



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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Measure 49 Fax: (503) 378-5318

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

December 21, 2010



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

FROM: Plan Amendment Program Specialist

SUBJECT: City of John Day Plan Amendment  
DLCD File Number 001-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. The submitted ordinance was adopted by the City of John Day on November 26, 2010, per ORS 197.615 (3) and DLCD did not notify within five working days of receipt, any persons who requested notification.

Appeal Procedures\*

#### **DLCD DEADLINE TO APPEAL:**

**Acknowledged under ORS Sections 197.615, 197.625, and 197.830 (9)**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.

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 ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Peggy Gray, City of John Day  
Grant Young, DLCD Regional Representative  
Gloria Gardiner, DLCD Urban Planning Specialist  
Angela Lazarean, DLCD Urban Planner  
Chris Shirley, DLCD Regional Representative  
Gary Fish, DLCD Transportation Planner

<paa> YA





FORM **2****DLCD****Notice of Adoption**

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

TA-R-11-162

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	<b>DEPT OF</b>
	<b>NOV 26 2009 2010</b>
	<b>LAND CONSERVATION AND DEVELOPMENT</b>
For Office Use Only	

Jurisdiction: **City of John Day**

Local file number:

Date of Adoption: **11/23/10**Date Mailed: **11/24/2010**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 09/09/10☐ 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".

DLCD awarded the City of John Day a planning grant for an update to the City's Development code. The grant also supports revisions to the City of John Day-Grant County Urban Growth Management Agreement (UGMA). The purpose of the updates is as follows: 1) Achieve consistency with changes in State law and administrative rules approved since 2005. 2) Resolve the City's identified permit problems/desires based on past years of development permit processing. 3) Codify results of past years of planning grant projects. 4) Achieve increased efficiency in permitting within the bounds of State law.

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"/>
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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**DLCD file No.** \_\_\_\_\_

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

Grant County, Oregon

Local Contact: **Peggy Gray**

Phone: (541) 575-0028 Extension:

Address: **450 East Main Street**Fax Number: **541-575-3668**City: **John Day**Zip: **97845**E-mail Address: **grantcounty-or.gov**

DLCD No. 001-10 (18517) [16454]

ORDINANCE NUMBER 10-146-06

AN ORDINANCE IN THE MATTER OF ADOPTING TEXT AMENDMENTS TO  
THE CITY OF JOHN DAY LAND USE AND DEVELOPMENT CODE  
("DEVELOPMENT CODE").

WHEREAS, City of John Day received a grant from the Department of Land Conservation and Development (DLCD) to update and amend the John Day Development Code;

WHEREAS, public input was solicited for the Development Code update through a citizens advisory committee meeting on August 5, 2010 and a joint Planning Commission/City Council workshop on August 24, 2010;

WHEREAS, notice to the public was advertised at least 20 days in advance of the Planning Commission/City Council workshop, and the public hearing listed below;

WHEREAS, a joint Planning Commission/City Council public hearing was held on November 9, 2010 to solicit public testimony;

WHEREAS, the City Council deliberated and made a decision to amend the Development Code,

WHEREAS, the City Council found that the Development Code amendments conform to the John Day Comprehensive Plan and applicable State Planning Goals, and it is in the public interest to adopt them; and

WHEREAS, the State Department of Land Conservation and Development was duly notified of the proposed Development Code amendments no less than 45 days prior to the first hearing and did not object to the changes;

NOW THEREFORE, THE CITY OF JOHN DAY, OREGON, ORDAINS AS  
FOLLOWS:

**Development Code Amendment:** The City of John Day Development Code (adopted 2005) is hereby repealed and the amended Development Code (2010) is hereby adopted as follows:

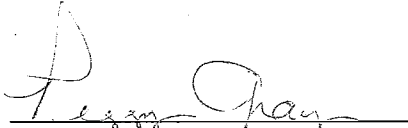
- Article 5-1 – General Provisions
- Article 5-2 – Land Use Districts
- Article 5-3 – Community Design Standards
- Article 5-4 – Administration of Land Use and Development
- Article 5-5 – Exceptions to Code Standards
- Article 5-6 – Definitions and Rules of Measurement

This Ordinance was PASSED by the City Council by a vote of 7 for and  
0 against and APPROVED by the Mayor on this 9<sup>th</sup> day of November, 2010.



Robert W. Quinton, Mayor

ATTEST:

  
Peggy Gray, City Manager



ORDINANCE NUMBER 10-147-07

AN ORDINANCE IN THE MATTER OF ADOPTING AMENDMENTS TO THE CITY  
OF JOHN DAY – GRANT COUNTY URBAN GROWTH MANAGEMENT  
AGREEMENT (UGMA)

WHEREAS, City of John Day received a grant from the Department of Land Conservation and Development (DLCD) to update and amend the City of John Day-Grant County Urban Growth Management Agreement (UGMA).

WHEREAS, the City of John Day and Grant County entered into a Management Agreement in 2004 and changes are needed to expedite the review of land use and building proposals by the City and County for proposals within the John Day Urban Growth boundary area.

WHEREAS, public input was solicited for the UGMA update through a citizens advisory committee meeting on August 5, 2010 and a joint Planning Commission/City Council workshop on August 24, 2010;

WHEREAS, notice to the public was advertised at least 20 days in advance of the Planning Commission/City Council workshop, and the public hearing listed below;

WHEREAS, a joint Planning Commission/City Council public hearing was held on November 9, 2010 to solicit public testimony;

WHEREAS, the November 9, 2010 public hearing was continued to November 23, 2010 to bring back an Ordinance for adoption;

WHEREAS, the City Council deliberated and made a decision to amend the UGMA,


WHEREAS, the City Council found that the UGMA amendments conform to the John Day Comprehensive Plan and applicable State Planning Goals, and it is in the public interest to adopt them; and

WHEREAS, the State Department of Land Conservation and Development was duly notified of the proposed Development Code amendments not less than 45 days prior to the first hearing and did not object to the changes;

NOW THEREFORE, THE CITY OF JOHN DAY, OREGON, ORDAINS AS  
FOLLOWS:

The City of John Day does hereby enter into the City of John Day-Grant County Urban Growth Management Agreement known as Exhibit A. This agreement shall provide the basis for future intergovernmental planning and regulatory action and which may be modified as new governmental and procedural modifications warrant.

This Ordinance was PASSED by the City Council by a vote of 5 for and 0 against and APPROVED by the Council President on this 23<sup>rd</sup> day of November, 2010.

  
Council President Steve Schuette

ATTEST:

  
Peggy Gray, City Manager

## EXHIBIT A

### CITY OF JOHN DAY-GRANT COUNTY URBAN GROWTH MANAGEMENT AGREEMENT

#### SECTION 1: DEFINITIONS

Terms contained herein and not defined within this agreement shall be construed as defined within the City Comprehensive Plan.

Land Use Proposal: Land use proposals include, but are not limited to, subdivisions, partitions, property line adjustments, conditional use permits, site plan/development approvals, and zone changes.

Public Facility Plans: Plans adopted by the City of John Day to guide infrastructure development, including but not limited to transportation, water, sanitary sewer, and storm drainage facilities, in conformance with the City of John Day Comprehensive Plan.

Urban Area: Those lands that lie within the designated Urban Growth Boundary either within or without the City.

Urban Development: Residential, commercial, industrial, or public development of sufficient density to require urban services.

Urban Growth Area: Area of unincorporated land inside the Urban Growth Boundary.

Urban Growth Boundary: The line drawn around the urban area that separates rural from urbanizable land.

Urban Services: The City of John Day domestic water system and its wastewater collection and treatment system.

#### SECTION 2: LAND USE MANAGEMENT WITHIN URBAN GROWTH AREA

1. This Agreement replaces all previous Urban Growth Management Agreements between the City of John Day and Grant County.
2. The City and the County do hereby agree to establish a procedure for the implementation of the Urban Growth Boundary through use of land use regulation procedures within the Urban Growth Area. The City of John Day Comprehensive Plan, and the City's respective public facility plans, shall constitute the urban growth policy for the unincorporated area within the Urban Growth Boundary.
3. The area inside the Urban Growth Boundary but outside the corporate limits of John Day shall be the responsibility of Grant County for land use administration. The County shall continue current zoning of this area until such time as urban development is requested. At that time, in order to receive City services, the first step in the process shall be to require



annexation proceedings for the area in question. In conjunction with the annexation proceedings, the appropriate City zoning shall also be established in accordance with the adopted Comprehensive Plan.

4. The City shall be afforded an opportunity to comment on proposals within its Urban Growth Area before the County makes a preliminary decision, as applicable. The County shall retain jurisdiction for the land use decisions and shall notify the City of land use actions within the Urban Growth Area at least 15 days prior to making a decision.
5. Proposals within the Urban Growth Area are required to meet the City's improvement standards as outlined in the City of John Day Development Code and public facility plans; for example, where a transportation plan designates a future street right-of-way alignment, building plans shall not preclude extension of such right-of-way. The City of John Day shall be afforded an opportunity to review and comment on all proposals within the Urban Growth Area at least 15 days prior to County approval.
7. The City shall notify the County of any land use actions that may affect the County at least 15 days prior to the hearing date.
8. City policy requires annexation or "consent of annexation" in order to receive sanitary sewer or city water service. Therefore, developments intending to utilize the Grant County Suburban Residential (SR) zone minimum lot size standards will be required to locate in close proximity to the existing City limits and consent to annexation, prior to receiving city water or sewer service.
9. Land use proposals that do not meet the criteria for connecting to City sanitary sewer service will be required to meet Oregon State Department of Environmental Quality standards for subsurface sewage disposal. Further, because sanitary sewer service may be anticipated in the future, land use proposals within the Urban Growth Area shall provide a redevelopment plan along with the preliminary plat that demonstrates the feasibility of future orderly redevelopment of the subdivision in the event sewer service is provided. Such plan should facilitate future development at planned urban densities, in accordance with the John Day Comprehensive Plan, once the property is annexed to the City.

### SECTION 3: ANNEXATIONS

The City may annex land after having received a request for annexation when affirmative findings are made in relation to the following:

1. The land is contiguous with the City limits and within the Urban Growth Boundary.
2. The development of the property is compatible with the rational and logical extension of utilities and roads to the surrounding area.
3. The City is capable of providing and maintaining its full range of urban services to the property without negatively impacting the City's ability to adequately serve all areas within the existing City limits.

4. The proposal is in compliance with the City's Comprehensive Plan and annexation procedure contained in the John Day Development Code. Requests for annexation to the City for areas outside the Urban Growth Boundary shall be considered as a request for an amendment to the Urban Growth Boundary and shall be subject to the approval of the City and County as an amendment pursuant to Section 6 of this agreement. Requests for annexation shall be handled in conformance with the provisions of Oregon Revised Statutes Chapter 222.

#### **SECTION 4: URBAN SERVICES**

The City of John Day is hereby recognized as the preferred ultimate provider of urban services within the Urban Growth Area. To this end, the following shall prevail:

1. Extension of water and/or sewer services shall be permitted when consistent with the policies and proposals of the Comprehensive Plan and with any adopted functional plans of the Comprehensive Plan.
2. All City services shall be provided and maintained to City standards and under the supervision of the City, unless some other arrangement acceptable to the City has been made for the maintenance and supervision of services.
3. Roads shall be compatible with City of John Day public facility plans, including planned street and utility alignments and extensions. Prior to annexation of any property to the City, the City and County shall meet to discuss jointly the current status and future responsibilities of any roads within or adjacent to such property.

#### **SECTION 5: SPECIAL DISTRICTS**

Before the County shall create any special districts for the provision of urban services, the County shall first determine the ability of the City to provide such services. Said provider shall submit to the County an analysis of its abilities to provide the service desired. The County shall review such an analysis and shall incorporate its findings into the decisions as to whether or not to create a new district. No district shall be formed unless it is found by the County that the service desired cannot be feasibly provided by any preferred provider.

#### **SECTION 6: AMENDMENTS TO THE URBAN GROWTH BOUNDARY**

1. Review Process - Individual Request - (Quasi-Judicial)
  - A. An application for a revision of the UGB may be initiated by the owner or group owners of the subject property or by their authorized representative.
    - 1) All applications shall be submitted to the City and shall be made on a form provided by the City Planning Office.
    - 2) The application form and all additional required information shall be accompanied by

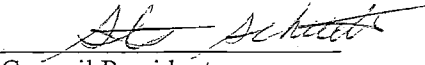
a filing fee. Such fee shall be an amount agreed upon from time to time by the City and County and adopted by each governing body. This fee shall be to defray the costs of the review procedure.

