c. Be accompanied by the required, non-refundable fee and deposit if applicable; and
  - d. Contain a letter, narrative statement and/or supplemental form that explains how the application satisfies each and all of the relevant approval criteria and standards.

**D. Notice of Hearing.**

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications (e.g., re-zonings and Comprehensive Plan amendments). A joint Planning Commission-City Council public hearing meets this requirement. Annexation petitions require a hearing by only the City Council.

#### 4.1 – Types of Applications and Review Procedures – Type IV (Legislative)

2. Legislative notification requirements. Notice of legislative public hearings shall be given by the City Administrator in the following manner:
  - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to adopt or amend the Comprehensive Plan or any element thereof, or to adopt or amend an ordinance that proposes to rezone property, a notice shall be prepared and mailed to:
    - (1) Each owner whose property would be rezoned in order to implement the ordinance (including owners of property subject to a Comprehensive Plan amendment shall be notified if a zone change would be required to implement the proposed Comprehensive Plan amendment);
    - (2) Any affected governmental agency;
    - (3) Any person who requests notice in writing;
    - (4) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175;
    - (5) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
  - b. At least 10 days before the scheduled Planning Commission and City Council hearing date(s), public notice shall be published in a newspaper of general circulation in the City.
  - c. The City Administrator shall:
    - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by subsection a; and
    - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
  - d. For those actions that require Oregon Department of Land Conservation and Development (DLCD) notification, DLCD shall be notified in writing of proposed Comprehensive Plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing. Five working days after the final decision, the adopted text and findings shall be submitted to DLCD and those parties who participated in the proceedings or requested notice. See ORS 197.615 for specific statutory requirements.

#### 4.1 – Types of Applications and Review Procedures – Type IV (Legislative)

- e. When required by statute, Ballot Measure 56 notice shall be prepared in conformance with ORS 227.186.
3. Content of legislative notice. The mailed and published notices shall include the following information:
- a. The number and title of the file containing the application, and the address and telephone number of the City Administrator’s office where additional information about the application can be obtained;
  - b. The proposed site location;
  - c. A description of the proposed site and the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
  - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See Section 4.1.500.E); and
  - e. Each mailed notice required by Section 4.1.500.D shall contain the following statement: “Notice to mortgagee, lien holder, vendor, or seller: The City of Creswell Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”
  - f. Notices for Ballot Measure 56 shall include all of the following:
    - (i). State across the top of the face page extending from the left to margin “this is to notify you that the City of Creswell has proposed a land use regulation that may affect the permissible uses of your property and other properties.”
    - (ii). State within the body of the notice the date of the public hearing, the proposed ordinance number and the following text: “the City of Creswell has determined that adoption of this ordinance may affect the permissible uses of your property and may change the value of your property.”
    - (iii). State the address and telephone number of the City Administrator’s office where the proposed ordinance is available for inspection and can be obtained at a reasonable cost.
6. Annexation notice. Notifications for annexation shall follow the provisions of this Chapter.

7. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
  - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
  - b. Published notice is deemed given on the date it is published.

**E. Hearing Process and Procedure.**

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
  - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
    - (1) Regulate the course, sequence, and decorum of the hearing;
    - (2) Direct procedural requirements or similar matters; and
    - (3) Impose reasonable time limits for oral presentations.
  - b. No person shall address the Commission or the Council without:
    - (1) Receiving recognition from the presiding officer; and
    - (2) Stating their full name and address.
  - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council shall conduct the hearing as follows:
  - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision that will be made is a recommendation to the City Council or the final decision of the Council;
  - b. The City Administrator's report and other applicable staff reports shall be presented;
  - c. The public shall be invited to testify;



- d. The public hearing may be continued to allow additional testimony or it may be closed; and
- e. The hearing body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

**F. Continuation of the Public Hearing.** The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

**G. Decision-Making Criteria.** The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

- 1. Approval of the request is consistent with the Statewide Planning Goals;
- 2. Approval of the request is consistent with the Comprehensive Plan and applicable adopted plans; and
- 3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

**H. Approval Process and Authority.**

- 1. The Planning Commission shall:
  - a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
  - b. Within 14 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City Administrator.
- 2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Administrator before the Council public hearing on the proposal. The City Administrator shall send a copy to each Council member and place a copy in the record;
- 3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 60 days of its first public hearing on the proposed change, the City Administrator shall:

#### 4.1 – Types of Applications and Review Procedures – Type IV (Legislative)

- a. Report the failure together with the proposed change to the City Council; and
  - b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing and make a decision. No further action shall be taken by the Commission.
4. The City Council shall:
- a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
  - b. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and
  - c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

#### **I. Vote Required for a Legislative Change.**

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

**J. Notice of Decision.** Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and if applicable, the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the City Administrator. The City shall also provide notice to all persons as required by other applicable laws. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

**K. Final Decision and Effective Date.** A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

#### **L. Record of the Public Hearing.**

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The

#### 4.1 – Types of Applications and Review Procedures – Type IV (Legislative)

minutes and other evidence presented as a part of the hearing shall be part of the record;

2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
3. The official record shall include:
  - a. All materials considered by the hearings body;
  - b. All materials submitted by the City Administrator to the hearings body regarding the application;
  - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
  - d. The final ordinance;
  - e. All correspondence; and
  - f. A copy of the notices that were given as required by this Chapter.

**4.1.600 General Provisions: 120-day Rule; Time Computation; Pre-application Conferences; Acceptance and Review; City Administrator’s Duties, Amended Applications; Re-submittal; Appeals**

**A. 120-day Rule.** The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions – Comprehensive Plan and code amendments - under ORS 227.178.)

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

**C. Pre-application Conferences.**

1. Applicant’s Responsibility. When a pre-application conference is required or requested, the applicant shall submit a summary of the proposal to the City Administrator with a non-refundable fee at least seven (7) days beforehand, then meet with the City Administrator or designee(s) and other parties as appropriate at the scheduled time;
2. Information provided. At such conference, the City Administrator shall:
  - a. Cite the Comprehensive Plan policies and map designations applicable to the proposal;
  - b. Cite the Code provisions, including substantive and procedural requirements applicable to the proposal;
  - c. Provide available technical data and assistance that will aid the applicant;
  - d. Identify other governmental policies and regulations that relate to the application; and
  - e. Reasonably identify other opportunities or constraints concerning the application.
3. Disclaimer. Failure of the City Administrator to provide any of the information required by this Section 4.1.600.C shall not constitute a waiver of any of the standards, criteria or requirements for the application;

4. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws.

**D. Acceptance and Review of Applications.**

1. Initiation of applications:

- a. Applications for approval under this Chapter may be initiated by:
  - (1) Order of City Council;
  - (2) Resolution of the Planning Commission;
  - (3) The City Administrator;
  - (4) A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.
- b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision at the discretion of the City Administrator.

- a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Administrator.
- b. When proceedings are consolidated:
  - (1) The notice shall identify each application to be decided;
  - (2) The decision on a Comprehensive Plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions;  
and
  - (3) Separate findings and decisions shall be made on each application.

3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:
  - a. Acceptance. When an application is received by the City, the City Administrator shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant;
    - (1) The required forms;
    - (2) The required, non-refundable fee and deposit, if applicable;
    - (3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.
  - b. Completeness.
    - (1) Review, notification and deeming the application complete. After the application is accepted, the City Administrator shall review the application for completeness. If the application is incomplete, the City Administrator shall notify the applicant in writing of what information is missing within 30 days of receipt of the application. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on 31st day after the City Administrator first accepted the application. The applicant is allowed 180 days to submit the missing information; some of the missing information, or none of the missing information. If nothing is submitted, the application is void on the 181<sup>st</sup> day.
    - (2) Section 1.2.500 applies to pre-existing applications and approvals.
    - (3) Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, road authority, and other applicable County, State, and federal review agencies.
4. Changes or additions to the application during the review period. Once an application is deemed complete:
  - a. All documents and other evidence relied upon by the applicant shall be submitted to the City Administrator at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by City Administrator, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;

#### 4.1 – Types of Applications and Review Procedures – General Provisions

- b. When documents or other evidence are submitted by the applicant during the review period but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see “d”, below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:
  - (1) Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
  - (2) Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section 4.1.600.A above) on the existing application. If the applicant does not consent, the City shall not select this option;
  - (3) Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence;
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards, criteria and fees in effect at the time the new application is accepted.

#### **E. City Administrator’s Duties.** The City Administrator shall:

- 1. Prepare application forms based on the criteria and standards in applicable state law, the City’s Comprehensive Plan, and implementing ordinance provisions;

#### 4.1 – Types of Applications and Review Procedures – General Provisions

2. Accept all development applications that comply with Section 4.1.600;
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report and findings may also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;
4. Prepare a notice of the proposal decision:
  - a. In the case of an application subject to a Type I or II review process, the City Administrator shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
  - b. In the case of an application subject to a hearing (Type III or IV process), the City Administrator shall make the staff report available to the public at least seven (7) days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 4.1.400.C (Type II), 4.1.400.C (Type III), or 4.1.500.D (Type IV);
5. Administer the hearings process;
6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;
7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation that was considered by the decision-maker(s) on the application; and
8. Administer the appeals and review process.

#### **F. Amended Decision Process.**

1. The purpose of an amended decision process is to allow the City Administrator to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.



#### 4.1 – Types of Applications and Review Procedures – General Provisions

2. The City Administrator may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.
  3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
  4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures in Chapter 4.6. All other changes to decisions that are not modifications under Chapter 4.6 follow the appeal process.
- G. Re-submittal of Application Following Denial.** An application that has been denied, or an application that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date final City action is taken denying the application or the City's denial is upheld on appeal, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the City Administrator.
- H. Appeal Process.** An appeal by a person with standing shall be a hearing *de novo* and following the Type III procedure under Section 4.1.500. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the proceeding below. The Planning Commission or City Council may allow additional evidence, testimony, or argument concerning any standard, criterion, condition, or issue relevant to the original application.

**4.1.700 Special Procedures.**

**A. Expedited Land Divisions.** An Expedited Land Division (“ELD”) shall be defined and may be used as provided under ORS 197.360 through 197.380. Approvals or denials are not statutory land use decisions, and therefore are not subject to appeal to LUBA.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or master planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;
2. Review procedure. All applications for Expedited Land Divisions shall comply with ORS 197.360 through 197.380 and the Creswell Comprehensive Plan; ORS 197.360 through ORS 197.380 details the criteria, application and notice requirements, and action and appeal procedures for expedited land divisions.
3. Appeal procedure. An appeal of an ELD shall follow the procedures in ORS 197.375. Where the City has not otherwise appointed a hearings officer (referee) for such appeals, and the City Attorney is a Contractor (not a city employee), the City Attorney shall serve as the referee for ELD appeals.
4. An associated fee will be set by resolution by the City Council.

**B. *[Reserved for other Special Procedures, as may be adopted]***

**4.1.800 Neighborhood Meetings.**

Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to the City in order to solicit input and exchange information about the proposed development. An applicant is encouraged to hold a neighborhood meeting with a City-recognized neighborhood or community organization and adjacent property owners before submitting the application to the City.

#### 4.1.900 Traffic Impact Studies

The purpose of this Section of the Code is to assist in determining which road authorities participate in land use decisions, and to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.

- A. When a Traffic Impact Study is Required.** The City or other road authority with jurisdiction may require a Traffic Impact Study (TIS) as part of an application for development, a change in use, or a change in access. A TIS shall be required when a land use application involves one or more of the following actions:
1. A change in zoning or a comprehensive plan amendment designation;
  2. Any proposed development or land use action that a road authority states may have operational or safety concerns along its facility(ies).
  3. For State highways, a change in land use that is estimated to increase peak hour volume of a particular movement to and from the highway by 20 percent or more, per the Institute of Transportation Engineers (ITE) Trip Generation Manual; or
  4. The addition of nineteen (19) or more single-family dwellings, or a change in land use that is estimated to cause an increase in site traffic volume generation by 190 Average Daily Trips (ADT) or more, per the ITE Trip Generation Manual; or
  5. A change in land use that may cause an increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or
  6. The location of the access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or
  7. A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.
- B. Traffic Impact Study Preparation.** A Traffic Impact Study shall be prepared by a professional engineer in accordance with the requirements of the road authority. If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

## Chapter 4.2 Land Use Review and Site Design Review

### Sections:

- 4.2.100 Purpose**
- 4.2.200 Applicability**
- 4.2.300 Land Use Review Procedure and Approval Criteria**
- 4.2.400 Site Design Review - Application Review Procedure**
- 4.2.500 Site Design Review - Application Submission Requirements**
- 4.2.510 Site Design Review - Performance Option**
- 4.2.600 Site Design Review Approval Criteria**
- 4.2.700 Bonding and Assurances**
- 4.2.800 Development in Accordance With Permit Approval; Modifications; Permit Expiration**

### **4.2.100 Purpose**

The purpose of this Chapter is to:

- A. Provide rules, regulations and standards for efficient and effective administration of land use and site development review;
- B. Carry out the development pattern and plan of the City and its Comprehensive Plan policies;
- C. Promote the public health, safety and general welfare;
- D. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards;
- E. Encourage the conservation of energy resources; and
- F. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

### **4.2.200 Applicability**

Land Use Review or Site Design Review shall be required for all new developments and modifications of existing developments described below. Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing and similar maintenance and repair shall be exempt from review.

- A. Land Use Review.** Land Use Review is a review conducted by the City Administrator without a public hearing (Type I or II). (See Chapter 4.1 for review procedure.) It is for changes in land use and developments that do not require a conditional use permit or site

design review approval. Land Use Review ensures compliance with the basic land use and development standards of the land use district, such as lot area, building setbacks and orientation, lot coverage, maximum building height, and other provisions of Article 2. Land Use Review is required for all of the types of land uses and development listed below. Land uses and developments exceeding the thresholds below require Site Design Review.

1. Change in occupancy from one type of land use to a different land use;
2. Single-family detached dwelling (including manufactured home on its own lot);
3. A single duplex, or up to two single-family attached (town home) units not requiring a land division, and accessory parking on the same lot;
4. Non-residential building additions up to 1,000 square feet, or 20 percent of an existing structure, whichever is greater;
5. Minor Modifications to development approvals as defined by Chapter 4.6;
6. Any proposed development that has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 4.4 - Conditional Use Permits;
7. Home occupations requiring a permit under Chapter 4.9;
8. Temporary uses requiring a permit under Chapter 4.9;
9. Accessory structures and accessory parking;
10. Development and land uses that are part of a previously approved Site Design Review or Conditional Use Permit application;
11. Public improvements required by a condition of approval (e.g., transportation facilities and improvements, parks, trails, and similar improvements, as determined by the City Administrator).

**B. Site Design Review.** Site Design Review is a discretionary review conducted by the Planning Commission with a public hearing (Type III Quasi-Judicial Review). (See Chapter 4.1 for review procedure.) It applies to all development in the City, except those specifically listed under “A” above (applications subject to Land Use Review). Site Design Review ensures compliance with the land use and development standards in Article 2 (e.g., lot area, building setbacks and orientation, lot coverage, maximum building height), and the design standards and public improvement requirements in Article 3.

**4.2.300 Land Use Review Procedure and Approval Criteria**

When Land Use Review is required, it shall be conducted prior to issuance of building permits, occupancy permit, business license, or public improvement permits, as determined by the City Administrator. The City shall conduct Land Use Reviews using either a Type I or Type II procedure, as described in Sections 4.1.200 and 4.1.300. A Type I procedure shall be used when the City Administrator finds that the applicable standards are clear and objective and do not require the exercise of discretion. A Type II procedure shall be used when the decision is discretionary in nature. The City Administrator shall be responsible for determining the required review procedure. An application for Land Use Review shall be approved only upon meeting all of the following criteria:

- A. The proposed land use or development is permitted by the underlying land use district (Article 2);
- B. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any applicable overlay district(s) are met (Article 2); and
- C. When development is proposed, the applicable sections of Article 3, Design Standards apply.

Land Use Reviews do not address a project’s compliance with applicable building, fire and life safety regulations.

**4.2.400 Site Design Review - Application Review Procedure**

Where Site Design Review is required, it shall be conducted using a Type III procedure, consistent with Section 4.1.400, and using the application requirements and approval criteria contained in Sections 4.2.500 through 4.2.600, that follow.

**4.2.500 Site Design Review - Application Submission Requirements**

All of the following information is required for Site Design Review application submittal:

- A. **General Submission Requirements.** An application for Site Design Review shall contain all of the information required for a Type III review under Section 4.1.400, and provide:
  - 1. **Public Facilities and Services Impact Study.** The impact study shall quantify and assess the effect of the development on public facilities and services. If a pre-application conference is held, the City shall advise as to the scope of the study during the pre-application conference (Section 4.1.600.C). The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the storm drainage system, the parks system, the water system, and the sewer system. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at

large, public facilities systems, and affected private property users;

2. Traffic Estimate. The application shall describe the proposed access to and from the site and estimate potential vehicle traffic increases resulting from the project (per the ITE manual). The City Administrator may require a Traffic Impact Study, in accordance with Section 4.1.900; and
3. In situations where this Code requires the dedication of property to the City, the City shall either, (1) include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services, or (2) not require the dedication as a condition of approval; this does not preclude the City from accepting voluntary dedications.

**B. Site Design Review Information.** In addition to the general submission requirements and number of required copies for a Type III review (Section 4.1.400), an application for Site Design Review shall provide the following information, as deemed applicable by the City Administrator to review the request and prepare a complete staff report and recommendation to the approval body. Copies of application materials submitted to other permitting agencies must be included in the application to the City in order for it to be deemed complete.

1. Site analysis map. At a minimum the site analysis map shall contain the following:
  - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
  - b. Topographic contour lines at 2-foot intervals for slopes of less than 10 percent, and 5-foot intervals for steeper slopes;
  - c. Identification of slopes equal to or greater than 20 percent;
  - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
  - e. Potential natural hazard areas, including any flood areas subject to Chapter 2.7, areas subject to high water table, and areas mapped by the City, County, or State as having a potential for geologic hazards;
  - f. Resource areas, including marsh and wetland areas, streams, and wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;



- g. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
  - h. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
  - i. The location, size and species of trees and other vegetation having a caliper (diameter) of six (6) inches or greater at four feet above grade;
  - j. North arrow, scale, names and addresses of all persons listed as owners of the subject property on the most recently recorded deed;
  - k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable.
2. Proposed site plan. The site plan shall contain the following information:
- a. The proposed development site, including boundaries, dimensions, and gross area;
  - b. Features identified on the existing site analysis maps that are proposed to remain on the site;
  - c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
  - d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
  - e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
  - f. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
  - g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);
  - h. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails, or parking areas;
  - i. Loading and service areas for waste disposal, loading and delivery;
  - j. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;

- k. Location, type, and height of outdoor lighting;
  - l. Location of mail boxes, if known;
  - m. Name and address of project designer, if applicable;
  - n. Locations of bus stops and other public or private transportation facilities;
3. Architectural drawings. Architectural drawings showing one or all of the following shall be required for new buildings and major remodels:
- a. Building elevations with building height and widths dimensioned, and materials labeled;
  - b. Building materials, colors and type; a materials sample board may be required;
  - c. The name of the architect or designer.
4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for development sites ½ acre or larger. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with applicable criteria.
5. Landscape plan/Street tree plan. A landscape plan may be required and at the direction of the City Administrator shall show the following:
- a. The location and height of existing and proposed fences, buffering or screening materials;
  - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
  - d. Existing and proposed building and pavement outlines;
  - e. Specifications for soil at time of planting, irrigation, and anticipated planting schedule;
  - f. Other information as deemed appropriate by the City Administrator. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.2, Landscape, Street Trees, Fences and Walls of this Code.