- B. The City Planning Department shall forward to the County a complete copy of the application.
  - C. The City Planning Department shall prepare a staff report on the proposed UGB revision and submit it to the City Planning Commission. The Planning Commission shall conduct a public hearing on the matter and make recommendation to the County Planning Commission.
  - D. The County Planning Commission shall conduct a public hearing on the matter and make recommendation to the City Council and County Court.
  - E. The City Council and the Grant County Court may hold a joint public hearing or separate public hearings, review the application and make findings. The City shall then either approve, conditionally approve, or deny the application for a revision of the UGB within thirty (30) days after the hearing is conducted and forward same to the County Court. The County Court shall render a final decision within thirty (30) days.
    - 1) Denial - If either one of the governing bodies votes to deny the request, the application is denied.
    - 2) Approval - To approve an application for a revision of the UGB, both bodies are required to vote to approve the application.
  - F. If an individual Quasi-Judicial request for a revision is approved, the City Planning Department shall revise the Urban Growth Boundary on Comprehensive Plan Map and issue a copy of the revised map of the County and other appropriate agencies.
2. Review Process - City or County Request - (Legislative)
- A. Initiation by the City Council or the County Court
    - 1) The City Council or the County Court may initiate proceedings for a legislative revision of the Urban Growth Boundary (UGB).
    - 2) A copy of that notice shall be sent to the other governing body, the City Council, or the County Court, and other appropriate agencies and groups in accordance with Goals 1 and 2 of the Statewide Planning Goals and Guidelines.
    - 3) Upon receipt of the notice, the City Planning Commission and the County Planning Commission may hold joint or individual public hearings within forty (40) working days. Each body shall make a recommendation to its governing body.
    - 4) Upon receipt of the Planning Commission recommendation, the City Council or the County Court may hold joint or individual public hearings within forty (40) working days.



- 5) Staff reports, any relevant testimony and general discussion will be heard at the hearing, or hearings.
  - 6) The City shall deliberate and make findings to either approve, deny or modify the request and forward the decision to the County Court.
  - 7) The County Court shall act within thirty (30) days to approve, deny or modify the request.
    - a. Denial - If either one of the governing bodies votes to deny the request, the application is denied.
    - b. Approval - To approve an application for a revision of the UGB, both bodies are required to vote to approve the application.
    - c. If the request for a revision is approved, the City Planning Department shall revise the Urban Growth Boundary on the Comprehensive Plan Map and issue a copy of the revised map to the County and other appropriate agencies.
3. Review Criteria - Each application for a revision to the Urban Growth Boundary, either Quasi-judicial or legislative, shall include a map and sufficient information to make a decision based on the following factors:
- A. Demonstrated need to accommodate urban population growth requirements consistent with LCDC goals;
  - B. Need for housing, employment opportunities and livability;
  - C. Orderly and economic provision for public facilities and services;
  - D. Maximum efficiency of land uses within and on the fringe of the existing urban area;
  - E. Environmental, energy, economic and social consequences;
  - F. Retention of agricultural land as defined, with Class I being the highest priority for retention and Class VI the lowest priority;
  - G. Compatibility of the proposed urban uses with nearby agricultural activities; and
  - H. Compatibility with the policies regarding the UGB specified in the City's Comprehensive Plan.

APPROVED by the City of John Day this 23 day of November, 2010.

  
Council President

APPROVED by the Grant County Court this \_\_\_\_ day of \_\_\_\_\_, 20 .

\_\_\_\_\_  
County Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR GRANT COUNTY

RECEIVED

AUG 26 2010

CITY OF JOHN DAY

}

AFFIDAVIT OF PUBLICATION

STATE OF OREGON

County of GRANT } ss

I, Trista Cox being duly sworn, depose and  
say that I am the principal clerk of the publisher of the Blue Mountain Eagle, a newspaper  
of general circulation, as defined by ORS 193.010 and 193.020; printed and published at  
John Day in the aforesaid county and state; that the

City of John Day - John Day Development Code Joint Workshop

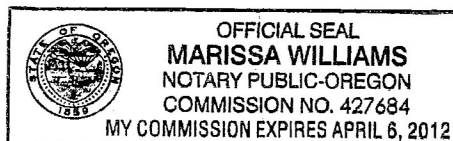
a printed copy of which is here to annexed; was published in the entire issue of said  
newspaper for 1 successive and consecutive issues in the following issues:

August 18, 2010

Subscribed and sworn to before me on this 18th day of August, 2010

Trista L. Cox

Marissa Williams  
Notary Public of Oregon





**PUBLIC NOTICE**

**PUBLIC NOTICE**

**John Day Development Code Joint Workshop**

The City of John Day received a Technical Assistance grant from the Department of Land Conservation and Development (DLCD) to review and revise the John Day Development Code (2005) for consistency with 2007-2009 changes in State law and administrative rules, resolving city's identified problems/desires based on past experience processing development permits; codify results of past State grant-funded projects; and achieve increased efficiency for permitting as can be accomplished within the bound of State law.

The John Day City Council and Planning Commission will be holding a joint workshop to solicit public comments on products developed and reviewed by the Advisory Committee on Tuesday, August 24, 2010 from 6:00 p.m. to 7:00 p.m. at the John Day City Council Chambers, located at 450 East Main Street, John Day, OR 97845. The John Day Planning Commission and City Council will not be taking any formal action at this meeting.

8/18/10

**CITY OF JOHN DAY  
CITY COUNCIL/PLANNING COMMISSION JOINT WORKSHOP  
CITY OF JOHN DAY DEVELOPMENT CODE UPDATE MINUTES  
JOHN DAY, OREGON**

**August 24, 2010**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

Bob Quinton, Mayor  
Steve Schuette, Council President  
Don Caldwell, Councilor  
Jack Grubbs, Councilor  
Gene Officer, Councilor  
Chris Labhart, Councilor

**COUNCILORS ABSENT:**

Donn Willey, Councilor

**PLANNING COMMISSIONERS PRESENT:**

Chris Maynard, Commissioner  
Tim Unterwegner, Commissioner

**PLANNING COMMISSIONERS ABSENT:**

Ken Boethin, Chair  
Dean Nodine, Commissioner  
Tom Wilson, Commissioner

**STAFF PRESENT:**

Dave Holland, Public Works Director  
Peggy Gray, City Manager

**GUESTS PRESENT:**

Scot Siegel, Planning Consultant  
Grant Young, DLCD via phone

**Agenda Item No. 1 – Open and Note Attendance**

Mayor Bob Quinton opened the joint City Council/Planning Commission workshop at 6:00 p.m. Mayor Quinton noted that all Councilors were present, with the exception of Councilor Donn Willey who was absent and excused. Mayor Quinton welcomed two members of the John Day Planning Commission that were present; Commissioner Chris Maynard and Commissioner Unterwegner.

**Agenda Item No. 2 – Introduction of Planning Consultant Scot Siegel of Siegel Planning Services**

Mayor Quinton introduced Scot Siegel of Siegel Planning Services and Department of Land Conservation Department (DLCD) Regional Representative Grant Young who was attending the meeting via telephone.

**Agenda Item No. 3 – Presentation of the Staff Report by Planning Consultant Scot Siegel and Review Main Features of the Development Code Update and Receive Comments**

At this time Mayor Quinton turned the meeting over to Mr. Siegel. Mr. Siegel began by stating the purpose of updating the City's Development Code at this time is because it has been approximately five years since the new Development Code was adopted. Mr. Siegel explained the Development Code is your zoning, subdivision regulations and administrative procedures on how land use applications are processed. State laws have changed and there are some improvements the City would like to see on how the land use process works. The City has completed three grant projects that have not been included in the development code entirely. The three projects are the Local Street Network Plan, the Airport Safety and Land Use Compatibility Overlay Zone (protects the airport and the public) and the third piece is the John Day-Grant County Urban Growth Management Agreement (UGMA). That agreement establishes the relationship between City' Planning and the County Planning as properties are annexed and developed outside of the City but within the City's urban growth boundary. Mr. Siegel explained the agreement hasn't been a problem; however, it needs to be updated to include the Local Street Network Plan. It clarifies that the City's street plan is the policy for that area. We have been working with the County Planner in regards to the UGMA agreement and he explained that the City is mid-way through process and have met with an Advisory Committee and now we would like to get the Councilors and the Commissioners opinion on the revised code to see if we have overlooked anything or if there is any more input. It was noted that the City-County agreement would have to be adopted by both the City and the County.

Councilor Caldwell questioned #8 on the UGMA noting that the City's policy requires annexation or "consent to annexation" in order to receive sanitary sewer or city water service. He asked why the City hasn't been doing that in the past. City manager Gray stated we are currently in the process of annexing in the property owners on city water and sewer with the industrial park annexation. The west end water/sewer line extension was a project of the County's and the City had an intergovernmental Agreement with the County as such the City did not require those people to annex into the City. Screech Alley residents were not asked to annex in as the water line extension to that area was also a City water line extension and not at the request of the residents.

Mr. Siegel stated in the revised code he included an annexation procedure. This gives the Planning Commission and the City Council an opportunity to look how infrastructure would actually tie in and the procedure would be more formalized. Grant Young explained deferred improvement agreements in regards to hooking up to the city's infrastructure saying it was a good tool for cities to use.

At this time Mr. Siegel presented the Main Features of the Development Code Update as follows:

1. Updated the cross-references, code citations, and titles of city officials throughout. Where it used to refer to the city engineer; it now refers to the Public Works Directors. City Planning Official is the City Manager; the City Manager can appoint the Planning Official so if you have someone who is employed with the City that person can be appointed as the Planning Official. The City currently does not have a Code Enforcement Officer; currently the Police Chief fulfills that duty. Mr. Siegel suggests we add a Code Enforcement Officer to the revised code so that the development code can be enforced by the Municipal Code under the same procedure.

Councilor Labhart asked about height restrictions for cell or wind towers; Mr. Siegel explained you can go up to 45' with a conditional use permit in a residential district. He wanted to know if adding cell or wind towers to the code is something the City wanted to do. He explained during the Advisory Committee meeting we did not think it was practical. Commissioner Maynard explained it was not practical to see those towers in the valley floor as we have the antenna farm



on the hill. Putting something like that on the valley floor is counterproductive. It was stated that solar panels are allowed in the current code.

2. Updated section names and numbering for consistency throughout.
3. The definitions were moved to the back of the book for housekeeping purposes. Mr. Siegel explained the addition of Chapter 6.2 Rules of Measurement and how this section explains how various numerical standards in the Code are to be measured.
4. Mr. Siegel explained the clarification of the side setbacks; the regulations have not changed we just made it more clear on how the setback are to be determined with the smallest being 3'. Changes in alleys with a recommendation of minimum of 3' setback.
5. This revision relates to the Step Forward application where the parking is being fully utilized. This revision gives the Planning Commission added authority to require additional parking and clarifies site design review requirements. See Section 5-22.100(D).
6. Clarified the allowance of residential uses existing in the downtown; houses may be rebuilt in the event of fire or other involuntary damage. Currently residential homes in a Commercial District are a non-conforming use as such current property owners are having a hard time refinancing and obtaining fire insurance due to the language of the current code where it doesn't say if the property owner could rebuild. This revision makes the language clear that the property owner could rebuild in case of a fire. Mr. Siegel explained residential dwelling use on the ground floor in conjunction with a commercial use as long as the dwelling does not occupy around floor space fronting Main Street. The current code residential use is allowed above ground floor commercial only and has been an issue in the past.
7. Mr. Siegel stated he still needs to make this change to the code and wanted to run it by the committee prior. He wanted to know if the Committee is in agreement to change the definition of building height to be consistent with the International Building Code, which is the current industry standard for architects and building officials.
8. Family child care, State law has changed for family daycare (page 2-12); Mr. Siegel stated the revision is not correct. It should say Daycare, adult or child daycare; Family Daycare (16 or fewer children). Mr. Siegel stated he needed to check State law for how many adults can be cared for in a home. These are State licensed facilities and we are not going to duplicate regulations in the code but he wanted to call this to the committee's attention.

Councilor Labhart questioned the Agriculture – Animals section; it was noted we needed to compare the development code to the municipal code for consistency. The only change we are proposing moving "swine" under livestock; 1 per ½ acre.

**At 7:00 p.m. the Workshop was recessed in order to hold the regular John Day City Council meeting as advertised; Workshop reconvened at 7:30 p.m.**

- 9-11. Discussion on Flood Plain overlay zone and the added reference to "base flood elevation" to code. New Airport Overlay zone was added to the code and cross-referenced; no changes were made. Mr. Siegel noted improvements were made to the Flood Plain Overlay zone to make it more user-friendly.