6. Deed restrictions. Copies of all existing and proposed restrictions or covenants, including those for access control.
7. Narrative. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 4.2.600, Approval Criteria.
8. Traffic Impact Study, when required, shall be prepared in accordance with the road authority's requirements. See Section 4.1.900, and Section 3.4.100 for relevant standards.
9. Other information determined by the City Administrator. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code.

#### 4.2.510 Site Design Review - Performance Option

- A. **Adjustments.** An application for Site Design Review may include, and the decision body may approve, a request for adjustment(s) to one or more of the architectural standards under Section 2.2.190 (Residential Districts) or Section 2.3.170 (Commercial Districts). Adjustments under Section 4.2.510 are limited to the modification (increase or decrease) to, or waiver of, a *quantitative* standard; adjustments do not include modifications to or waivers of non-quantitative standards.
- B. **Procedure.** An adjustment request made under Section 4.2.510 must be made in writing and submitted with a Site Design Review application. In reviewing an adjustment request, the City Administrator may refer the application to the City's architectural consultant, using the process described under Section 2.2.140.C. In acting on an adjustment request, the decision body shall approve, deny, or approve with conditions the request concurrently with the subject Site Design Review application. The decision body shall approve an adjustment only upon finding that it conforms to the criteria in subsection 4.2.510.C.
- C. **Approval Criteria.** An adjustment made under Section 4.2.510 may be approved only upon finding that *by modifying or waiving the specific code standard, the applicant better achieves the purpose of the Code.* The term "better" means modifying or waiving the standard facilitates a design that achieves greater public benefits in terms of compatibility with surrounding uses, human-scale, street visibility, or historic appropriateness, than what would be achieved under the base standards.

#### 4.2.600 Site Design Review Approval Criteria

The decision body shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying a Site Design Review application:

- A. **Complete.** The application is complete, as determined in accordance with Chapter 4.1 - Types of Applications and Section 4.2.500, above;
- B. **Land Use District.** The application complies with all of the applicable provisions of the underlying Land Use District (Article 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;
- C. **Conformance.** The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;
- D. **Design Standards.** The application complies with all of the Design Standards in Article 3:
  - 1. Chapter 3.1 - Access and Circulation;
  - 2. Chapter 3.2 - Landscaping, Street Trees, Fences and Walls;
  - 3. Chapter 3.3 - Parking and Loading, for automobiles and bicycles;
  - 4. Chapter 3.4 - Public Facilities; and
  - 5. Chapter 3.5 – Other Standards.
- E. **Conditions of Approval.** Existing conditions of approval required as part of a prior Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), Master Planned Development (Chapter 4.5) or other approval shall be met.

**4.2.700 Bonding and Assurances**

- A. **Performance Bonds for Public Improvements.** On all projects where public improvements are required, the City shall determine the type of assurance (e.g., bond in an amount not greater than 110%, letter of credit, or other adequate assurances) as a condition of site development approval in order to guarantee the public improvements;

- B. Release of Performance Bonds.** The bond or assurance shall be released when the City Administrator finds the completed project conforms to the site development approval, including all conditions of approval.
- C. Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the City Administrator or a qualified landscape architect is filed with the City Administrator assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

**4.2.800 Development in Accordance With Permit Approval; Modifications; Permit Expiration**

Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site design review approval) and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.700. Annexation agreements, where applicable, must also be met. Development Review and Site Design Review approvals shall be subject to all of the following standards and limitations:

- A. Modifications to Approved Plans and Developments.** Minor modifications of an approved plan or existing development, as defined in Chapter 4.6, shall be processed as a Type I procedure and require only Land Use Review. Major modifications, as defined in Chapter 4.6, shall be processed as a Type II or Type III procedure and shall require Site Design Review. For information on Type I, Type II and Type III procedures, refer to Chapter 4.1. For Modifications approval criteria, refer to Chapter 4.6.
- B. Approval Period.** Development Review and Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
1. A public improvement plan or building permit application for the project has not been submitted within one year of approval; or
  2. Construction on the site is in violation of the approved plan.
- C. Extension.** The Planning Commission shall, upon written request by the applicant, grant a written extension of the approval period not to exceed one year; provided that:
1. No changes are made on the original approved site design review plan;
  2. The applicant can show intent of initiating construction on the site within the one-year extension period;

3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and
4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.
5. No previous extensions have been granted for the same application.

**D. Phased Development.** Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:

1. A phasing plan shall be submitted with the Site Design Review application.
2. The Planning Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 2 years without reapplying for site design review.
3. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
  - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require Planning Commission approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Engineer;
  - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
  - d. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).

## Chapter 4.3 Land Divisions and Property Line Adjustments

### Sections:

- 4.3.100 Purpose
- 4.3.110 General Requirements
- 4.3.112 Pre-planning for Large Sites
- 4.3.115 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes
- 4.3.120 Approval Process
- 4.3.130 Preliminary Plat Submission Requirements
- 4.3.140 Approval Criteria: Preliminary Plat
- 4.3.150 Variances Authorized
- 4.3.160 Final Plat Submission Requirements and Approval Criteria
- 4.3.170 Public Improvements
- 4.3.180 Performance Guarantee
- 4.3.190 Filing and Recording
- 4.3.200 Re-platting and Vacation of Plats
- 4.3.210 Property Line Adjustments
- 4.3.220 Consolidation of Lots

### 4.3.100 Purpose

The purpose of this chapter is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments:
  - 1. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
  - 2. Partitions are the creation of three or fewer lots within one calendar year.
  - 3. Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B. Carry out the City's development pattern, as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization;
- E. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and



F. Encourage the conservation of energy resources.

#### 4.3.110 General Requirements

- A. Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:
1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
  2. The final plat must include all conditions of approval of the preliminary plat and construction plans must be approved before the final plat may be considered for approval.
- B. Compliance with ORS Chapter 92.** All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted for large lots identifying:
1. Potential future lot division(s), consistent with the densities and lot sizes in Article 2;
  2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;
  3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- D. Lot Size Averaging.** Single-family residential lot size may be averaged to allow lots less than the minimum lot size in Residential districts, as provided by Section 2.2.150, Flexible Lot Size Option, or through approval of a Master Planned Development under Chapter 4.5.
- E. Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 4.9.100, Temporary Uses.
- F. Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. See also, Chapter 2.7, Flood Plain Overlay.

- G. Determination of Base Flood Elevation.** See Chapter 2.7, Flood Plain Overlay.
- H. Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems. These systems shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.
- I. Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required. See also, Chapter 2.10, Riparian Protection and Wetland Overlay.
- J. Flood Plain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to regulatory flood plain and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway and/or trail adjoining or within the flood plain for transportation, storm drainage/water quality, or park purposes in the public interest. When practicable, this area shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, or stormwater management requirements, consistent with Chapter 3.4.200 and 3.4.400, and assist in obtaining any flood plain permit that may be required.

#### 4.3.112 Pre-planning for Large Sites

- A. Purpose.** The purpose of this Section is to require pre-planning of large sites (i.e., in conjunction with annexation or prior to subdivision approval) and ensure the development of fully integrated, mixed-use pedestrian-oriented neighborhoods. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation, particularly as new development takes place on large parcels of land.
- B. Applicability.** This Section applies to parcels, and development sites in Residential District(s) that are ten (10) acres or larger.
- C. Area plan required.** When an annexation or land division site contains ten (10) acres or more, prior to annexation and land division approval, the applicant shall prepare a specific area plan meeting the criteria in subsection D. For the purposes of this Section, the "site" shall be considered the area subject to an annexation request or land use application *and* any contiguous land under common ownership, except for land under common ownership that is located outside the Urban Growth Boundary.
- D. Land use and design standards.** The specific area plan required under subsection C, above, shall be consistent with the following design criteria:

1. All neighborhoods have identifiable centers and outer boundaries;
2. Edge lots are readily accessible to neighborhood commercial and recreational uses by walking and bicycling (a distance not greater than one-quarter mile);
3. Uses and housing types are mixed and in close proximity to one another;
4. Streets are connected and blocks are walkable in scale (e.g., 100-600 feet in length), except where areas containing topographic constraints (>20% slope), jurisdictional wetlands, flood plain, unusual parcel configuration, or a similar constraint, requires longer blocks. In such case, the approval body may adjust the block length standards accordingly, and without the need for a variance under Chapter 5.1, provided that pedestrian access ways are planned to break up long blocks and minimize out-of-direction travel by pedestrians;
5. Civic buildings, monuments and open spaces (e.g., parks, squares, greenbelts, natural areas, etc.), and scenic viewing points are given prominent sites throughout the neighborhood;
6. Overall, the master plan achieves a housing density that is consistent with the Comprehensive Plan; and
7. Land needed for public use (e.g., schools, parks, fire stations, and other facilities) shall be designated on the master plan, in accordance with the Comprehensive Plan.

**E. Implementation.** Upon approval of a plan under the provisions of Section 4.3.112, the processing of development proposals shall follow the Land Division procedures in Chapter 4.3, and the Land Use Review and/or Site Design Review procedures in Chapter 4.2, as applicable. Any modifications to the approved master plan shall be subject to the standards and procedures in Chapter 4.6 – Modifications.

#### **4.3.115 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes**

**A. Flexible Lot Size.** To allow creativity and flexibility in subdivision design and to address physical constraints, such as topography (>20% slope), jurisdictional wetlands, flood plain, unusual parcel configuration, or similar constraint, may grant a ten percent (10%) adjustment to the lot area and/or lot dimension (width/depth) standards in Section 2.2.130 without the need for a variance under Chapter 5.1, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that granting the modification allows for a greater variety of housing types or it improves development compatibility with natural features or adjacent land uses. The approval body may require that standard size lots be placed at the perimeter of the development where the abutting lots are standard size or larger; except that this provision shall not apply where the abutting lots are larger than 15,000 square feet.

**B. Mid-block lanes.** Lots may be developed without frontage onto a public street when lot access is provided by mid-block lanes, as shown below. Mid-block lanes or shared driveways, as illustrated in Figure 4.3.115B, may be required when practicable to provide connectivity between infill developments. Mid-block lanes with access easements for adjoining properties may be allowed as an alternative to requiring through streets where block lengths do not necessitate a through street. The lanes shall meet the standards for alleys, per Chapter 3.4.1, and the standards under subsections C-F, below.

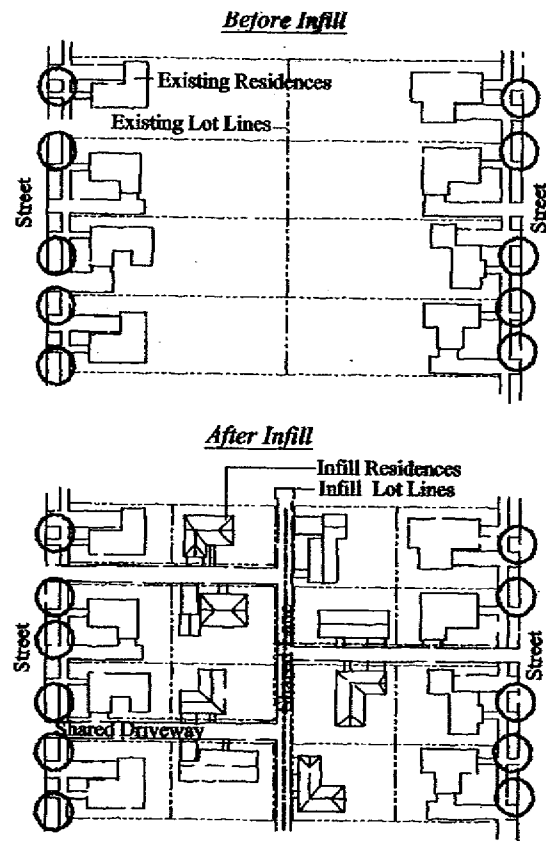
**C. Flag lots.** Flag lots may be created only when a through street or mid-block lanes cannot be extended to serve abutting uses or future development. A flag lot driveway (“flag pole”) may serve no more than two (2) dwelling units, including accessory dwellings and dwellings on individual lots, unless International Fire Code (IFC) standards are met for more units. When IFC standards are met, the maximum number of dwellings shall be four (4). A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots. No fence, structure or other obstacle shall be placed within the drive area. The Fire Marshal may require an emergency turn-around. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).

**D. Driveway and lane width.** The minimum width of all shared drives and lanes serving flag lots shall fifteen (15) feet, with twelve (12) feet of all-weather surface and 1-½ foot shoulders. The maximum width of a flag lot drive is twenty (20) feet.

**E. Easement and improvement of drive lane.** The property owner shall record an easement benefiting all properties that are to receive vehicle access. The drive lane shall be improved with an all weather surface approved by the City. Dedication or recording, as applicable, shall be so indicated on the face of the subdivision or partition plat.

**F. Maximum drive lane length.** The maximum drive lane length is subject to requirements of the International Fire Code, but shall not exceed 150 feet for a shared side drive, and 400 feet for a shared rear lane.

**Figure 4.3.115B - Mid-block Infill**



- G. Future street plans.** Building placement and alignment of shared drives shall be designed so that future street connections can be made as surrounding properties develop (i.e., as shown in the Figure 4.3.115.B).

#### 4.3.120 Preliminary Plat Approval Process

- A. Review of Preliminary Plat.** Review of a preliminary plat with 2 or 3 lots (partition) shall be processed with a Type II procedure, under Section 4.1.300. Preliminary plats with 4 or more lots (subdivision) shall be processed with a Type III procedure under Section 4.1.400. All preliminary plats shall be reviewed using approval criteria in Section 4.3.140. An application for subdivision may be reviewed concurrently with an application for a Master Planned Development under Chapter 4.5.

- B. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of one (1) year from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within the one-year period.

- C. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications. The City Administrator shall, upon written request by the applicant and payment of the required fee, grant one written extension of the approval period not to exceed one year; provided that:

1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.

#### **D. Phased Development.**

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be more than 2 years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;

- b. The development and occupancy of any phase dependent on the use of temporary public facilities (e.g., sewage pump stations) shall require the City Administrator's approval, except when referred to the Planning Commission for their approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable City or district standard;
- c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
- d. The proposed time schedule for phased development approval shall be reviewed concurrently with the preliminary plat application, and the decision may be appealed in the same manner as the preliminary plat.

**4.3.130 Preliminary Plat Submission Requirements.**

**A. General Submission Requirements.** For all partitions (three or fewer parcels), the application shall contain all of the information required for a Type II procedure under Section 4.1.300. For all subdivisions (four or more lots) the application shall contain all of the information required for a Type III procedure under Section 4.1.400, and the information in subsections 1-3, below:

- 1. **Public Facilities and Services Impact Study.** The impact study shall quantify and assess the effect of the development on public facilities and services. When a pre-application conference is held, the City Administrator shall advise as to the scope of the study during the pre-application conference (Section 4.1.600C). The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the sewer system. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users;
- 2. **Traffic Estimate.** The application shall describe the proposed access to and from the site and estimate potential vehicle traffic increases resulting from the project. The City Administrator may require a Traffic Impact Study, in accordance with Section 4.1.900; and
- 3. In situations where this Code requires the dedication of property to the City, the City shall either, (1) include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.

**B. Preliminary Plat Information.** In addition to the general information and number of required copies described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

1. General information:

- a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in Lane County (check with County Surveyor);
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;
- d. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the designer, and engineer and surveyor if any, and the date of the survey if submitted; and
- e. Identification of the drawing as a “preliminary plat”.

2. Site analysis:

- a. Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 10 percent or as required by the City. Such ground elevations shall be related to some established benchmark or other datum approved by the Lane County Surveyor. This requirement may be waived for partitions when grades, on average, are less than 6 percent;
- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;

#### 4.3 – Land Divisions and Property Line Adjustments

- g. Wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also, relevant portions of the Comprehensive Plan);
  - h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
  - i. Designated historic and cultural resources on the site and adjacent parcels or lots;
  - j. The location, size and species of trees having a caliper (diameter) of 6 inches or greater at 4 feet above grade in conformance with Chapter 3.2;
  - k. North arrow and scale;
  - l. Name and address of project designer, if applicable; and
  - m. Other information, as deemed appropriate by the City Administrator. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements. Copies of application materials submitted to other permitting agencies must be included in the application to the City in order for it to be deemed complete.
3. Proposed improvements:
- a. Public and private streets, tracts, driveways, open space and park land; location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
  - b. Easements: location, width and purpose of all proposed easements;
  - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;
  - d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use; potential location of future buildings;
  - e. Proposed improvements, as required by Article 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);
  - f. Preliminary location of development showing those future buildings can meet siting and dimensional standards of the district.



#### 4.3 – Land Divisions and Property Line Adjustments

- g. The proposed source of domestic water;
- h. The proposed method of sewage disposal;
- i. Proposed method of surface water drainage and treatment if required;
- j. The approximate location and identity of other utilities, including the locations of street lighting fixtures and mail receptacles;
- k. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with the affected railroad and the Oregon Department of Transportation Rail Division regarding proposed railroad crossing(s);
- l. Changes to navigable streams, or other watercourses. Status of public access to these areas shall be shown on the preliminary plat, as applicable;
- m. Identification of the base flood elevation in accordance with Chapter 2.6;
- n. Evidence of contact with from the road authority for any development requiring access to its facility(ies); and
- o. Evidence of written notice to the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands, and other areas requiring protection or conservation.

#### 4.3.140 Approval Criteria: Preliminary Plat.

**A. General Approval Criteria.** The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

- 1. The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this Article, and the applicable Chapters and Sections of Article 2 (Land Use Districts) and Article 3 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 5;
- 2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
- 3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;

#### 4.3 – Land Divisions and Property Line Adjustments

4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat; and
5. Evidence that any required State and federal permits have been obtained, or shall be obtained before approval of the final plat;
6. Evidence that improvements or conditions required by the City, road authority, Lane County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and
7. If any part of the site is located within a Specific Area Plan District, Overlay Zone, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.

**C. Layout and Design of Streets, Blocks and Lots.** All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Article 2), and the standards of Section 3.1.200.J - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use district (Article 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. See Article 2 - Land Use Districts, and Chapter 3.2 - Landscaping.
5. In conformance with the International Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. This dimension may be reduced only with the Fire Marshal's approval. See Chapter 3.1- Access and Circulation.
6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement that will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.
7. All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.

**D. Conditions of Approval.** The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See Chapter 3.4 (Public Facilities).

**4.3.150 Variances Authorized.**

Variances to the standards of this Chapter shall be processed in accordance with Chapter 5.1 - Variances. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

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

- A. Submission Requirements.** Final plats shall be reviewed and approved by the City prior to recording with Lane County. The applicant shall submit the final plat within one (1) year of the approval of the preliminary plat as provided by Section 4.3.120.
- B. Review of Final Plat.** Review of a final plat for a subdivision or partition is carried out under Type 1 Ministerial application provisions.
- B. Approval Criteria.** The City Administrator and City Engineer shall review the final plat and shall approve or deny the final plat based upon the following criteria:
1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
  2. All public improvements required by the preliminary plat have been installed and approved by the City Engineer or appropriate service provider (e.g., road authority). Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.180;
  3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
  4. The streets and roads held for private uses have been approved by the City as conforming to the preliminary plat;
  5. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;
  6. The applicant has provided copies of all recorded homeowners association Covenants, Conditions and Restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;

#### 4.3 – Land Divisions and Property Line Adjustments

7. The plat complies with the applicable Sections of this Code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
8. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.180. The amount of the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the City;
9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner established by the U.S. Geological Survey, or giving two or more permanent objects for identifying its location.

#### **4.3.170 Public Improvements Required**

Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider/partitioner shall provide a performance guarantee, in accordance with Section 4.3.180.

#### **4.3.180 Performance Guarantee**

- A. Performance Guarantee Required.** When a performance guarantee is required under Section 4.3.170, the subdivider/partitioner shall file an assurance of performance with the City supported by one of the following:
1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
  2. A surety bond executed by a surety company authorized to transact business in the state of Oregon, which remains in force until the surety company is notified by the City in writing that it may be terminated; or
  3. Cash.
- B. Determination of Sum.** The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.