12. Added Public Facilities zone for City-owned properties. This zone acknowledges the City utility master plans (e.g. Wastewater Facilities Plan, Water Master Plan). Mr. Siegel referred to page 2-106 and stated this is a newly created zone and does not require any mapping or any application. It would automatically apply to property owned by the City of John Day. It is important that the City is comfortable with how this zone is worded. The existing zoning would remain. If you had city property that is located in a residential zone; they would continue to be zoned residential but the Public Facilities Overlay would allow all the uses on page 2-106. An example was given that if the City wanted to build a new treatment plant today; the City would have to go through a conditional use permit process. With this newly created zone would accommodate that use by right.
13. Removed the Open Space overlay because it was redundant with other overlays and Mr. Siegel could not find any properties located in the Open Space overlay zone. Park Reserve and Greenway were complimentary or served the same purpose as the Open Space zone and it was never used.
14. Updated the fence height standards. Currently the front yard fence height maximum is 4'; people with dogs, deer issues may have a reason for having a taller fence. Also, side yards and back yards maximum height is 6'. We know there are fences in the community that are taller than that. Mr. Siegel stated the Advisory Committee and the staff felt it would be appropriate to allow taller fences if three things were honored: 1) Maintaining a clear vision at an intersection 2) the taller fence request needs to be for a purpose (screening, keeping animals in, deer) 3) should be some consideration for aesthetics. The recommendation is on page 3-25 to increase the allowable fence height from 4' to 6' in a front yard for a chain-link fence. Fence in side or rear yard may exceed 6' where portion >6' is see-through (e.g. lattice or wrought iron type fence).
15. Added requirement that public ways be protected during construction. Public Works Director David Holland stated when construction occurs during the rainy season they're dragging mud onto the city streets. This provision would keep that from happening by adding gravel to prevent tracking of mud onto city streets during site development and construction.
16. Added standards for driveway approaches. Public Works Director David Holland stated we did not have standards for approaches for areas that didn't have sidewalks and probably wouldn't have sidewalks in the future; a paved apron extending 10' behind the ROW is required. We also didn't have standards for drainage ditches to require a culvert. This section states they have to culvert them if they cross a drainage ditch.
17. Updated corner vision requirement so that clear vision must be provided at all intersections, not just where no stop control exists. Previously the vision triangle requirement only applied where no traffic control stop sign or signal was provided. City felt that didn't make any sense; a vision clearance is necessary on all intersections on streets, driveways, alleys, or mid-block lanes.
18. Updated public improvement requirements. This change gives the City and developers more options for meeting City standards to ensure that capacity improvements necessitated by development are provided. One is requiring backup power for water booster pumps in areas with low water pressure. See page 3-51; subsection E gives the City authority to require a water storage reservoir and related infrastructure for required water flow pressure above a certain elevation. This discussion took place with the Planning Commission during the Strawberry Mountain View Estates application that a new water reservoir would be required; having this in the code makes that condition much easier.

19. Sign regulations clarified reference to State law ORS 377. Mr. Siegel thought it was unusual to find that John Day's code refer to this ORS. Grant Young stated Ontario's code followed the Oregon sign code; however, had local requirements. He said he didn't compare them for consistency with the state statute but thought they were more restrictive or just simply local flavor. The area where this code is more restrictive than the State is on page 3-62(D) where we propose new freestanding signs shall not exceed a height of eight (8') feet. Mr. Siegel suggested not allowing anymore pole signs in town; the signs that are at here now are fine but you get to a point where you get visual clutter. If you develop a new building; what you want to see is that there is some thought process into where the sign will go (e.g. put on buildings, awnings). Mr. Siegel wanted to know if the Council and Planning Commission were comfortable with this; he could make it more restrictive if they wanted.
20. Updated Administrative procedure throughout Article 5-4 for consistency with state law and hoping to simplify the review process for minor projects. Mr. Siegel explained this is the part of the code that the Council and Planning Commission will not be using very much; however, staff must follow these guidelines when a land use application comes in. This guides the process for the application requirements. Mr. Siegel referred to page 4-10 and summarized that every project unless it's a single family home or a minor remodel has a site design review process. Currently the site design review application must all go to the Planning Commission. What we've heard is that we need to find a way to streamline this process as there are minor applications that really do not warrant that level of review. We are proposing to give the Planning Official discretion to make the decision or refer the request to the Planning Commission to act as the administrator with certain threshold requirements. We heard from the Advisory Committee that if an application is more than one acre then those types of applications should go to the Planning Commission because of more public interest and adjacent property owner's being affected by the application.

Grant Young stated this type of discretion is very important for the Planning Official as there are going to be applications that are politically sensitive and the Planning Official needs the ability to be able to refer the application to the Planning Commission. This is a really good idea to include this in the development code.

Mr. Siegel referred to page 4-43 and explained the types of applications as the first being over the counter applications. These are straightforward applications, minor improvements, same use applications, no increase in traffic, single family homes. These applications should not require a complete site improvement application. Type I review is basically over the counter. We're trying to find a process for routine applications. On page 4-45 this refers to the site design review applications that require public notice, public hearings; the Advisory Committee wants to find a way to break this out to where we can get the minor projects through a Type II where the Planning Official can make the decisions or the application could be referred to the Planning Commission as a Type II as an option. So there needed to be thresholds (page 4-45) so that projects exceeding the thresholds would have to be processed through a Type III application that requires a public hearing with the Planning Commission. Thresholds that are proposed are the proposed use estimated vehicle trip generation exceeds 100 average daily trips; or if the use exceeds 5,000 sq. ft. of gross leasable floor area; or if the project involves more than 1 acre total site area. So if the application triggers any one of these thresholds; it would automatically go to a public hearing with the Planning Commission.

Other types of requests that would automatically go to the Planning Commission are if the proposal involves conditional use permit; an adjustment to a development standard, as provided under subsection 5-4.2.060(B); the City Planning Official determines the proposal is likely to be

culturally sensitive and a public hearing is the most effective way to obtain public input in the application; or the proposal involves expansion of a non-conforming use.

Grant Young suggested the language should contain that the Planning Official can refer to the Planning Commission at their discretion any matter they deem important to have a public hearing. Mr. Siegel said we could say where the Planning Official determines that a public hearing is the most effective way to solicit input in reviewing the application. Either way the City is notifying the adjacent property owners. Mayor Quinton stated he felt more is better and thought the applicant would want that input from the public. Mr. Siegel said the key to this is to make the decision during the pre-application with the property owner to let him know in advance what to expect. Mr. Siegel stated he would edit the proposed revision to reflect the above language.

21. Mr. Siegel suggested the Council and Planning Commission review the updated Master Planned Development criteria based on the Strawberry Mountain View Estates project. Mr. Siegel thought the process worked fairly well, but the code should be more specific and if the City is waiving standards; there should be some benefits to the City from the procedure. The City should be gaining something important to the community. Mr. Siegel asked the Council and Planning Commission to review and see if the City is benefiting from the procedure.
22. Mr. Siegel referred to Page 4-38 Neighbor meetings. When the code was developed in 2005, we discussed neighborhood meetings. It was the feelings at that time that we didn't want to add any more process and wanted to keep things streamlined. Mr. Siegel thought that during the Strawberry View Estates project it would have been beneficial for the applicant to hold a neighborhood meeting and meet with the property owners before they formally submitted their application. It worked out ok; however, Mr. Siegel thought it would have been more efficient for the City and the applicant to have had some of the conversations with the neighbors before they submitted their application. For larger projects with more than 20 lots, Mr. Siegel recommends that the neighborhood contact should be required. The applicant holds and facilitates the meeting; the City would not have to attend. There will be filing requirements by the applicant to ensure that the meetings were held. After discussion on the size of the project, Mr. Siegel suggested we make a neighborhood meeting required when a public hearing (Type III) is required; unless the Planning Official determines that a neighborhood meeting is not required. Scot said he would come back with some suggestions.
23. Lastly was the annexation procedure. It was noted that an annexation is not a land use issue; but the rezone portion is. Mr. Siegel states when the annexation petition comes in, it's driven by ORS 222.510. The thought was to have an annexation procedure as the annexation goes to the City Council and the zoning portion goes to the Planning Commission and the Planning Commission makes a recommendation to the City Council. This is just a way of coordinating the two.

This concluded the staff report; Mr. Siegel stated there were more changes than he presented here. There is editing and hopefully improvements in the language and chapter organization. He suggested the City Council and Planning Commission go through the code and to please pass on any suggestions or comments onto him through the city manager.

Question was asked on how often we should go through the code; Mr. Siegel stated every 5 years is good; however, two would be better. The City started this process in 2007; however, it never was completed due to budget. Mr. Siegel stated this project is funded through DLCD and thanked Grant for the opportunity.

Next steps are continuing to edit and a public hearing with the Planning Commission will be scheduled when we are comfortable with the revisions and our goal is for adoption of the revised code this spring.

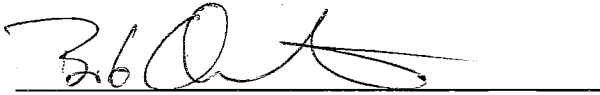
**ADJOURN**

The work shop was adjourned at 8:50 p.m.

Respectfully Submitted:

Peggy Gray  
City Manager

ACCEPTED BY THE CITY COUNCIL, September 14, 2010

  
\_\_\_\_\_  
Mayor Bob Quinton

RECEIVED

OCT 22 2010

CITY OF JOHN DAY

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR GRANT COUNTY

}

AFFIDAVIT OF PUBLICATION

STATE OF OREGON

County of GRANT } ss

I, Trista Cox being duly sworn, depose and  
say that I am the principal clerk of the publisher of the Blue Mountain Eagle, a newspaper  
of general circulation, as defined by ORS 193.010 and 193.020; printed and published at  
John Day in the aforesaid county and state; that the

City of John Day - John Day Developmen Code Update Joint Public Hearing

a printed copy of which is here to annexed; was published in the entire issue of said  
newspaper for 1 successive and consecutive issues in the following issues:

October 20, 2010

Subscribed and sworn to before me on this 20th day of October , 2010



Trista Cox

Trisha V. Combs  
Notary Public of Oregon

**PUBLIC NOTICE** 04.20.10

**PUBLIC NOTICE**

John Day Development Code Update Joint Public Hearing of  
the John Day City Council and Planning Commission

The City of John Day received a Technical Assistance grant from the Department of Land Conservation and Development (DLCD) to review and revise the John Day Development Code (2005) for consistency with 2007-2009 changes in State law and administrative rules, resolving city's identified problems/desires based on past experience processing development permits; codify results of past State grant-funded projects; and achieve increased efficiency for permitting as can be accomplished within the bound of State law.

The John Day City Council and Planning Commission will be holding a joint public hearing regarding the adoption Ordinance No. 10-146-06, an ordinance adopting text amendments to the City of John Day Land Use and Development Code on Tuesday, November 9, 2010 at 7 p.m., John Day City Council Chambers, 450 East Main Street, John Day, OR.

10/20



**CITY OF JOHN DAY  
CITY COUNCIL MINUTES  
JOHN DAY, OREGON**

**November 9, 2010**

**Adjourned Meeting**

**COUNCILORS PRESENT:**

Bob Quinton, Mayor  
Steve Schuette, Council President  
Don Caldwell, Councilor  
Donn Willey, Councilor  
Gene Officer, Councilor  
Jack Grubbs, Councilor  
Chris Labhart, Councilor

**COUNCILORS ABSENT:**

**STAFF PRESENT:**

Peggy Gray, City Manager  
Dave Holland, Public Works Director  
Valerie Luttrell, Dispatch Manager

**GUESTS PRESENT:**

Grant Young, DLCD  
Scot Siegel, via telephone  
Sandy Bupp, John Day  
Bob Gibson, John Day

**Agenda Item No. 1 – Open and Note Attendance**

The John Day City Council meeting opened at 7:00 p.m. Mayor Quinton noted that all Councilors were present.

**Agenda Item No. 2 – Approval of Minutes of October 12, 2010**

The minutes of the October 12, 2010 adjourned meeting were included in the agenda packets and presented for the Council's approval. Councilor Donn Willey moved that the minutes of the October 12, 2010 Council meeting be approved as presented; Councilor Gene Officer seconded the motion. The motion passed unanimously.

**Agenda Item No. 3 - APPEARANCE OF INTERESTED CITIZENS**

Mayor Quinton welcomed the audience and asked if there was any additional items that visitors would like to add to the agenda. No additions or comments were brought forth.

**Agenda Item No. 4 – City of John Day Development Code Update – Joint Planning Commission-City Council Public Hearing**

Mayor Quinton asked Planning Commission Chair Ken Boethin to open the Joint Planning Commission/City Council public hearing in the matter of the John Day Development Code Update. City Manager introduced Grant Young of the Department of Land Conservation and Development (DLCD) and Contract City Planner Scot Siegel was in attendance on speaker phone.

Planning Commission Chair Ken Boethin asked Mr. Siegel to please review his staff report for the members of the Planning Commission/ City Council and the audience.

Mr. Siegel stated a joint work session with the Planning Commission and the City Council was held on August 24, 2010 where the amendments to the John Day Development code (originally adopted in 2005) were reviewed. The Code was developed by working with staff, County Planner Hilary McNary (UGMA agreement), Grant Young of DLCD, and a Citizen Advisory Committee. Mr. Siegel stated the purpose of the update is to (1) bring the City Development Code up to date with changes in the State laws over the past five (5) years. (2) To better integrate the City's planning development and review process in conjunction with Grant County in regards to the Urban Growth Management Agreement (UGMA). (3) To prepare housekeeping updates to the Code to make it more user friendly.