- C. Itemized Improvement Estimate.** The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. Agreement.** An agreement between the City and developer shall be recorded with the final plat. The agreement may be prepared by the City or prepared by the applicant as a letter. It shall not be valid until it is signed and dated by both the applicant and City Administrator. The agreement shall contain all of the following:
1. The period within which all required improvements and repairs shall be completed;
  2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
  3. The improvement fees and deposits that are required;
  4. (Optional) A provision for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.
- E. When Subdivider Fails to Perform.** In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.

**4.3.190 Filing and Recording**

- A. Filing Plat with County.** Within 60 days of the City approval of the final plat, the applicant shall submit the final plat to Lane County for signatures of County officials as required by ORS Chapter 92.
- B. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and 5 paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to Recording the Plat.**
  - 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
  - 2. No plat shall be recorded until it is approved by the County Surveyor in the manner provided by ORS Chapter 92.

**4.3.200 Re-platting and Vacation of Plats.**

- A. Re-platting and Vacations.** Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. Procedure.** All applications for a re-plat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to re-plat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures.) The road authority(ies) shall be notified of all applications for re-plats and street vacations. All street vacations shall also conform to the requirements of ORS Chapter 271.
- C. Basis for Denial.** A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.
- D. Recording of Vacations.** All approved plat vacations shall be recorded in accordance with 4.3.190 and the following procedures:
  - 1. Once recorded, a re-plat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
  - 2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications described on the plat.

- E. **After Sale of Lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
- F. **Street Requirement.** Except as prohibited by law (e.g., ORS 92.837, Manufactured Home Park), in approving a right-of-way vacation or re-plat, the City may require dedication of access ways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system, and reduce out of direction travel. Such requirements shall be coordinated with the applicable road authority.

#### 4.3.210 Property Line Adjustments

A Property Line Adjustment is the modification of lot boundaries, when no lot is created or removed. The application submission and approval process is as follows:

- A. **Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Section 4.1.200. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; wetlands; flood plain; existing fences and walls; and any other information deemed necessary by the City Administrator for ensuring compliance with City codes.

#### B. Approval Process.

1. Decision-making process. Review of a property line adjustment is carried out under Type I Ministerial application provisions. Property line adjustments shall be reviewed using approval criteria contained in Section 4.3.210.C below. The road authority(ies) shall be notified of lot line adjustments that may affect property access or traffic volumes or operations on their facilities.
2. Time limit on approval. The property line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
3. Lapsing of approval. The property line adjustment approval shall lapse if:
  - a. The property line adjustment is not recorded within the time limit in Section 4.3.210.B(2);
  - b. The property line adjustment has been improperly recorded with Lane County without the satisfactory completion of all conditions attached to the approval; or
  - c. The final recording is a departure from the approved plan.

**C. Approval Criteria.** The City Administrator shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

1. Parcel Creation. No additional parcel or lot is created or removed by the lot line adjustment;
2. Lot standards. All lots and parcels conform to the applicable lot standards of the land use district (Article 2) including lot area, dimensions, setbacks, and coverage, and no resulting lot is unbuildable, wholly comprised of a flood hazard area or jurisdictional wetland;
3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Chapter 3.1 – Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made even less conforming by the property line adjustment;

**D. Recording Property Line Adjustments.**

1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment with Lane County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.
2. Time limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

**D. Extension.**

The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

1. No changes are made to the original property line adjustment as approved by the City;
2. The applicant can show intent of recording the approved plan within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the property line adjustment conflicts with a code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.



#### 4.3.220 Consolidation of Lots

A Consolidation of Lots is the modification of lot boundaries, when no lot is legally created or removed but by consolidating the lots, the economic viability of the lots is improved, and district standards such as setbacks, coverage, etc. can be met. The application submission and approval process is as follows:

**A. Submission Requirements.** All applications for Consolidation of Lots shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Section 4.1.200. The application shall include a preliminary consolidation of lots map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; wetlands; flood plain; existing fences and walls; setbacks; and any other information deemed necessary by the City Administrator for ensuring compliance with City codes.

**B. Approval Process.** A review of a consolidation of lots is carried out under the provisions of a Type I application and is non-discretionary. It is, therefore, not considered a land use decision per ORS 197.015 and is not subject to local appeal.

1. Decision-making process. Review of a consolidation of lots is carried out under Type I Ministerial application provisions. Consolidation of lots shall be reviewed using approval criteria contained in Section 4.3.220.C below.
2. Time limit on approval. The consolidation of lots approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
3. Lapsing of approval. The consolidation of lots approval shall lapse if:
  - a. The consolidation of lots is not recorded within the time limit in Section 4.3.220.B(2);
  - b. The legal covenant that runs with the land has been improperly recorded with Lane County without the satisfactory completion of all conditions attached to the approval; or
  - c. The final recording is a departure from the approved plan.

**C. Approval Criteria.** The City Administrator shall approve or deny a request for a consolidation of lots in writing based on all of the following criteria:

1. Parcel Creation. No additional parcel or lot is created or removed by the consolidation of lots;
2. Standards. All consolidated lots conform to the applicable standards of the land use district (Article 2) including setbacks, coverage, and no resulting lot is wholly

comprised of a flood hazard area or jurisdictional wetland;

3. Access and Road authority Standards. All consolidated lots conform to the standards or requirements of Chapter 3.1 – Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made even less conforming by the consolidation of lots;

**D. Recording Consolidation of Lots.**

1. Recording. Upon the City's approval of the consolidation of lots, the applicant shall record a legal covenant that runs with the land with Lane County within 60 days of approval (or the decision expires), .
2. Time limit. The applicant shall submit a copy of the recorded property consolidation of lots map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

**E. Extension.**

The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

1. No changes are made to the original consolidation of lots as approved by the City;
2. The applicant can show intent of recording the approved plan within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the consolidation of lots conflicts with a Code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.

## Chapter 4.4 Conditional Use Permits

### Sections:

- 4.4.100 Purpose**
- 4.4.200 Approvals Process**
- 4.4.300 Application Submission Requirements**
- 4.4.400 Criteria, Standards and Conditions of Approval**
- 4.4.500 Additional Development Standards**

### **4.4.100 Purpose**

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as “Conditional Uses” in Article 2 - Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

**4.4.200 Approvals Process**

- A. Initial Application.** An application for a new conditional use shall be processed as a Type III procedure (Section 4.1.400). The application shall meet submission requirements in Section 4.4.300, and the approval criteria contained in Section 4.4.400.
- B. Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 - Modifications.

**4.4.300 Application Submission Requirements**

An application for conditional use approval must include the following information (1-7), as applicable. For a description of each item, please refer to Section 4.2.500 - Site Design Review Application Submission Requirements. Five (5) copies of the application shall be submitted for the initial review by City staff. An additional fifteen (15) copies of the complete application shall be submitted by a date the City Administrator requires (i.e., for the Planning Commission hearing):

1. Existing site conditions;
2. Site plan;
3. Preliminary grading plan;
4. A landscape plan;
5. Architectural drawings of all structures;
6. A copy of all existing and proposed restrictions or covenants;
7. Narrative report or letter documenting compliance with all applicable approval criteria in Section 4.4.400.

**4.4.400 Criteria, Standards and Conditions of Approval**

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the standards and criteria in A-C.

**A. Use Criteria.**

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and
3. All required public facilities have adequate capacity to serve the proposal.

**B. Site Design Standards.** The Site Design Review approval criteria (Section 4.2.600) shall be met.

**C. Conditions of Approval.** The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features that minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building or structure height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;

8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, wetlands, watercourses, habitat areas, drainage areas, historic resources, and/or cultural resources;
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans, or in compliance with Section 3.4.010.D, Dedication of land and construction shall conform to the provisions of Chapter 3.1, and Section 3.1.300 in particular;

**4.4.500 Additional Development Standards**

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



## Chapter 4.5 Master Planned Developments

### Sections:

- 4.5.100 Purpose
- 4.5.110 Applicability
- 4.5.120 Review and Approvals Process
- 4.5.130 Modification of District Standards (Article 2) and Design Standards (Article 3)
- 4.5.140 Overlay Zone and Concept Plan Submission
- 4.5.150 Overlay Zone and Concept Plan Approval Criteria
- 4.5.160 Administrative Procedures
- 4.5.170 Detailed Development Plan Submission Requirements
- 4.5.180 Detailed Development Plan Approval Criteria
- 4.5.190 Land Use Review, Site Design Review, Final Plat, and Building Permit Approvals

### 4.5.100 Purpose

The purposes of this Section are to:

- A. Implement the Comprehensive Plan, other City planning documents and Planned Unit Development requirements, and applicable land use district(s) by providing a means for master planning large development sites, or sites with unique physical or ecological attributes;
- B. Encourage innovative planning that results in projects that benefit the community (i.e., through compatible mixed use development, improved protection of open spaces, transportation options and consistent application of standards in phased developments);
- C. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified employment environments;
- D. Facilitate the efficient use of land;
- E. Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
- F. Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
- G. Encourage energy conservation and improved air and water quality, and;
- H. Assist the City in planning infrastructure improvements.

**4.5.110 Applicability**

For the purposes of this Code, previously approved Planned Unit Developments or references to Planned Unit Developments in other City documents are hereafter allowed and addressed as Master Planned Developments.

The Master Planned Development designation is an overlay zone that may be applied over any of the City’s land use districts. An applicant may elect to develop a project as a Master Planned Development in compliance with the requirements of this Chapter. In addition, the City may require that the following types of development be processed using the provisions of this Chapter:

- A. Subdivisions of large residential sites (10 acres and larger), in accordance with the requirements under 4.3.112, Pre-Planning Large Sites;
- B. District designation for large residential sites undergoing annexation, in accordance with the requirements under 4.3.112, Pre-Planning Large Sites;
- C. Subdivisions on Creswell Butte; and
- D. Subdivisions containing wetlands or flood plains.

**4.5.120 Review and Approvals Process**

**A. Review Steps.** There are three required steps to planned development approval, which may be reviewed individually or combined into one package for concurrent review:

- 1. The approval of a planned development overlay zone and concept plan;
- 2. The approval of a detailed development plan; and
- 3. The approval of a preliminary subdivision plat(s) and/or site design review application(s).

**B. Approval Process.**

- 1. The Master Planned Development (PD) overlay zone and Concept Plan shall be reviewed together using the Type III procedure in Section 4.1.400, the submission requirements in Section 4.5.170, and the approval criteria in Section 4.5.150.
- 2. The detailed development plan shall be reviewed using the Type III procedure in Section 4.1.400, to ensure substantial compliance with the approved concept plan.

3. Preliminary subdivision plats and site design review applications for approved planned developments shall be reviewed using a Type III procedure, as governed by Section 4.2.400.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows that in Section 4.5.120.A, above. Notification and hearings may be combined.

**4.5.130 Modification of District Standards (Article 2) and Design Standards (Article 3)**

The district standards in Article 2 and design standards of Article 3 may be modified, consistent with the purposes under Section 4.5.100, through the master plan approval without the need for variances, except that the following standards within Articles 2 and 3 *shall not* be modified:

- A. **Public improvement standards and engineering design criteria** shall not be modified without variance to such standards approved by the City Engineer. The City may grant such variances concurrently with other Planned Development approvals;
- B. **Residential densities (overall for site)**, as allowed under the Comprehensive Plan; and
- C. **Industrial and commercial uses, if not otherwise allowed in a Residential District**, shall not be allowed in a Residential District master plan.

**4.5.140 Overlay Zone and Concept Plan Submission**

The applicant shall submit five (5) copies of all of the following information (A-B) for the initial review by City staff. An additional fifteen (15) copies of the complete application shall be submitted for the Planning Commission hearing, by a date the City Administrator specifies.

- A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required for a Type III procedure, as governed by Section 4.1.400. In addition, the applicant shall submit all of the following:
  1. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
  2. A development schedule indicating the approximate dates when construction of the planned development and its various phases are expected to be initiated and completed;
  3. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development.
  4. Narrative report or letter documenting compliance with the applicable approval criteria contained in Section 4.5.180; and

5. Special studies prepared by qualified professionals may be required by the City Administrator, Planning Commission or City Council to determine potential traffic, geologic, noise, environmental, natural resource and other impacts, and required mitigation.

**B. Additional Information.** In addition to the general information described in subsection “A” above, the concept plan, data, and narrative shall include the following exhibits and information:

1. Existing Conditions map, as defined in Section 4.2.500 - Site Design Review Application Submission Requirements;
2. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
3. Grading concept (for hillside or sloping properties, or where extensive grading is anticipated);
4. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);
5. Architectural concept (e.g., information sufficient to describe architectural styles, building heights, and general materials);
6. Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

#### **4.5.150 Overlay Zone and Concept Plan Approval Criteria**

The City shall make findings that all of the following criteria are satisfied when approving or approving with conditions, the overlay zone and concept plan. The City shall make findings that not all of the criteria are not satisfied when denying an application:

- A. Comprehensive Plan.** All relevant provisions of the Comprehensive Plan are met;
- B. Land Division Chapter.** All of the requirements for land divisions, as applicable, shall be met (Chapter 4.3);
- C. Article 2 and Article 3 Standards.** All of the land use, development, and design standards contained in Articles 2 and 3 are met, except as may be modified in Section 4.5.130;

**D. Open Space.** Master plans shall contain a minimum of 15 percent open space. Public open space shall be integral to the master plan. Plans shall emphasize public gathering places such as plazas, neighborhood parks, trails, and other publicly accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:

1. The open space area shall be shown on and recorded with the final plat; and
2. The open space shall be conveyed in accordance with one of the following methods:
  - a. By dedication to the City as publicly owned and maintained open space. Open space proposed for dedication to the City must be acceptable to the City Administrator with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities;
  - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.

#### **4.5.160 Administrative Procedures**

**A. Land Use District Map Designation.** After a planned development overlay zone has been approved, the land use district map shall be amended in accordance with Chapter 4.7, to indicate the approved planned development designation for the subject development site. The approval of the planned development overlay zone shall not expire.

**B. Time Limit on Filing of Detailed Development Plan.** Within three (3) years after the date of approval of the concept plan, the applicant or his or her successor shall file with the City a detailed development plan, in conformance with Section 4.5.170 through 4.5.180.

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

1. No changes have been made on the original conceptual development plan as approved;
2. The applicant can show intent of applying for detailed development plan review within the one-year extension period;
3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based; and
4. The extension request is made before expiration of the original approval period.

**4.5.170 Detailed Development Plan Submission Requirements**

The contents of the detailed development plan shall be determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes and other features, prior to approval of a development permit. The detailed development plan may combine land division, development review, site design review, and/or other applications for concurrent review and approval. The detailed development plan shall be reviewed using a Type III procedure.

**4.5.180 Detailed Development Plan Approval Criteria**

The City shall approve the detailed development plan upon finding that the final plan conforms to the concept plan and required conditions of approval. If the detailed plan request combines other land use and development applications, as provided in Section 4.5.180, those applications shall additionally be subject to the applicable approval criteria in Article 4. Minor changes to the approved concept plan may be approved with the detailed plan, when the approval body finds that the modification(s) is/are consistent with the criteria in A-H, below. Changes exceeding those in subsections A-H, below, must be reviewed as major modifications under Chapter 4.6.

- A. Increased residential densities** (overall or reallocated between development phases) by no more than 20 percent, provided such increase conforms to the Comprehensive Plan and underlying District;
- B. Increase in lot coverage or impervious surface** (overall or reallocated between development phases) by no more than 15 percent over that which is approved;
- C. Reduction in open space or landscaping** by no more than 10 percent;
- D. Increase in overall automobile parking spaces** by no more than 10 percent;
- E. Land use.** No change in land use shall be permitted without a major modification to the concept plan;
- F. Proposals to add or increase lot coverage within areas subject to a potential hazard or requiring protection under the Comprehensive Plan** shall require a major modification to the concept plan;
- G. Major changes in the location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall require a Major Modification pursuant to Chapter 4.6.** “Major” in this subsection means by more than 100 feet, or 15 percent, relative to setbacks; and
- H. Other substantial modifications** not listed in A-G, above, shall require approval of a major modification, in conformance with Chapter 4.6.

**4.5.190 Land Use Review, Site Design Review, Final Plat, and Building Permit Approvals**

- A. Land Use and Site Design Reviews.** For projects requiring land use or site design review, all such approvals must be final and appeal periods expired before the City issues building permits. Chapter 4.2 applies to site design review.
- B. Land Divisions.** For projects requiring a land division, the preliminary land division plats must be final and appeal periods expired before a final plat is approved and building permits issued. Chapter 4.3 applies to land divisions.
- C. Streamlined Review Option.** Applications for preliminary land division plats, land use reviews, and site design review applications that are part of an approved master planned development may be reviewed using a Type II procedure, rather than the conventional Type III procedure. This shall be the applicant's option. The variation from the standard procedures of Chapter 4.2 - Site Design Review, and Chapter 4.3 - Land Divisions, is intended to streamline review of projects that have received master planned development approvals, since those projects have previously been subject to public review and hearings.

## Chapter 4.6 Modifications to Approved Plans and Conditions of Approval

### Sections:

- 4.6.100 Purpose
- 4.6.200 Applicability
- 4.6.300 Major Modifications
- 4.6.400 Minor Modifications

#### 4.6.100 Purpose

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

#### 4.6.200 Applicability

- A. This Chapter applies to all development applications approved through the provisions of Chapter 4, including:
  - 1. Land Use Review approvals;
  - 2. Site Design Review approvals;
  - 3. Subdivisions, Partitions, Property Line Adjustments, and Consolidation of Lots;
  - 4. Conditional Use Permits;
  - 5. Master Planned Developments and previously approved Planned Unit Developments;  
and
  - 6. Conditions of approval on any of the above permit types.
- B. This Chapter does not apply to Comprehensive Plan amendments, land use district changes, text amendments, annexations, temporary use permits, or other permits not listed in subsection A.



**4.6.300 Major Modifications**

**A. Major Modification Defined.** The City Administrator shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:

1. A change in land use;
2. An increase in density by more than 10 percent, provided the resulting density does not exceed that allowed by the land use district;
3. A change in setbacks or lot coverage by more than 10 percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;
4. A change in the type and/or location of access-ways, drives or parking areas affecting off-site traffic;
5. An increase in the floor area proposed for non-residential use by more than 15 percent where previously specified;
6. A reduction of more than 10 percent of the area reserved for common open space; or
7. Change to a condition of approval, or a change similar to items 1-6, that could have a detrimental impact on adjoining properties. The City Administrator shall have discretion in determining detrimental impacts warranting a major modification.

**B. Major Modification Applications; Approval Criteria.** An applicant may request a major modification using a Type II or Type III review procedure, as follows:

1. Upon the City Administrator determining that the proposed modification is a major modification, the applicant shall submit an application form, non-refundable filing fee and narrative, and a site plan using the same plan format as in the original approval. The City Administrator may require other relevant information, as necessary, to evaluate the request.
2. The application shall be subject to the same review procedure (Type II or III), decision making body, and approval criteria used for the initial project approval, except that adding a conditional use to an approved project shall be reviewed using a Type III procedure.
3. The scope of review shall be limited to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping. Notice shall be provided in accordance with Chapter 4.1.
4. The decision making body shall approve, deny, or approve with conditions an application for major modification based on written findings on the criteria.

**4.6.400 Minor Modifications**

- A. Minor Modification.** Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Section 4.6.300.A, above.
- B. Minor Modification Review Procedure.** An application for approval of a minor modification shall be reviewed by the City Administrator using a Type I or a Type II review procedure under Section 4.1.200 or 4.1.300. The City Administrator is responsible for determining the appropriate review procedure based on the following criteria:
1. Minor modifications that involve only clear and objective code standards may be reviewed using a Type I procedure;
  2. Minor modifications that involve one or more discretionary standards shall be reviewed through Type II procedure; and
  3. When the code is unclear on whether the application should be a Type I or Type II review, a Type II procedure shall be used.
- C. Minor Modification Applications.** An application for minor modification shall include an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The City Administrator may require other relevant information, as necessary, to evaluate the request.
- D. Minor Modification Approval Criteria.** The City Administrator shall approve, deny, or approve with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code and conditions of approval on the original decision, and the modification is not a major modification as described in Section 4.6.300.A, above.