Mr. Siegel stated the staff report contains the changes the Planning Commission and City Council addressed during the August 24, 2010 work session and addressed some of the high points as follows:

1. Updated the enforcement section of the Code in Article 5-1 based upon recommendation from the city attorney. The change references the municipal code; any violation of the Development Code would be a violation of the municipal code and would be enforced under the municipal code.
2. We received comments from DLCD. They made recommendations on manufactured home parks on where they need to be located within the City. Per State law, manufactured home parks must be permitted in at least one residential zone with a permitted housing density of 6-12 units per acre. Previously we had designated manufactured homes as a conditional use. We recommended allowing manufactured home parks in the Residential General (RG) zone with standards.
3. DLCD recommended not allowing manufactured homes, bed and breakfast inns, large retail uses, daycare and community services uses in industrial zones as these uses are allowed elsewhere in the code.
4. Clarified the Airport District recommending allowing vocational instruction; clarified the height standards when consistent with the Airport Master Plan.

Mr. Siegel asked if there were any questions, Commission Chair Boethin asked Mr. Siegel to explain the changes to the administrative review procedures (page 5, #20 of the Staff Report). Mr. Siegel stated one of the goals of this code update was to make the process work better for the public. He summarized that under the current code any land use applications other than single family dwellings or single duplexes required a public hearing (quasi-judicial). The City was looking for a way for the smaller proposals to be approved administratively or if there was significant public interest, the application could be referred to the Planning Commission. It was decided to recommend certain thresholds and that projects more than one acre would go directly to a public hearing, a subdivision would also go directly to the public hearing (Section 5-4, page 4-35 Site Design Review process). Mr. Siegel explained the smaller applications

would not require a Site Design Review and could be administered through a Land Use Review procedure (5-4.2.020 – 5-4.2.030).

At this time Planning Commission Chair opened the public hearing for questions or comments from the public, there were none. Planning Commission Chair noted there was a quorum of the Planning Commission present and welcomed two new members of the Planning Commission, Tom Bupp and Angela Johnson. Other Planning Commission members present were Commissioners Tom Wilson, Tim Unterwegner, Dean Nodine and Planning Commission Chair Ken Boethin. Their presence thereof constituted a quorum of the Planning Commission.

Planning Commissioner Dean Nodine made a motion to recommend to the John Day City Council to adopt the amended City John Day Land Use Development Code as presented. Planning Commissioner Tim Unterwegner seconded the motion. Upon call for the question, the motion passed unanimously.

Mayor Quinton thanked the Citizens Advisory Committee, Planning Commission, Grant Young of DLCD and Scot Siegel for their hard work.

At this time Scot Siegel recommended the Planning Commission and the John Day City Council review the amended Urban Growth Management Agreement (UGMA) as it was part of the City's grant from DLCD. Grant Young of DLCD suggested the Planning Commission and the City Council review the UGMA and if they accept the changes to move to adopt.

Scot Siegel explained the major change to the UGMA to the Planning Commission and City Council was to include the City's facilities plans (e.g. Water & Sewer Master Plans, Local Street Network Plan) and that the City be afforded an opportunity to review and comment on all proposals with the Urban Growth Area at least 15 days prior to County approval.

Scot explained the second component of the amended UGMA is the draft amendments to Grant County's Land Development Code. These are changes the City is recommending to the County and that Grant County Planner Hilary McNary helped us develop (revised amendments begin on page 6). It was noted that the County will have to adopt these changes not the John Day City Council. Grant Young of DLCD explained the Urban Growth Boundary to the audience. Grant explained the City can only annex property into the City that is included in their Urban Growth Boundary. As such, the City needs to make sure that all land applications will meet the City's future needs in these areas should they be annexed at a later date. Typically the City and the County share jurisdiction, this UGMA dictates how that land will be managed. This prevents problems for the City in the future.

At this time Planning Commission Chair Boethin asked for public comments regarding the Urban Growth Management Agreement, there were none. Planning Commission Chair Boethin asked for comments from the Planning Commission, there were no comments. Planning Commissioner Dean Nodine moved to recommend the John Day City Council adopt the amendments to the City of John Day-Grant County Urban Growth Management Agreement. Commissioner Tom Wilson seconded the motion. Upon call for the question, the motion passed unanimously.

At this time Planning Commission Chair Boethin turned the public hearing over to Mayor Quinton.

**Agenda Item No. 5 – Discuss for Adoption Ordinance No. 10-146-06, an Ordinance in the Matter of Adopting Text Amendments to the City of John Day Land Use and Development Code (“Development Code”)**

Mayor Quinton introduced Ordinance No. 10-146-06, an Ordinance in the matter of adopting text amendments to the City of John Day Land Use and Development Code ("Development Code") to the John Day City Council. City Manager Gray stated the city attorney reviewed the ordinance and stated the ordinance should reference the articles that are being amended. The revised ordinance was given to each Councilor. City Manager Gray stated the ordinance was the same as the one included in their council packet other than the addition of the articles.

Councilor Labhart moved to read Ordinance No. 10-146-06 by title only. Council President Steve Schuette seconded the motion. The motion passed unanimously. Mayor Quinton read Ordinance No. 10-146-06 by title only as follows:

Ordinance No. 10-146-06, an Ordinance in the Matter of Adopting Text Amendments to the City of John Day Land Use and Development Code ("Development Code").

Councilor Labhart moved to adopt Ordinance No. 10-146-06, Council President Steve Schuette seconded the motion. The motion passed unanimously.

Councilor Caldwell questioned if the Urban Growth Management Agreement needed to be added to tonight's agenda? Grant Young of DLCD asked if the UGMA was included in the articles that the Council just adopted; if not, the UGMA would have to be adopted by separate ordinance. After discussion the John Day City Council decided to continue public hearing until November 23, 2010 at 7:00 p.m. in order to bring back the ordinance for adoption of the UGMA. Mayor Quinton closed the public hearing for the evening at 7:40 p.m.

**Agenda Item No. 6 – Discuss for Signature Contract for Services Between the City of John Day and Oster Professional Group**

Mayor Quinton opened for discussion among the City Council the Contract for Services between the City of John Day and Oster Professional Group. Mayor Quinton provided some background for the City Council stating that Dan Hobson has resigned his position of City Recorder on October 12, 2010 due to medical reasons. The Mayor stated we've had three City Recorders in the last three years. City Manager Gray asked Bob Armstrong for some interim assistance and Mr. Armstrong came back with a proposal. Oster Professional Group proposed to provide accounting services (see Exhibit A) in an attempt to fulfill the duties of the City Recorder for a flat monthly fee of \$3,500.

Currently the salary scale for the City Recorder position is \$3,147 (beginning of the scale) - \$4,511 (top of the scale) per month. The City pays an additional 30%-40% of total wages for benefits. For this position last year, the City paid \$19,657.80 in benefits.

Mayor Quinton stated if the City hires Oster's for accounting services, Oster will no longer be able to be the City's auditor as they cannot audit their own work. Mayor Quinton stated he spoke with Mr. Armstrong, he stated it's a double edge sword for Oster as they are letting someone in their backyard to do audits. However, Mr. Armstrong stated they have time between their municipal audits and tax season where they don't have a lot of work. This contract would help with their cash flow.

Councilor Labhart asked how the City Manager felt about the contract. City Manager Gray stated she did not like losing the position; however, having a firm that could perform the accounting duties would greatly help as she was not getting any help right now or for the past several months. City Manager Gray

worried about customer service and not having another body to fill in for vacation schedules; however, we haven't had that for the past year and the administration department has been getting by.

Councilor Caldwell asked if staff had considered changing the position to part-time. City Manager Gray stated that she offered Dan a part-time position and he declined. She also stated in the past part-time positions are hard to fill because of the salary and currently full-time part-time employees receive benefits (if they work at least 80 hours per month). As such the City would not be saving as much money in the long run by hiring the full-time part-time employee over a contract. City Manager Gray clarified that seasonal part-time employees do not receive benefits. An example was given that the employee hired to water the plants during the summer did not receive benefits. But a person who works year round (full time) on a part-time basis does receive insurance and retirement.

Councilor Caldwell stated that the City Recorder filled in for the City Manager during her absence in the past; that would change with the contract. City Manager Gray stated that this year Public Works Director David Holland filled in for her and it worked very well. Councilor Caldwell asked if there were any minimum or maximum hours for the \$3,500. City Manager Gray explained the \$3,500 would be a flat fee, there will be months that more hours will be put in depending on the workload and some months will be less. Mr. Armstrong felt a fixed flat fee would be better for both parties, especially the City for budgeting purposes. Councilor Caldwell questioned the 3-year contract, would the fee go up after the first year? City Manager Gray stated our city attorney did not like the 3-year contract and suggested to negotiate an annual contract. Concerns regarding the City Recorder's position in the code; assessments and engineering reports would be done through the contract. City Manager Gray explained the City would continue to process the payroll and the utility bills; the proposal would be that Oster's would be essentially auditing the Senior Accts. Clerk and Secretary's work. Oster would be performing the month-end closing duties, prepare financial reports, assist with the budgeting process were among some of the duties mentioned.

Mayor Quinton stated during the budget process this position was questioned by a citizen. The City would be saving approximately \$20,000 per year by not paying benefits. The Mayor also stated PERS will be going up as well as insurance costs has been predicted to have a double digit increase next year.

City Manager Gray stated a benefit to the City would be that Oster knows our process, our former City Recorder Anna Bass works for them and she would be our contact person. They could hit the ground running. Hiring a person would put us out at least another month; with an additional training period.

Mayor Quinton recommended staff get a red-line copy of the contract from the city attorney and bring it back to the City Council. Councilor Labhart requested that the City Manager research outside audit firms to see who is available to get a head start if we need to.

#### **Agenda Item No. 7 – Discuss Leave of Absence Request from Councilor Jack Grubbs**

Mayor Quinton opened the discussion on the request from Councilor Jack Grubbs for a leave of absence in order for him to go south for the winter months. Mayor Quinton stated his only concern with the request is that it gives us one less person for a quorum should other councilors be absent. City Manager Gray presented an email from city attorney Jeremy Green stating that councilor participation in council meetings by telephone has come up many times in the past with other cities that he represents. All have permitted the councilor(s) to participate in the council meetings by telephone when the councilor(s) is/are unable to be physically present at the meeting. Most have sent agenda materials/packets in the mail to the councilor(s) or emailed the materials. Councilor Grubbs stated he would be gone for three or four months.

Councilor Caldwell asked how many meetings Councilor Grubbs is willing to call in during his absence and will this be the same thing next year. Councilor Grubbs stated he couldn't really answer that question and that he understood the concerns of the City Council. Councilor Grubbs stated he appreciated his time on the City Council and stated he would like to resign his position at the end of tonight's meeting in order for the City Council to find someone who would be able to attend the council meetings. Councilor Grubbs stated he felt this is the best thing to do because being on the phone is not the same as being at the meeting listening to the people's concerns and looking into their faces before making a decision. Councilor Grubbs stated it has been a pleasure working with the Council.

Councilor Willey moved to accept Councilor Grubbs resignation from the John Day City Council effective at the end of the November 9, 2010 council meeting. Councilor Caldwell seconded the motion; the motion passed unanimously.

Mayor Quinton stated to Councilor Grubbs that we're (the Council and the City) going to miss your service to the City. Councilor Grubbs stated the City is really fortunate to have you (the entire Council) as their City Council.

#### **Agenda Item No. 8 – Discuss Request from Timber Truckers Parade**

A letter from the Timber Trucker's Committee was presented to the John Day City Council asking for a donation of \$100 for the Driver Drawing award for this year's Timber Trucker's Parade.

City Manager Gray informed the Council that we have \$400 in the community promotions line item with no expenditures made in this fiscal year. It was noted the Council usually contributes to the annual GUHS Grad Night program.

Councilor Labhart moved to donate \$100 for the Driver Drawing award for this year's Timber Trucker's Parade. Councilor Donn Caldwell seconded the motion; the motion passed unanimously.

#### **Agenda Item No. 9 – Other Business and Upcoming Meetings**

1. A letter from City of Union Mayor William C. Lindsley was included in the Council packet regarding Wind Farms. Mayor Quinton stated the letter was confusing. Councilor Grubbs stated the Wind Farms are going to destroy our landscape. Right now they are never going to replace hydro power. We don't have enough wind in Grant County to worry about it. But the wind farms are popping up more and more in Baker County. Mayor Quinton acknowledged Bob Gibson from the audience stating the wind farms in Union are terrible and they are trying to get people to help fight them. It was the consensus of the Council to write a letter of support.
2. The Council was reminded of the November 12, 2010 public meeting on the enterprise zone boundary.
3. Newsletters from Congressman Greg Walden were presented to the City Council for their information.
4. LOC Bulletins were presented to the City Council for information and review.

5. Mayor Quinton noted he will be absent for the November 23, 2010 council meeting. Council President Schuette stated he would run the meeting.
6. Mayor Quinton commended the John Day Police Department for their presence on Humbolt Street on Halloween night. Reserve Police Officer Larry Sherman handed out glow sticks. Mayor Quinton said it was good PR and it was a big hit among the kids.

**Adjourn**

There being no further business before the Council, Councilor Jack Grubbs made a motion to adjourn the meeting. Councilor Donn Willey seconded the motion and the motion passed unanimously. The meeting was adjourned at 8:20 p.m.