## Chapter 4.7 Land Use District Map and Text Amendments

### Sections:

- 4.7.100 Amendments - Purpose**
- 4.7.200 Legislative Amendments**
- 4.7.300 Quasi-Judicial Amendments**
- 4.7.400 Conditions of Approval on Quasi-Judicial Amendments**
- 4.7.500 Record of Amendments**
- 4.7.600 Transportation Planning Rule Compliance**

### **4.7.100 Amendments - Purpose**

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the land use district 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.

### **4.7.200 Legislative Amendments**

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Section 4.1.500 and shall conform to the Transportation Planning Rule provisions in Section 4.7.600, as applicable.

### **4.7.300 Quasi-Judicial Amendments**

**A. Applicability of Quasi-Judicial Amendments.** Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial district map amendments shall follow the Type III procedure, as governed by Section 4.1.400, using standards of approval in Section 4.7.300.B. The approval authority shall be as follows:

1. The Planning Commission shall review and recommend land use district map changes that do not involve comprehensive plan map amendments;
2. 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
3. The Planning Commission shall make a recommendation to the City Council on a land use district change application that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

**B. Criteria for Quasi-Judicial 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:

1. Approval of the request is consistent with the Statewide Planning Goals;
2. Approval of the request is consistent with the Comprehensive Plan;
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and
4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the comprehensive plan or land use district map regarding the property which is the subject of the application; and
5. The amendment conforms to the Transportation Planning Rule provisions under Section 4.7.600.

#### **4.7.400 Conditions of Approval for Quasi-Judicial Amendments**

A quasi-judicial decision may be made for denial, approval, or approval with conditions; conditions shall be based on applicable regulations and factual evidence in the record. A legislative amendments may only be approved or denied.

#### **4.7.500 Record of Amendments**

The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

#### **4.7.600 Transportation Planning Rule Compliance.**

**A. Review of Applications for Effect on Transportation Facilities.** When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – TPR) and the Traffic Impact Study provisions of Section 4.1.900. “Significant” means the proposal would:

1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a proposal causes future traffic to exceed the levels associated with a “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the City’s Transportation System Plan (TSP); or

2. Change the standards implementing a functional classification system; or
3. As measured at the end of the planning period identified in the road authority's adopted TSP allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or
4. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the road authority's TSP; or
5. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the road authority's TSP.

**B. Amendments That Affect Transportation Facilities.** Except as provided in subsection C, amendments to the comprehensive plan and land use regulations that significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the TSP. This shall be accomplished by one of the following:

1. Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or
2. Amending the TSP to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or,
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or
4. Amending the planned function, capacity or performance standards of the transportation facility; or
5. Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

**C. Exceptions.** Amendments to the Comprehensive Plan or land use regulations with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the road authority's transportation system plan (TSP), may be approved when all of the following criteria are met:

1. The amendment does not include property located in an interchange area, as defined under applicable law;

#### 4.7 – Land Use District Map and Text Amendments

2. The currently planned facilities, improvements or services are not adequate to achieve the standard;
3. Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and
4. The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid further degradation to the facility.

## Chapter 4.8 Code Interpretations

### Sections:

**4.8.100 Interpretations - Purpose**

**4.8.200 Code Interpretation Procedure**

**4.8.100 Interpretations - Purpose**

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

### **4.8.200 Code Interpretation Procedure**

- A. Requests.** A request for a code interpretation shall be made in writing to the City Administrator.
- B. Decision to Issue Interpretation.** The City Administrator shall have the authority to interpret the code, or refer the request to the Planning Commission for its interpretation. The City Administrator shall advise the person making the inquiry in writing within 14 days after the request is made, on whether or not, and how, the City will make an interpretation.
- C. Written Interpretation.** If the City 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. The written interpretation shall be issued within 14 days of the request. The decision shall become effective 14 days later, unless an appeal is filed in accordance with E-F below.
- E. Type II Procedure.** Code Interpretations shall be made using a Type II procedure under Section 4.1.300.
- F. Appeals.** The applicant and any party who received notice or who participated in the proceedings through the submission of written or verbal evidence may appeal the decision to the Planning Commission for a Type III decision. The appeal must be filed within 14 days after the interpretation was mailed or delivered to the applicant. Initiating an appeal requires filing a notice of appeal with the City Administrator pursuant to Section 4.1.400.
- G. Interpretations on File.** The City shall keep on file a record of all code interpretations. See Article 6.

## Chapter 4.9 Miscellaneous Permits

### Sections:

**4.9.100 Temporary Use Permits**

**4.9.200 Home Occupation Permits**

### **4.9.100 Temporary Use Permits**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C):

**A. Seasonal and Special Events.** These types of uses occur only once in a calendar year and for no longer a period than 30 days. Using the Type II procedure under Section 4.1.400, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:

1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
2. The applicant has proof of the property-owner's permission to place the use on his/her property;
3. No parking will be utilized by customers and employees of the temporary use that is needed by the property owner to meet their minimum parking requirement under Chapter 3.3 - Vehicle and Bicycle Parking;
4. The use provides adequate vision clearance, as required by Section 3.1.200, and shall not obstruct pedestrian access on public streets;
5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Section 3.1.200 - Vehicular Access and Circulation;
6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use; and
7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)



**B. Temporary Sales Office or Model Home.** Using a Type I procedure under Section 4.1.200, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. Temporary sales office:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold;
- b. The property to be used for a temporary sales office shall not be permanently improved for that purpose;
- c. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.

2. Model house:

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

**C. Temporary Building, Trailer, Kiosk, or Structure.** Temporary or permanent placement of a building, trailer, kiosk, or structure, including but not limited to prefabricated building(s), for use on any real commercial or industrial property within the City shall require a development permit. Using a Type II procedure, as governed by Section 4.1.400, the City may approve, approve with conditions or deny an application for a placement of a building, trailer, kiosk, or structure for temporary use, or temporary placement, such as a temporary commercial or industrial use or space associated with the primary use on the property, based on following criteria:

1. The temporary trailer or building shall be located within the specified property line setbacks of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate as demonstrated by an approach permit approved by the road authority, as applicable. See also, Section 3.1.200 - Vehicular Access and Circulation;

#### 4.9 – Miscellaneous Permits – Temporary Uses

4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3.3 - Bicycle and Vehicle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no impediment or hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner that other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed six (6) months. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit. A temporary use permit shall be renewed no more than two (2) times, and shall expire no later than eighteen (18) months from the first approval date; and
11. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.

## **4.9.200 Home Occupation Permits**

### **A. Purpose.**

The purpose of this Section is to encourage those who are engaged in small commercial ventures that do not conform to the Special Standards for Certain Uses in Section 2.1.200, H. Home Occupation. The standards referenced above allow home occupations as outright permitted uses that do not require Development Review or Site Design Review.

Section 4.9.200 provides a process for more intense home occupations to be allowed with Site Design Review by the Planning Commission and notice to surrounding property owners. These home occupations may be permitted, with conditions of approval when appropriate, in order to increase the benefits of people working and living in the same place, while protecting neighboring residents from adverse impacts of home occupation activities. These benefits to the business owner and to the general public include: reduced number of commute-to-work trips, day-time “eyes on the street” at the residence, and a neighborhood-scale version of mixed residential and commercial uses.

### **B. Approval Process and Criteria.**

1. Home Occupation Permit. Applications for proposals that cannot meet all of the standards in Section 2.1.200.H shall be processed using a Type III procedure, as governed by Chapter 4.1.400, using the approval criteria in subsection 2, below. In addition to the application requirements contained in Section 4.1.400.B., the applicant shall provide:
  - a. A written narrative or letter:
    - (1) describing the proposed home occupation;
    - (2) demonstrating compliance with those standards in Sub Section 2.1.200.H that can be met, and explaining why the other standards in Sub Section 2.1.200.H cannot be met, and
    - (3) demonstrating compliance with the criteria in subsection 2 below;
  - b. A site plan, not necessarily to scale, of the lot proposed for the home occupation, including:
    - (1) the property lines and their dimensions;
    - (2) outlines of the foundations of all buildings proposed for home occupation use with dimensions for each wall, and the distances from each wall to the nearest property line;
    - (3) boundaries and dimensions of driveways and parking areas, indicating areas for use by home occupation employees and customers;
    - (4) outlines of the foundations of abutting residences, and the distances from the shared property line to the nearest wall of each neighboring residence; and

#### 4.9 – Miscellaneous Permits – Home Occupation (Type III) Permits

- (5) identifying the buildings and areas of those buildings in which home occupation activities will take place, and identifying which activities will take place in which buildings and areas.
2. The City shall approve, approve with conditions, or deny an application for a Type III home occupation based on all of the following criteria:
    - a. The proposed use will not be materially detrimental to the stated purposes of applicable Code requirements and to other properties within a radius of 100 feet of the subject property;
    - b. Impacts to surrounding properties may exist but can be mitigated;
    - c. Existing physical and natural systems, such as, but not limited to drainage, natural resources, and parks, will not be adversely affected any more than would occur if the development occurred in compliance Section 2.1.200.H.

# **Article 5 — Exceptions to Code Standards**

## Chapters:

- 5.1. Variances
- 5.2. Non-Conforming Uses and Development
- 5.3. Lots of Record

## Chapter 5.1 — Variances

### Sections:

- 5.1.100 Purpose**
- 5.1.200 Applicability**
- 5.1.300 Class A Variances**
- 5.1.400 Class B Variances**
- 5.1.500 Class C Variances**
- 5.1.600 Variance Application and Appeals**

### **5.1.100 Purpose**

This Chapter provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this Code as exceptions to code standards. This Code cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, require flexibility. Chapter 5.1 provides that flexibility, while maintaining the purposes and intent of the Code. The variance procedures provide relief from specific code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met, however economic considerations do not constitute grounds for granting a variance.

### **5.1.200 Applicability**

**A. Exceptions and Modifications versus Variances.** A Code standard or approval criterion ("Code section") may be modified without approval of a variance if the applicable Code section expressly allows exceptions or modifications. If the Code section does not expressly provide for exceptions or modifications, then a variance is required to modify that Code section and the provisions of Chapter 5.1 apply.

**B. Combining Variances with Other Approvals; Permit Approvals by Other Agencies.** Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site design review, subdivision, conditional use, etc.), however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

**C. Types of Variances.** As provided in Section 5.1.3, there are three types of variances (Class A, B, or C); the type of variance required depends on the extent of the variance request and the discretion involved in the decision making process. Because some variances are granted using "clear and objective standards," they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or III procedure because they involve discretionary decision-making.

**5.1.300 Class A Variances**

**A. Applicability.** The following variances are reviewed using a Type I or Type II procedure, as determined by the Planning Official, and are subject to the approval criteria in subsection B, below:

1. Front yard setbacks. Up to a 10 percent change to the front yard setback standard in the land use district.
2. Interior setbacks. Up to a 10 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
3. Lot coverage. Up to 10 percent increase of the maximum lot coverage required in the base zone.
4. Landscape area. Up to 10 percent reduction in landscape area (overall area or interior parking lot landscape area).

**B. Approval criteria.** A Class A Variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. The variance does not result in the removal of trees or significant vegetation (if such vegetation is designated for protection or conservation by the Comprehensive Plan or refinements to the Comprehensive Plan, including the Parks and Open Space Master Plan), or it is proposed in order to preserve trees or said significant vegetation, if trees or said significant vegetation are present in the development area;
3. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request.
4. An application for a Class A variances is limited to one lot per application.
5. No more than three Class A variances may be approved for one lot or parcel in 12 months.

**5.1.400 Class B Variances**

**A. Applicability.** Class B variance requests apply to the types of requests meeting the approval criteria in Sections 5.1.400B through 5.1.400G, and that conform to subsections 1-3, below. Class B variances shall be reviewed using a Type II procedure, in accordance with Chapter 4.1:

1. The Class B variance standards apply to individual platted and recorded lots only.

2. The Class B variance procedure shall not be used to modify a standard for lots yet to be created through a partition or subdivision process; such requests shall utilize the Class C variance procedure with the exception of the Riparian and Wetland Protection (RPW) Overlay which will be processes under Section 5.1.400(H).
  3. A variance shall not be approved that would vary the “permitted uses” or “prohibited uses” of a land use district (Article 2) with the exception of the Riparian and Wetland Protection (RPW) Overlay which will be processes under Section 5.1.400(H).
- B. Variance to minimum housing density standard (Chapter 2.2).** The City may approve a variance to a minimum housing density standard in Chapter 2.2 after finding that the minimum housing density cannot be achieved due to physical constraints that limit the division of land or site development. “Physical constraint” means steep topography, wetlands, flood plain, unusual parcel configuration, or a similar constraint. The variance approved shall be the minimum variance necessary to address the specific physical constraint on the development.
- C. Variance to Vehicular Access and Circulation Standards (Chapter 3.1).** 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 all of 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 other alternative access points on the street in question or from another street;
  3. The access separation requirements cannot be met;
  4. The request is the minimum variance required to provide adequate access;
  5. The approved access or access approved with conditions will result in a safe access;
  6. The visual clearance requirements of Chapter 3.1, Access and Circulation, will be met; and
  7. Variances for street access deviations shall be subject to review and approval by the roadway authority.
- D. Variance to Street Tree Requirements (Chapter 3.2).** The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 3.2, after finding the following:



1. Installation of the tree would interfere with existing utility lines, and no substitute tree with a lower canopy is appropriate for the site;
2. The tree would cause visual clearance problems; or
3. There is not adequate space in which to plant a street tree; and
4. The City may require the installation of additional or replacement landscaping elsewhere on the site (e.g., parking lot area trees) to compensate for the street tree variance.
5. Approval of variances within a road right-of-way (e.g., street trees) shall be contingent upon approval by the applicable roadway authority.

**E. Variance to Parking and Loading Standards (Chapter 3.3)**

1. The City may approve variances to the minimum or maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 3.3.300 upon finding all of the following:
  - a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the applicant;
  - b. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and
  - c. All other code standards are met, in conformance with Article 2 (Land Use Districts) and Article 3 (Community Design Standards).
2. The City may reduce the number of required bicycle parking spaces per Chapter 3.3.400, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
3. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available, and other pertinent factors.
4. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping, or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on- or off-street parking areas during non-business hours provided that traffic is not impeded.

**F. Variance to Maximum or Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features (Chapters 2.2-2.6 – Land Use Districts).** The City may grant a variance to the applicable setback requirements of this Code for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features. Modification of the standard shall not be more than is necessary for the preservation of the nature feature to be protected.

**G. Variances to Transportation Improvement Requirements (Chapter 3.4.100).** The City may approve, approve with conditions, or deny a variance to a transportation improvement standard in Table 3.4.100F when the variance does not exceed 10 percent of the standard. When a variance request to the standards in Table 3.4.100F exceeds 10 percent, then the request shall be reviewed as a Class C variance.

**H. Riparian and Wetland Protection Overlay (Chapter 2.10).** The City may approve, approve with conditions, or deny a request for a variance to the Riparian and Wetland Protection Overlay requirements in Chapter 2.10, after finding the following:

1. Fish and wildlife habitats and wildlife movement corridors will be protected.
2. Scenic qualities and viewpoints will be preserved.
3. Natural drainageways are protected and the stormwater plans comply with an approved stormwater drainage management plan. Erosion will be prevented or controlled.
4. Significant trees and other site vegetation will be preserved.
5. Stream corridors and wetlands will be protected and provided with buffers.
6. The practical needs of construction activity are provided for in terms of ingress and egress.
7. Existing lots or parcels would be rendered not buildable without the requested variance.

#### **5.1.500 Class C Variances.**

**A. Applicability.** Class C variance requests are those that do not conform to the provisions of Sections 5.1.200-5.1.300 (Class A and Class B), and that meet the criteria in 1-4, below. Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 4.1:

1. The Class C variance standards apply to individual platted and recorded lots only.
2. The Class C variance procedure may be used to modify a standard for 3 or fewer lots, including lots yet to be created through a partition process.

3. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a Master Planned Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific Code section does not otherwise permit exceptions.
4. A variance shall not be approved that would vary the “permitted uses” or “prohibited uses” of a land use district (Article 2).

**B. Approval Process.** Class C variances shall be processed using a Type III procedure, as governed by Chapter 4.1.400, using the approval criteria in subsection D, below. In addition to the requirements contained in Chapter 4.1.400 (forms, non-refundable fee, number of copies), the applicant shall provide a written narrative or letter with any other exhibits specified by the City Administrator, describing the reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria below.

**C. Approval Criteria.** The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:

- a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
- b. A hardship to development exists that is peculiar to the lot size or shape, topography, wetlands, flood plains, or other similar circumstances related to the property over which the applicant has no control, and that are not applicable to other properties in the vicinity (e.g., the same land use district);
- c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
- d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
- e. The hardship is not self-imposed; and
- f. The variance requested is the minimum variance that would alleviate the hardship.

#### **5.1.600 Appeals of Variance Decisions.**

Variance decisions may be appealed, and shall be processed in accordance with the provisions of Section 4.1.400.

## Chapter 5.2 — Non-Conforming Uses and Developments

### Sections:

- 5.2.100 Purpose
- 5.2.200 Non-conforming Uses
- 5.2.300 Non-conforming Development

### 5.2.100 Purpose

This Chapter provides standards and procedures for non-conforming situations (i.e., existing uses or development that do not comply with the Code). The standards for non-conforming uses and development are intended to provide some relief from Code requirements for uses and developments that were established prior to the effective date of this Code and do not comply with current standards.

### 5.2.200 Non-conforming Uses

Where at the time of adoption of this Code a use of land exists that would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

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

**D. Application of Code Criteria and Standards.** If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this Code for the land use district in which such land is located. For purposes of this Section:

1. “Discontinuation” includes a legal non-conforming use being converted to a conforming use. In that case, the prior non-conforming use may not be resumed;
2. No legal non-conforming use may be replaced by a different type of non-conforming use;
3. No legal non-conforming use may be expanded or intensified.

### 5.2.300 Non-conforming Development

Where a development exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, access, parking, landscaping, its location on the lot or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

- A. Alterations.** No such nonconforming development may be enlarged or altered in a way that increases its nonconformity, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity. Minor repairs and routine maintenance on a legal non-conforming development is permitted.
- B. Destruction.** Should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than 50 percent of its current value as assessed by the Lane County Assessor, it shall be reconstructed only in conformity with this Code. Upon damage of less than 50 percent, a non-conforming development may be reconstructed, but may not be increased, enlarged, or improved over the prior non-conforming structure.
- C. Roadway Access.** The owner of a non-conforming access connection (i.e., street or highway access) may be required to bring the non-conforming access into conformance with this Code and other applicable standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use.
- D. Relocation or Removal.** Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of this Code.

## **Chapter 5.3 - Lots of Record**

### **Sections:**

- 5.3.100 Purpose**
- 5.3.200 Applicability**
- 5.3.300 Procedure**

### **5.3.100 Purpose**

The purpose of Chapter 5.3 is to establish criteria and a process for determining when a lot of record exists.

### **5.3.200 Criteria**

A lot of record is a plot of land that was not created through an approved subdivision or partition, was created and recorded before January 21, 1980, and for which the deed, or other instrument dividing the land, is recorded with Lane County. A lot of record shall be entitled to development of no less than one single-family dwelling and, provided all applicable Code standards are met, additional land use or development may be approved.

### **5.3.300 Procedure**

A lot of record determination shall be made by the City Administrator through a Type I procedure (Chapter 4.1.200). It shall be the property owner's responsibility to demonstrate that his or her plot of land is meets the lot of record criteria in Section 5.3.200.