Respectfully Submitted:

Peggy Gray  
City Manager

ACCEPTED BY THE CITY COUNCIL, November 23, 2010,

  
\_\_\_\_\_  
Council President Steve Schuette



# **CITY OF JOHN DAY DEVELOPMENT CODE**

**ADOPTED BY ORD. #05-120-8, OCT. 2005**  
**UPDATED BY ORD. #10-146-06, NOVEMBER, 2010**

<b>ARTICLE 5-1 — GENERAL PROVISIONS</b>	<b>1-2</b>
<b>Chapter 5-1.1 — User's Guide</b>	<b>2</b>
<b>Chapter 5-1.2 — Title, Purpose, and General Administration</b>	<b>3</b>
5-1.2.010 Title	3
5-1.2.020 Purpose	3
5-1.2.030 Compliance and Scope	3
5-1.2.040 Rules of Code Construction	4
5-1.2.050 Development Code Consistency with Comprehensive Plan and Laws	4
5-1.2.060 Land Use Consistent With Development Code and Zoning Map	5
5-1.2.070 Pre-Existing Approvals	6
5-1.2.080 Building Permit and Certificate of Occupancy	6
5-1.2.090 Official Action	6
5-1.2.100 Enforcement	7
<b>Chapter 5-1.3 — Land Uses Categories</b>	<b>8</b>
5-1.3.010 Purpose	9
5-1.3.100 Group Living	11
5-1.3.110 Household Living	12
5-1.3.200 Commercial Outdoor Recreation	14
5-1.3.210 Commercial Parking	14
5-1.3.220 Quick Vehicle Servicing	15
5-1.3.230 Major Event Entertainment	15
5-1.3.235 Educational Services, Commercial	16
5-1.3.240 Office	16
5-1.3.250 Retail Sales and Commercial Services	17
5-1.3.260 Self-Service Storage	18
5-1.3.270 Vehicle Repair	19
5-1.3.300 Industrial Service	20
5-1.3.310 Manufacturing and Production	20
5-1.3.320 Warehouse, Freight Movement, and Distribution	21
5-1.3.330 Waste-Related; Recycling Facilities	22
5-1.3.340 Wholesale Sales	22
5-1.3.400 Basic Utilities, Private and Public	24
5-1.3.420 Community Services; Government Offices	24
5-1.3.430 Daycare	25
5-1.3.450 Medical Centers	26
5-1.3.460 Parks and Open Space Areas	26
5-1.3.480 Schools	27
5-1.3.490 Incarceration Facilities	27
5-1.3.500 Agriculture	29
5-1.3.510 Mining	29
5-1.3.520 Radio Frequency Transmission Facilities	30
5-1.3.530 Transportation Facilities and Improvements	30
5-1.3.540 Utility Corridors	31

<b>ARTICLE 5-2 - LAND USE DISTRICTS</b>	<b>2-3</b>
<b>Chapter 5-2.1 - Organization of Land Use Districts</b>	<b>4</b>
5-2.1.010 Classification of Land Use Districts	4
5-2.1.020 Land Use District Map	5
5-2.1.030 Determination of Land Use District Boundaries	5
<b>Chapter 5-2.2 - Residential Land Use Districts</b>	<b>6</b>
5-2.2.010 Residential Districts – Purpose	6
5-2.2.020 Residential Districts – Allowed Land Uses	7
5-2.2.030 Residential Districts – Development Standards	12
5-2.2.040 Residential Districts – Setback Yard Purpose, Exceptions, Reverse Frontage Lots, Flag Lots	16
5-2.2.050 Residential Districts – Infill Standards	17
5-2.2.060 Residential Districts – Housing Density	19
5-2.2.070 Residential Districts – Lot Coverage and Impervious Surfaces	19
5-2.2.080 Residential Districts – Building Height: Measurement, Exceptions, RL Step-Down	20
5-2.2.090 Residential Districts – Building Orientation	22
5-2.2.100 Residential Districts – Special Use Standards	27
<b>Chapter 5-2.3 — Commercial Districts</b>	<b>43</b>
5-2.3.010 Commercial Districts – Purpose	43
5-2.3.020 Commercial Districts – Allowed Land Uses	44
5-2.3.030 Commercial Districts – Development Standards	48
5-2.3.040 Commercial Districts – Zero Setbacks and Build-To Line	50
5-2.3.050 Commercial Districts – Lot Coverage and Impervious Surface	50
5-2.3.060 Commercial Districts – Building Orientation and Commercial Block Layout	51
5-2.3.070 Commercial Districts – Building and Structure Height; Bonus for Mixed-Use	54
5-2.3.080 Commercial Districts – Architectural Design Standards	55
5-2.3.090 Commercial Districts – Pedestrian Amenities	58
5-2.3.100 Commercial Districts – Special Use Standards	59
<b>Chapter 5-2.4 —Industrial (I) Districts</b>	<b>60</b>
5-2.4.010 Industrial Districts – Purpose	60
5-2.4.020 Industrial Districts – Allowed Land Uses	61
5-2.4.030 Industrial Districts – Setback Yards; Industrial Buffers	65
5-2.4.040 Industrial Districts – Lot Coverage	66
5-2.4.050 Industrial Districts – Site Layout and Design	66
5-2.4.060 Industrial Districts – Building and Structure Height	67
<b>Chapter 5-2.5. Airport Safety and Compatibility Overlay (AASC) Zone</b>	<b>68</b>
5-2.5.010 Scope and Purpose of Regulations	68
5-2.5.020 Definitions	68
5-2.5.030 Imaginary Surface and Noise Impact Boundary Delineation	72
5-2.5.040 Notice of Land Use and Permit Applications within Overlay Zone Area	72
5-2.5.050 Height Limitations on Allowed Uses in Underlying Zones	73
5-2.5.060 Procedures	73
5-2.5.070 Land Use Compatibility Requirements	73
5-2.5.080 Water Impoundments ... and Airport Direct and Secondary Impact Boundaries	76
5-2.5.090 Wetland ... within Approach Surfaces and Airport Direct and Secondary Impact Boundaries	76
5-2.5.100 Nonconforming Uses	77
5-2.5.110 Avigation Easement Required	77
<b>5-2.6. Geological Hazard (GH) Overlay</b>	<b>79</b>

5-2.6.010	Scope and Purpose Of Regulations	79
5-2.6.020	Application Of Provisions	79
5-2.6.030	Uses Permitted Outright	79
5-2.6.040	Conditional Use Permitted In The GH Zone	80
5-2.6.050	Permit For Use Or Development	80
5-2.6.060	Application Requirements For Use	80
5-2.6.070	Standards For Building Construction In GH Zone	82
5-2.6.080	Standards For An Access Route	83
5-2.6.090	Regulations Not A Guarantee	83
<b>5-2.7.</b>	<b>Park Reserve (PR) Overlay</b>	<b>84</b>
5-2.7.010	Scope and Purpose of Regulations	84
5-2.7.020	Uses Permitted Outright	84
5-2.7.030	Conditional Uses Permitted	84
5-2.7.040	Dimensional Standards	85
5-2.7.050	Setbacks	85
5-2.7.060	Limitations On Conditional Uses	85
<b>5-2.8.</b>	<b>Greenway (GW) Overlay</b>	<b>87</b>
5-2.8.010	Purpose	87
5-2.8.020	Uses Permitted Outright	87
5-2.8.030	Conditional Uses	87
5-2.8.040	Limitations On Uses	87
5-2.8.050	Review Process	88
5-2.8.060	Zone Application	88
5-2.8.070	Review Factors	88
<b>5-2.9.</b>	<b>Flood Plain (FP) Overlay</b>	<b>89</b>
5-2.9.010	Purpose	89
5-2.9.020	Applicability	89
5-2.9.030	Definitions – Flood Hazard Provisions	90
5-2.9.040	Review Procedures	93
5-2.9.050	Information Required for Floodplain or Riparian Development Proposals	94
5-2.9.060	Floodplain Review Criteria	94
5-2.9.070	Floodplain Development Standards	95
5-2.9.080	Variances Within a Floodplain	97
5-2.9.090	Floodplain Data	98
5-2.9.100	Alteration of Watercourses	98
<b>5-2.10.</b>	<b>Public Facilities (PF) Overlay</b>	<b>99</b>
5-2.10.010	Purpose Of Regulations	99
5-2.10.020	Applicability	99
5-2.10.030	Uses Permitted Outright	99
5-2.10.040	Conditional Uses Permitted	100
5-2.10.050	Dimensional Standards	100
5-2.10.060	Setbacks	100
5-2.10.070	Development Standards	100

## **ARTICLE 5-3 - COMMUNITY DESIGN STANDARDS**

**3-2**

### **Chapter 5-3.0 - Design Standards Administration**

**3**

5-3.0.010 Design Standards - Purpose

3

5-3.0.020 Design Standards - Applicability

3

### **Chapter 5-3.1 - Access and Circulation**

**4**

5-3.1.010 Purpose

4

5-3.1.020 Vehicular Access and Circulation

4

5-3.1.030 Pedestrian Access and Circulation

11

### **Chapter 5-3.2 - Landscaping, Street Trees, Fences and Walls**

**14**

5-3.2.010 Purpose

14

5-3.2.020 Landscape Conservation

15

5-3.2.030 Landscaping and Screening

17

5-3.2.040 Street Trees

22

5-3.2.050 Fences and Walls

24

### **Chapter 5-3.3 - Parking and Loading**

**26**

5-3.3.010 Purpose

26

5-3.3.020 Applicability

26

5-3.3.030 Automobile Parking Standards.

27

5-3.3.040 Bicycle Parking Standards

35

5-3.3.040 Loading Areas

37

### **Chapter 5-3.4 - Public Facilities**

**38**

5-3.4.010 Purpose and Applicability

38

5-3.4.010 Transportation Standards

39

5-3.4.020 Public Use Areas

50

5-3.4.030 Sanitary Sewer and Water Service Improvements.

51

5-3.4.040 Storm Drainage Improvements

52

5-3.4.050 Utilities

53

5-3.4.060 Easements

54

5-3.4.070 Construction Plan Approval

55

5-3.4.080 Installation

56

5-3.4.090 Performance Guarantee and Warranty Bond

57

### **Chapter 5-3.5 - Signs**

**58**

5-3.5.010 General Sign Standards in All Zoning Districts

58

5-3.5.020 Sign Standards in the Commercial and Industrial Zoning Districts

58

## **ARTICLE 5-4 - ADMINISTRATION OF LAND USE AND DEVELOPMENT 4-3**

<b>Chapter 5-4.1 - Types of Review Procedures</b>	<b>4</b>
5-4.1.010 Purpose and Applicability of Review Procedures	4
5-4.1.020 Type I Procedure (Administrative)	6
5-4.1.030 Type II Procedure (Administrative)	7
5-4.1.040 Type III Procedure (Quasi-Judicial)	12
5-4.1.050 Type IV Procedure (Legislative)	20
5-4.1.060 General Provisions: 120-day Rule; ... Planning Official's Duties, ... Appeals	26
5-4.1.070 Special Procedures	32
5-4.1.080 Neighborhood Meetings	33
5-4.1.090 Traffic Impact Analysis	34
<b>Chapter 5-4.2 - Land Use Review and Site Design Review</b>	<b>35</b>
5-4.2.010 Purpose	35
5-4.2.020 Applicability	36
5-4.2.030 Land Use Review Procedure and Approval Criteria	37
5-4.2.040 Site Design Review - Application Review Procedure	38
5-4.2.050 Site Design Review - Application Submission Requirements	38
5-4.2.060 Site Design Review - Approval Criteria; Adjustments	42
5-4.2.070 Assurances	43
5-4.2.080 Compliance With Permit Approval; Modifications; Permit Expiration	43
<b>Chapter 5-4.3 - Land Divisions and Property Line Adjustments</b>	<b>46</b>
5-4.3.010 Purpose	46
5-4.3.020 General Requirements	47
5-4.3.030 Pre-planning for Large Sites	49
5-4.3.040 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes	50
5-4.3.050 Preliminary Plat Approval Process	52
5-4.3.060 Preliminary Plat Submission Requirements	53
5-4.3.070 Approval Criteria: Preliminary Plat	56
5-4.3.080 Land Division-Related Variances	58
5-4.3.090 Final Plat Submission Requirements and Approval Criteria	58
5-4.3.100 Public Improvements Required	59
5-4.3.110 Assurances	59
5-4.3.120 Filing and Recording	60
5-4.3.130 Re-platting and Vacation of Plats	60
5-4.3.140 Property Line Adjustments	61
<b>Chapter 5-4.4 - Conditional Use Permits</b>	<b>63</b>
5-4.4.010 Conditional Use Permits - Purpose	63
5-4.4.020 Conditional Use Permits - Approvals Process	63
5-4.4.030 Conditional Use Permits - Application Submission Requirements	63
5-4.4.040 Conditional Use Permits - Criteria, Standards and Conditions of Approval	64
<b>Chapter 5-4.5 - Master Planned Developments</b>	<b>66</b>
5-4.5.010 Master Planned Development - Purpose	66
5-4.5.020 Master Planned Development - Applicability	67
5-4.5.030 Master Planned Development - Review and Approvals Process	67
5-4.5.040 Master Planned Development - Modifications to Standards	68
5-4.5.050 Master Planned Development - Overlay Zone and Concept Plan Submission	68
5-4.5.060 Master Planned Development - Overlay Zone and Concept Plan Criteria	69
5-4.5.070 Master Planned Development - Administrative Procedures	70

## 5-4.1 – Types of Applications and Review Procedures

5-4.5.080	Master Planned Development - Detailed Development Plan Submission	71
5-4.5.090	Master Planned Development - Detailed Development Plan Criteria	71
5-4.5.100	Master Planned Development - Other Approvals	72
<b>Chapter 5-4.6</b>	<b>- Modifications to Approved Plans and Conditions of Approval</b>	<b>73</b>
5-4.6.010	Modifications - Purpose	73
5-4.6.020	Modifications - Applicability	73
5-4.6.030	Major Modifications	73
5-4.6.040	Minor Modifications	74
<b>Chapter 5-4.7</b>	<b>- Land Use District Map and Text Amendments</b>	<b>76</b>
5-4.7.010	Amendments - Purpose	76
5-4.7.020	Legislative Amendments	76
5-4.7.030	Quasi-Judicial Amendments	76
5-4.7.040	Conditions of Approval for Quasi-Judicial Amendments	77
5-4.7.050	Record of Amendments	77
5-4.7.060	Transportation Planning Rule Compliance	77
<b>Chapter 5-4.8</b>	<b>- Code Interpretations</b>	<b>80</b>
5-4.8.010	Interpretations - Purpose	80
5-4.8.020	Code Interpretation Procedure	80
<b>Chapter 5-4.9</b>	<b>- Miscellaneous Permits</b>	<b>81</b>
5-4.9.010	Temporary Use Permits	81
5-4.9.020	Home Occupation Permits	84
<b>Chapter 5-4.10</b>	<b>- Annexations</b>	<b>86</b>
5-4.10.010	Purpose	86
5-4.10.020	Procedure	86
5-4.10.030	Application	86
5-4.10.040	Initiation by Council	87
5-4.10.050	Approval Criteria	87
5-4.10.035	Boundaries	87
5-4.10.070	Statutory Procedure	88
5-4.10.080	Mapping	88



## **ARTICLE 5-5 - EXCEPTIONS TO CODE STANDARDS**

**5-2**

### **Chapter 5-5.1 - Variances**

**3**

5-5.1.010 Variances - Purpose

3

5-5.1.020 Variances - Applicability

3

5-5.1.030 Class A Variances

4

5-5.1.040 Class B Variances

5

5-5.1.050 Variance Application and Appeals

7

### **Chapter 5-5.2 - Non-Conforming Uses and Developments**

**8**

5-5.2.010 Non-Conforming Uses and Developments Purpose

8

5-5.2.020 Nonconforming Uses

8

5-5.2.030 Non-conforming Development

9

### **Chapter 5-5.3 - Lots of Record; Legal Lot Determination**

**10**

5-1.3.010 Purpose and Intent

10

5-1.3.020 Criteria

10

5-1.3.030 Legal Lot Determination Procedure

10

## **ARTICLE 6 - DEFINITIONS AND RULES OF MEASUREMENT**

**6-2**

### **Chapter 5-6.1 - Definitions**

**3**

5-6.1.010 Purpose

3

5-6.1.020 Applicability

3

5-6.1.030 Definitions

3

### **Chapter 5-6.2 - Rules of Measurement**

**41**

5-6.2.010 Purpose

41

5-6.2.020 General Provisions

41

5-6.2.030 Slope

42

5-6.2.040 Grade

43

5-6.2.050 Floor area Ratio

45

5-6.2.060 Lot Coverage

45

5-6.2.070 Lot Standards and Setbacks

45

5-6.2.080 Building Height

46

5-6.2.090 Corner Clearance

47

5-6.2.100 Clear Vision Area

47

<b>ARTICLE 5-1 — GENERAL PROVISIONS</b>	<b>2</b>
<b>Chapter 5-1.1 — User’s Guide</b>	<b>2</b>
<b>Chapter 5-1.2 — Title, Purpose, and General Administration</b>	<b>3</b>
5-1.2.010 Title	3
5-1.2.020 Purpose	3
5-1.2.030 Compliance and Scope	3
5-1.2.040 Rules of Code Construction	4
5-1.2.050 Development Code Consistency with Comprehensive Plan and Laws	4
5-1.2.060 Land Use Consistent With Development Code and Zoning Map	5
5-1.2.070 Pre-Existing Approvals	6
5-1.2.080 Building Permit and Certificate of Occupancy	6
5-1.2.090 Official Action	6
5-1.2.100 Enforcement	7
<b>Chapter 5-1.3 — Land Uses Categories</b>	<b>8</b>
5-1.3.010 Purpose	9
5-1.3.100 Group Living	11
5-1.3.110 Household Living	12
5-1.3.200 Commercial Outdoor Recreation	14
5-1.3.210 Commercial Parking	14
5-1.3.220 Quick Vehicle Servicing	15
5-1.3.230 Major Event Entertainment	15
5-1.3.235 Educational Services, Commercial	16
5-1.3.240 Office	16
5-1.3.250 Retail Sales and Commercial Services	17
5-1.3.260 Self-Service Storage	18
5-1.3.270 Vehicle Repair	19
5-1.3.300 Industrial Service	20
5-1.3.310 Manufacturing and Production	20
5-1.3.320 Warehouse, Freight Movement, and Distribution	21
5-1.3.330 Waste-Related; Recycling Facilities	22
5-1.3.340 Wholesale Sales	22
5-1.3.400 Basic Utilities, Private and Public	24
5-1.3.420 Community Services; Government Offices	24
5-1.3.430 Daycare	25
5-1.3.450 Medical Centers	26
5-1.3.460 Parks and Open Space Areas	26
5-1.3.480 Schools	27
5-1.3.490 Incarceration Facilities	27
5-1.3.500 Agriculture	29
5-1.3.510 Mining	29
5-1.3.520 Radio Frequency Transmission Facilities	30
5-1.3.530 Transportation Facilities and Improvements	30
5-1.3.540 Utility Corridors	31

# ARTICLE 5-1 — GENERAL PROVISIONS

## Chapters:

- 1.1 User's Guide
- 1.2 Title, Purpose, and General Administration
- 1.3 Land Use Categories

## **Chapter 5-1. 1 — User's Guide**

The City of John Day Development Code ("Code") contains land use and development regulations for properties within the incorporated limits of City of John Day. The Code articles are as follows:

**Article 5-1.** Article 5-1 (this article) describes the organization of the Code; the title, purpose, and general administration of the Code; and land use and building types referenced by this Code.

**Article 5-2.** Article 5-2 contains the land use (zoning) districts of the City of John Day, including overlay zones, designated by the City of John Day Zoning Map. Article 5-2 identifies land uses and building types that are allowed in each district, and standards that are unique to each district (e. g., lot standards, setbacks, use-specific design standards, etc.). As required by state law, the zones or "land use districts" implement the City of John Day Comprehensive Plan. Property owners should review the Zoning Map first to determine the zoning of their property. Next, they should review Article 5-2 to determine whether a proposed use or development is allowed in the zone. See Chapter 5-2.1 for information on interpreting the Zoning Map.

**Article 5-3.** Article 5-3 contains development and design standards for new development. The standards address transportation improvements, street access, pedestrian and vehicle circulation, landscaping, parking, public facilities, surface water management, signs, and other provisions.

**Article 5-4.** Article 5-4 contains the City's application requirements and procedures for obtaining permits and approvals required by this Code. Property owners should contact the City of John Day to determine whether their proposal requires a permit or other City approval.

**Article 5-5.** Article 5-5 contains application requirements and approval criteria for variances. Article 5 also addresses non-conforming situations; a non-conforming situation is an existing use, structure or development that does not comply with the current code but is allowed subject to certain limitations. Property owners should contact the City of John Day to determine whether their property conforms to current code standards.

**Article 5-6.** Article 5-6 contains definitions, rules of measurement and other exhibits that are used in interpreting and administering this Code.

## Chapter 5-1.2 — Title, Purpose, and General Administration

### Sections:

Section 5-1.2.010	Title
Section 5-1.2.020	Purpose
Section 5-1.2.030	Compliance and Scope
Section 5-1.2.040	Rules of Code Construction
Section 5-1.2.050	Development Code Consistency with Comprehensive Plan and Laws
Section 5-1.2.060	Land Use Consistent With Development Code and Zoning Map
Section 5-1.2.070	Pre-Existing Approvals
Section 5-1.2.080	Building Permit and Certificate of Occupancy
Section 5-1.2.090	Official Action
Section 5-1.2.100	Enforcement

#### 5-1.2.010 Title

The official name of this Title is “The City of John Day Development Code.” It may be referred to as “Development Code” and “Code”.

#### 5-1.2.020 Purpose

The Development Code is intended to implement the City of John Day Comprehensive Plan and related plans and policies in a manner that protects the health, safety, and general welfare of the citizens of John Day.

#### 5-1.2.030 Compliance and Scope

- A. Compliance with the Provisions in the Development Code.** No structure or lot shall hereinafter be used or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or otherwise altered except as permitted by this Code. Furthermore, annexations and amendments to the Zoning Map or Development Code shall conform to applicable 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 a conflict arises between this Code and any other rule or regulation of the City of John Day, the most restrictive regulation, or that imposing the higher standard, shall govern. The City of John Day Planning Official (“Planning Official”) shall determine applicability of such regulations. Where the Code’s

applicability is unclear, the Planning Official may determine applicability pursuant to Chapter 5-4.8 Code Interpretations, or refer an interpretation request to the Planning Commission for action pursuant to Chapter 5-4.8.

- D. Transfer of Development Standards Prohibited.** No lot area, yard, landscaping, or open space that is used to satisfy a requirement of this Code for one use shall be used to satisfy the same requirement for another use, except as otherwise specifically allowed by this Code.

#### 5-1.2.040 Rules of Code Construction

- A. Provisions of this Code Declared to be Minimum Requirements.** 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 regulations, the most restrictive regulation, or that imposing the highest standard, shall govern.
- C. Requirements versus Guidelines.** The use of the word “shall,” “must,” “required,” or similar terms means the provision is a requirement. The use of the word “should,” “encouraged,” “recommended,” or similar term means the provision is recommended (i.e., as in a guideline) and may be imposed as a requirement only where applicable code criteria provide such discretion to the decision making body.
- D. Severability.** The provisions of this Development Code are severable. If any section, sentence, clause or phrase of the Development Code is judged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Development Code.

#### 5-1.2.050 Development Code Consistency with Comprehensive Plan and Laws

- A. City of John Day Comprehensive Plan.** This Development Code implements the City of John Day Comprehensive Plan. All provisions of this Code shall be construed in conformity with the Comprehensive Plan, including all adopted Comprehensive Plan elements, except as otherwise required by applicable State or Federal law.
- B. Compliance with Other Laws Required.** In addition to the requirements of this Code, all uses and development must comply with all other applicable City, regional, state, and federal regulations.
- C. References to Other Regulations.** All references in this Code to other City, regional, state, or federal regulations are for informational purposes only, and do not constitute a complete list of such regulations. These references do not imply any responsibility by the City for



enforcement of regional, state, or federal regulations. Where a proposal, permit, or approval is subject to both City of John Day and state or federal regulations, the property owner is responsible for consulting the applicable and complying with their respective regulations.

- D. Current Versions and Citations.** All references to other City, county, regional, state, or federal regulations in this Code refer to the most current version and citation for those regulations, unless specifically indicated otherwise. Where a referenced regulation has been repealed, this Code's requirements for compliance with the same are no longer in effect.

#### **5-1.2.060 Land Use Consistent With Development Code and Zoning Map**

- A. Land Use Consistent With Development Code.** A lawful use is one that is permitted in accordance with this Code (including non-conforming uses, subject to Chapter 5-5.2), and is not prohibited by law. Where a proposed use is not specifically identified by this Code, the Planning Official shall refer to Chapter 5-1.3, as applicable, and determine whether the use is similar to another use (or uses) that is (are) permitted, allowed conditionally, or prohibited by this Code. Where the Code is unclear and the Planning Official is unable to make a similar use ruling without referencing sources outside the Development Code, the requested use shall be denied, or a similar use determination shall be made pursuant Chapter 5-4.8 Code Interpretations and the use shall accordingly be permitted, allowed conditionally, or denied.
- B. Development Code and Zoning Map.** Land and structures may be used or developed only as provided by the applicable land use (zoning) district, as described in the text of this Code and designated on the City of John Day Zoning Map, including all amendments thereto.
- C. Content of Official Zoning Map.** The boundaries of the base zones, overlay zones, and other map designations are as illustrated on the City of John day Zoning Map. The Zoning Map is published separately, but is a part of the Code. Maps that delineate areas subject to additional zoning regulations may be included in the Zoning Map and Code, adopted by separate ordinance, and/or adopted by reference. Examples may include the location of historical landmarks, special street setbacks, street and other public facility extensions, base flood (flood plain) elevation, and other areas subject to regulation under this Code.
- D. Changes to Official Zoning Map.** A proposed change to the Official Zoning Map is subject to the amendment process described in Chapter 5-4.7 Land Use District Map Amendment.
- E. Boundary Lines.**
1. Where a zoning line is shown on the Official Zoning Map as being within an existing or vacated right-of-way, utility corridor, trail corridor, watercourse, or similar feature, the line is in the center unless specifically indicated otherwise.
  2. The location of a zoning line is determined with a scale when a zoning line does not follow a lot line or identifiable landmark and its location is not specifically indicated.

3. The City Planning Official shall make boundary line determinations and interpretations through a Type I procedure, or the Planning Official may refer determination questions to the Planning Commission who shall make the ruling through a Type II procedure.

**5-1.2.070 Pre-Existing Approvals**

- A. Legality of Pre-existing Approvals.** Developments and uses for which approvals were granted prior to *November 24, 2005* may occur pursuant to such approvals, except that modifications to those approvals shall comply with Chapter 5-4.6. Modifications to Approved Plans and Conditions of Approval, as applicable.
- B. Subsequent Development Applications.** All developments and uses commencing on or after *November 24, 2005* shall conform to the provisions of the Code applicable and effective at that time.

**5-1.2.080 Building Permit and Certificate of Occupancy**

- A. Building Permit.** A building permit shall not be issued until the Planning Official has issued a Land Use Review approval in accordance with the provisions of Chapter 5-4.2, or has otherwise found that such review is not required. The Planning Official may determine that this Code requires other permits or approvals in lieu of or before Land Use Review approval may be granted.
- B. Certificate Of Occupancy Required.** To ensure completion of a development or use in the manner approved by the City and pursuant to building codes, a building shall not be occupied and a use shall not begin until a “certificate of occupancy” is issued by the Building Official following completion of the work in substantial conformance to the applicable approvals and permits. Occupancy shall be subject to final clearance by the Planning Official for compliance with applicable Code requirements, including conditions of approval. Where a development or use is found to be in violation of this Code or any condition of approval, the City may withhold, revoke, or temporarily suspend a certificate of occupancy until the violation is remedied.

**5-1.2.090 Official Action**

- A. Official Actions.** The City of John Day City Council, Planning Commission, and Planning Official, as applicable, are vested with authority to issue permits and grant approvals in conformance with this Code. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.
- B. Void Actions.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void, unless it is modified by the City to conform to the Code. The

Planning Official 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 ensure Code compliance.

- C. Notices and Validity of Actions.** 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.

#### **5-1.2.100 Enforcement**

- A. Misdemeanor.** Any person violating or causing the violation of any of the provisions of this Code has committed a misdemeanor, and upon conviction thereof is punishable as prescribed in Section 1-4-1 of the City Code of John Day. Such person is guilty of a separate violation for each and every day during any portion of which any violation of this Code is committed or continued by such person.
- B. 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.
- C. Responsible Party.** If a provision of this Code is violated by a business or other entity, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.

## **Chapter 5-1.3 — Land Uses Categories**

### **Sections:**

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

- 5-1.3.010 Purpose
- 5-1.3.020 Category Titles
- 5-1.3.030 Classification of Uses

#### **Residential Use Categories**

- 5-1.3.100 Group Living
- 5-1.3.110 Household Living

#### **Commercial Use Categories**

- 5-1.3.200 Commercial Outdoor Recreation
- 5-1.3.210 Commercial Parking
- 5-1.3.220 Quick Vehicle Servicing
- 5-1.3.230 Major Event Entertainment
- 5-1.3.235 Educational Services, Commercial
- 5-1.3.240 Office
- 5-1.3.250 Retail Sales and Service
- 5-1.3.260 Self-Service Storage
- 5-1.3.270 Vehicle Repair

#### **Industrial Use Categories**

- 5-1.3.300 Industrial Service
- 5-1.3.310 Manufacturing and Production
- 5-1.3.320 Warehouse, Freight Movement, and Distribution
- 5-1.3.330 Waste-Related; Recycling Facilities
- 5-1.3.340 Wholesale Sales

#### **Institutional Use Categories**

- 5-1.3.400 Basic Utilities, Private and Public
- 5-1.3.410 Colleges
- 5-1.3.420 Community Service; Government Offices
- 5-1.3.430 Daycare
- 5-1.3.450 Medical Centers
- 5-1.3.460 Parks and Open Space Areas
- 5-1.3.470 Religious Institutions and Places of Worship
- 5-1.3.480 Schools
- 5-1.3.490 Incarceration Facilities

#### **Other Use Categories**

- 5-1.3.500 Agriculture
- 5-1.3.510 Mining
- 5-1.3.520 Radio Frequency Transmission Facilities
- 5-1.3.530 Transportation Facilities and Improvements
- 5-1.3.540 Utility Corridors

## Introduction to the Use Categories

### 5-1.3.010 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 Planning Official, through a Type II procedure, may determine the applicable use category or refer the question to the Planning Commission for a determination following the Type II procedure under Chapter 5-4.8 Code Interpretations. 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

### 5-1.3.100 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 or composition of the group is different than that 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 typically have a common eating area for residents, though individual units may have a kitchen. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site.
- 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 residential homes and facilities for persons with disabilities; dormitories, fraternities and sororities; monasteries and convents; nursing and convalescent homes; assisted living and similar retirement facilities where some level of daily care is provided by on-site staff; some residential programs for drug and alcohol treatment; adult foster homes; alternative or post incarceration facilities; and combinations of such uses. Note: Group Living uses are subject to state licensing requirements. Some State and/or Federal requirements pertaining to Group Living (e.g., Fair Housing Act Amendments) preempt local land use regulations.
- D. Exceptions.**
1. Lodging where tenancy may be arranged for periods less than one (1) month is considered a hotel or motel use (or hospital) and is classified in the Retail Sales and Service or other category. However, in certain situations, lodging where tenancy may be arranged for periods less than one (1) month may be classified as a Community Service use such as publicly assisted, 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.

**5-1.3.110 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 (*i.e.*, with kitchen and wash room facilities) 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, temporary medical hardship dwellings are included in the Household Living category.
- B. Accessory Uses.** Accessory uses commonly found are private yards and gardens, private recreational activities, raising of pets, hobbies, home occupations (subject to Code requirements), and parking of the occupants' vehicles, but not including residential occupancy of any vehicle. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations. Accessory structures may include the following subject to applicable building codes: garages, carports, home offices (subject to Home Occupation requirements), workshops, sheds, wells and well pump houses (subject to applicable State requirements), household rainwater harvesting facilities, household renewable energy facilities (e.g., mini-wind turbines, solar photovoltaic cells, geothermal wells), fences, garden walls, wheelchair ramps, decks, patios, pool houses, HVAC, solid waste and recycling storage and sorting enclosures, satellite dishes, and other structures commonly associated with residential uses and subject to applicable code requirements.
- C. Examples.** Uses include living in houses (attached/common wall or non-attached), duplexes, apartments, condominiums, retirement center apartments (not otherwise categorized as Group Living), manufactured housing, and other structures with self-contained and permitted dwelling units. Examples also include living in Single Room Occupancy hotels if the provisions are met regarding length of stay and separate meal preparation.
- D. Exceptions.**
1. For purposes of this code, a recreational vehicle is not considered a dwelling, except when it is permitted within a City-approved mobile home park or manufactured home park where the vehicle is connected to a electrical utility and city sewer and water systems in accordance with ORS 197.493.
  2. Lodging in a dwelling unit or Single Room Occupancy Hotel (SRO) where less than two thirds of the units are rented on a monthly basis or longer is considered a hotel or motel use and is classified in the Retail Sales and Service category. SROs which include common dining are classified as Group Living.



4. Guest houses that contain kitchen facilities are not accessory to Household Living uses; such houses may be allowed as Accessory Dwellings or as part of a multifamily development, subject to applicable code requirements.
5. In certain situations, lodging where tenancy may be arranged for periods less than one (1) month may be classified as a Community Service use, such as publicly assisted, short term housing or mass shelter in the event of an emergency declared by a government agency.

## Commercial Use Categories

### 5-1.3.200 Commercial Outdoor Recreation

- A. Characteristics.** Commercial Outdoor Recreation uses are large, generally commercial uses that provide continuous or temporary recreation or entertainment oriented activities. They generally take place outdoors. They may take place in a number of structures which are arranged together in an outdoor setting. (Temporary uses are subject to Chapter 5-4.9.)
- 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, farmer's market, flea market, arts and crafts fair, miniature golf facilities, and similar commercial venues.
- D. Exceptions.**
  - 1. Golf courses, including up to 2,000 square feet of accessory commercial floor area (*e.g.*, clubhouse, restaurant, equipment sales and rental) are classified as Parks and Open Space. Golf courses with a commercial component exceeding 2,000 square feet commercial floor area are considered Retail Sales and Service.
  - 2. Uses that draw large numbers of people to periodic events, rather than on a continuous basis, are classified as Major Event Entertainment.

### 5-1.3.210 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 which 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 Article 5-6 Definitions.

#### **5-1.3.220 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 6.1, Definitions) Except for electric fueling facilities for individual vehicles that are accessory to a primary use (e.g., electrical outlet at a residence or at a place of employment), vehicle fueling stations are classified as a primary use (Quick Vehicle Servicing).

**B. Accessory Uses.** Accessory uses may include auto repair and tire sales, mini mart or similar convenience retail uses.

**C. Examples.** Examples include full-serve and mini-serve gas stations, unattended card key stations, car washes, and quick lubrication services where service is typically provided in less than one hour.

#### **D. Exceptions.**

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

#### **5-1.3.230 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, concert halls, 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.

**5-1.3.235 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 vocational education, or supplemental academic 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 customers and employees.
- C. Examples.** Examples include vocational schools, tutoring centers, computer classes, after school learning centers for grades K-12, and arts and crafts classes.

**5-1.3.240 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 may be 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. A governmental office may be classified as Office, Community Service, or other use based on its predominate function.

#### 5-1.3.250 Retail Sales and Commercial Services

- A. Characteristics.** Retail Sales and Commercial Service firms are include firms that sell, lease or rent new or used products to the general public; eating and drinking establishments; firms providing personal services, overnight accommodations, or entertainment; and firms providing 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, meeting facilities, recreation facilities (e.g., with hotel), and parking, subject to applicable Code requirements.
- C. Examples.** Examples include uses from the four subgroups listed below:
1. ***Sales of Goods:*** 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 Services:*** Branch banks; urgent medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, gym, health or athletic club, and personal care services; tax preparers, accountants, real estate, legal, financial services; business, martial arts, and other trade schools; dance or music classes; child care center (not family day care); mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.
  3. ***Eating and Drinking Establishments:*** Restaurants, cafes, delicatessens, brewpubs, taverns, and bars, and similar uses.
  4. ***Entertainment:*** Indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges; theaters, membership clubs, and lodges.
  5. ***Overnight Accommodations:*** Hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days. Note: Some types of overnight accommodation are classified/permitted separately as Bed and Breakfast Inns or Short-Term Vacation Rentals.

6. **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 to contractors and not retail customers are classified as Wholesale Sales.
2. The sale of landscape materials, including bark chips and compost not in conjunction with a primary retail use in a building, is classified as Industrial Service.
3. Repair and service of consumer motor vehicles, motorcycles, light and medium trucks and small personal transportation devices (*e.g.*, electric carts) and garden tractors, is classified as Vehicle Repair. Repair and service of industrial vehicles and equipment, including farm, construction and other heavy 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, which is classified as Industrial Service.
6. In certain situations, hotels and motels may be classified as a Community Service use, such as publicly assisted, short term housing or mass shelter in the event of an emergency declared by a government agency. See Community Services.
7. When kennels are limited to boarding the applicant may choose to classify the use as Retail Sales and Service or Agriculture.

**5-1.3.260 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 (1) 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 any individual storage areas are incidental to transfer and storage operations, or where employees are the primary movers of the goods to be stored or transferred, is in the Warehouse and Freight Movement category.

**5-1.3.270 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.
- 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

### 5-1.3.300 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.

### 5-1.3.310 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, as distinguished from Retail Sales and Services where customers routinely come to the business.



**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 (1) 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 when not accessory to a Commercial Service Use; slaughter houses, taxidermist, 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; where the majority of traffic to the business is for retail sales and the manufacturing use is entirely indoors, the use will be categorized as Retail Sales and Service.
2. Manufacture and production of goods from composting organic material are classified as Waste-Related uses.

**5-1.3.320 Warehouse, Freight Movement, and Distribution**

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

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

**C. Examples.** Examples include separate or off-site 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.

**5-1.3.330 Waste-Related; Recycling Facilities**

**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, store, sort, and distribute post-consumer recyclable materials; and those 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 offices, repackaging and transshipment of by-products, and recycling of materials.

**C. Examples.** Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, recycling centers, 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.
3. Excavation is considered Development or Mining, as applicable.

**5-1.3.340 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 and the customer traffic generated.
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

### 5-1.3.400 Basic Utilities, Private and Public

- A. Characteristics.** Basic Utilities are infrastructure services, which need to be located in or near the area where the service is provided. Basic Utility uses may or may not have regular employees at the site. Services may be public or privately provided. Public safety facilities may be classified as Basic Utilities.
- B. Accessory uses.** Accessory uses may include parking; control, monitoring, data or transmission equipment.
- 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, and public safety facilities; district heating and cooling systems; solar, wind, or geothermal power generation facilities that are not accessory to a primary structure but serve a single development, subdivision, or subarea of the City; and emergency communication broadcast facilities. Larger-scale utility facilities, and those that do not conform to the above definition (e.g., biomass power generation), may be classified as Industrial uses or “Other” uses (e.g., Utility Corridor) as applicable.
- D. Exceptions.**
1. Services where people are generally present, other than bus stops or turnarounds, 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 and similar facilities 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.

### 5-1.3.420 Community Services; Government Offices

- A. Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community, except for Schools, which are categorized separately. 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. Private lodges, clubs, and non-profit athletic or health clubs that have membership provisions are open to the general public to join at any time may be considered a Community Service. Uses providing mass shelter or short term housing where tenancy may be arranged for periods of less than one (1) month when operated by a public or non-profit agency may also be considered a Community Service. 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 (child or adult); and athletic facilities.

**C. Examples.** Examples include city hall, county government and administrative offices, public safety facilities, 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 distribution centers.

**D. Exceptions.**

1. Private commercial athletic clubs, golf clubs (*e.g.*, clubhouse or restaurant exceeding 2,000 square feet of floor area), and private museums and similar commercial uses are classified as Retail Sales and Services.
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 may also be classified as Basic Utilities.

**5-1.3.430 Daycare**

**A. Characteristics.** Daycare use includes day or evening care of two (2) 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. See also, exception below for Family Daycare, which is a different use category.

**B. Accessory Uses.** Accessory uses include offices, play areas, 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 if the care is given to 16 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.

#### **5-1.3.450 Medical Centers**

**A. Characteristics.** Medical Centers includes uses providing medical or surgical care to patients and offering overnight care.

**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 (medical, dental, vision, and similar clinics) that provide care where patients are generally not kept overnight are classified as Office.
3. Urgency medical care clinics not otherwise part of a Medical Center use are classified as Retail Sales and Service.

#### **5-1.3.460 Parks and Open Space Areas**

**A. Characteristics.** Parks and Open Space Areas are uses of land focusing on natural areas, public parks, private open areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures and structures are accessory to the primary park or outdoor recreation use.

**B. Accessory uses.** Accessory uses may include club houses, maintenance facilities, concessions (as with athletic fields), caretaker's quarters, and parking.

**C. Examples.** Examples include parks, golf courses, cemeteries, public squares, plazas, recreational trails, botanical gardens, boat launching areas, nature preserves, and open space that is not part of an Agricultural use.

#### **5-1.3.470 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 (1) 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. Additional housing may be permitted as a primary use on the same site as a Religious Institution or Place of Worship subject to applicable Code requirements.
- C. Examples.** Examples include churches, temples, synagogues, and mosques. See also, Religious Schools included in 5-1.3.480 Schools.

#### **5-1.3.480 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 and similar academies.
- D. Exceptions.**
1. Preschools are classified as Daycare uses.
  2. Business and trade schools are classified as Retail Sales and Service.

#### **5-1.3.490 Incarceration Facilities**

- A. Characteristics.** This category includes law enforcement incarceration facilities that are not accessory to a police station or law enforcement office.
- B. Accessory uses.** Accessory uses include visitor areas, cafeterias, recreational and sport facilities, and educational facilities.

**C. Examples.** Examples include short- and long-term city, county, state, or federal law enforcement facilities, at any designated level of security.

**D. Exceptions.**

*[reserved]*



## Other Use Categories

### 5-1.3.500 Agriculture and Keeping of Animals

**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 and veterinary services.

**C. Examples.** Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; veterinary services; 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.
5. Gardens and hobby farms (e.g., less than one acre) may be classified as accessory to a Residential Use.

### 5-1.3.510 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. Note: Land use approval is required prior to any grading or clearing of vegetation from a site, even if the intended use is not Mining. In such case, the land use designation is the same as that for which the clearing or grading is proposed.

**D. Exceptions.** *[Reserved]***5-1.3.520 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.

**5-1.3.530 Transportation Facilities and Improvements**

**A. Characteristics.** The physical improvements used to move people and goods from one place to another, i.e., streets, sidewalks, pathways, bike lanes, transit stations and bus stops.

**B. Examples.** Examples include transportation capital improvements; normal operation, maintenance, repair, and preservation activities of transportation facilities; installation of culverts, pathways, medians, fences, guardrails, lighting, landscaping and similar types of improvements when associated with transportation facilities; emergency measures associated with a transportation facility and necessary for the safety and protection of life or property; and construction of a street or road as part of a City approved land division.

**C. Exceptions.**

*[Reserved.]*

**5-1.3.540 Utility Corridors**

**A. Characteristics.** The category includes public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, natural gas, or other similar services on a regional level beyond the City of John Day.

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

**C. Exceptions.**

*[Reserved.]*

<b>ARTICLE 5-2 - LAND USE DISTRICTS</b>	<b>3</b>
<b>Chapter 5-2.1 - Organization of Land Use Districts</b>	<b>4</b>
5-2.1.010 Classification of Land Use Districts	4
5-2.1.020 Land Use District Map	5
5-2.1.030 Determination of Land Use District Boundaries	5
<b>Chapter 5-2.2 - Residential Land Use Districts</b>	<b>6</b>
5-2.2.010 Residential Districts – Purpose	6
5-2.2.020 Residential Districts – Allowed Land Uses	7
5-2.2.030 Residential Districts – Development Standards	12
5-2.2.040 Residential Districts – Setback Yard Purpose, Exceptions, Reverse Frontage Lots, Flag Lots	16
5-2.2.050 Residential Districts – Infill Standards	17
5-2.2.060 Residential Districts – Housing Density	19
5-2.2.070 Residential Districts – Lot Coverage and Impervious Surfaces	19
5-2.2.080 Residential Districts – Building Height: Measurement, Exceptions, RL Step-Down	20
5-2.2.090 Residential Districts – Building Orientation	22
5-2.2.100 – Residential Districts – Special Use Standards	27
<b>Chapter 5-2.3 – Commercial Districts</b>	<b>43</b>
5-2.3.010 Commercial Districts – Purpose	43
5-2.3.020 Commercial Districts – Allowed Land Uses	44
5-2.3.030 Commercial Districts – Development Standards	48
5-2.3.040 Commercial Districts – Zero Setbacks and Build-To Line	50
5-2.3.050 Commercial Districts – Lot Coverage and Impervious Surface	50
5-2.3.060 Commercial Districts – Building Orientation and Commercial Block Layout	51
5-2.3.070 Commercial Districts – Building and Structure Height; Bonus for Mixed-Use	54
5-2.3.080 Commercial Districts – Architectural Design Standards	55
5-2.3.090 Commercial Districts – Pedestrian Amenities	58
5-2.3.100 Commercial Districts – Special Use Standards	59
<b>Chapter 5-2.4 –Industrial (I) Districts</b>	<b>60</b>
5-2.4.010 Industrial Districts – Purpose	60
5-2.4.020 Industrial Districts – Allowed Land Uses	61
5-2.4.030 Industrial Districts – Setback Yards; Industrial Buffers	65
5-2.4.040 Industrial Districts – Lot Coverage	66
5-2.4.050 Industrial Districts – Site Layout and Design	66
5-2.4.060 Industrial Districts – Building and Structure Height	67
<b>Chapter 5-2.5. Airport Safety and Compatibility Overlay (AASC) Zone</b>	<b>68</b>
5-2.5.010 Scope and Purpose of Regulations	68
5-2.5.020 Definitions	68
5-2.5.030 Imaginary Surface and Noise Impact Boundary Delineation	72
5-2.5.040 Notice of Land Use and Permit Applications within Overlay Zone Area	72
5-2.5.050 Height Limitations on Allowed Uses in Underlying Zones	73
5-2.5.060 Procedures	73
5-2.5.070 Land Use Compatibility Requirements	73
5-2.5.080 Water Impoundments ... and Airport Direct and Secondary Impact Boundaries	76
5-2.5.090 Wetland ... within Approach Surfaces and Airport Direct and Secondary Impact Boundaries	76
5-2.5.100 Nonconforming Uses	77
5-2.5.110 Avigation Easement Required	77
<b>5-2.6. Geological Hazard (GH) Overlay</b>	<b>79</b>

5-2.6.010	Scope and Purpose Of Regulations	79
5-2.6.020	Application Of Provisions	79
5-2.6.030	Uses Permitted Outright	79
5-2.6.040	Conditional Use Permitted In The GH Zone	80
5-2.6.050	Permit For Use Or Development	80
5-2.6.060	Application Requirements For Use	80
5-2.6.070	Standards For Building Construction In GH Zone	82
5-2.6.080	Standards For An Access Route	83
5-2.6.090	Regulations Not A Guarantee	83
<b>5-2.7.</b>	<b>Park Reserve (PR) Overlay</b>	<b>84</b>
5-2.7.010	Scope and Purpose of Regulations	84
5-2.7.020	Uses Permitted Outright	84
5-2.7.030	Conditional Uses Permitted	84
5-2.7.040	Dimensional Standards	85
5-2.7.050	Setbacks	85
5-2.7.060	Limitations On Conditional Uses	85
<b>5-2.8.</b>	<b>Greenway (GW) Overlay</b>	<b>87</b>
5-2.8.010	Purpose	87
5-2.8.020	Uses Permitted Outright	87
5-2.8.030	Conditional Uses	87
5-2.8.040	Limitations On Uses	87
5-2.8.050	Review Process	88
5-2.8.060	Zone Application	88
5-2.8.070	Review Factors	88
<b>5-2.9.</b>	<b>Flood Plain (FP) Overlay</b>	<b>89</b>
5-2.9.010	Purpose	89
5-2.9.020	Applicability	89
5-2.9.030	Definitions - Flood Hazard Provisions	90
5-2.9.040	Review Procedures	93
5-2.9.050	Information Required for Floodplain or Riparian Development Proposals	94
5-2.9.060	Floodplain Review Criteria	94
5-2.9.070	Floodplain Development Standards	95
5-2.9.080	Variances Within a Floodplain	97
5-2.9.090	Floodplain Data	98
5-2.9.100	Alteration of Watercourses	98
<b>5-2.10.</b>	<b>Public Facilities (PF) Overlay</b>	<b>99</b>
5-2.10.010	Purpose Of Regulations	99
5-2.10.020	Applicability	99
5-2.10.030	Uses Permitted Outright	99
5-2.10.040	Conditional Uses Permitted	100
5-2.10.050	Dimensional Standards	100
5-2.10.060	Setbacks	100
5-2.10.070	Development Standards	100

## **Article 5-2 - Land Use Districts**

### **Chapters:**

- 5-2.1. Organization of Land Use Districts
- 5-2.2. Residential (R) Districts
- 5-2.3. Commercial (C) Districts
- 5-2.4. Industrial (I) Districts
- 5-2.5. Airport Safety and Compatibility Overlay (AASC) Zone
- 5-2.6. Geological Hazard (GH) Overlay
- 5-2.7. Open Space (OS) Overlay
- 5-2.7. Park Reserve (PR) Overlay
- 5-2.8. Greenway (GW) Overlay
- 5-2.10 Floodplain (FP) Overlay
- 5-2.10 Public Facilities (PF) Overlay

## Chapter 5-2.1 - Organization of Land Use Districts

### Sections:

**5-2.1.010 Classification of Land Use Districts**

**5-2.1.020 Land Use District Map**

**5-2.1.030 Determination of Land Use District Boundaries**

### **5-2.1.010 Classification of Land Use Districts**

Every parcel, lot, and tract of land within the City of John Day 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 Land Use District Map and the provisions of this Chapter, which shall be consistent with the City of John Day Comprehensive Plan, as indicated in Table 5-2.1.010.

**Table 5-2.1.010**

<b>Comprehensive Plan Designation</b>	<b>Applicable Land Use District</b>
Residential Limited	RL
Residential General	RG
Residential Limited or Residential General	Residential Commercial (RC) allowed with rezoning
Downtown	Downtown
General Commercial	General Commercial
General Industrial	GI
Light Industrial	LI
Airport (Ogilvie Field)	Airport Industrial Park (AIP)
<b>Overlay/Combining Zones</b>	
Airport Approach	Airport Safety & Compatibility Overlay (AASC)
Geological Hazard	GH
Park Reserve	PR
Greenway	GW
Floodplain	FP
Public Facilities	PF

#### 5-2.1.020 Land Use District Map

- A. Consistency with Land Use District Map.** The boundaries of the land use districts contained within this chapter shall coincide with the land use district 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 City shall maintain the official zoning map, and any map amendments.
- 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.

#### 5-2.1.030 Determination of Land Use District Boundaries

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 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 centerlines of streets, highways, railroad tracks, alleys, irrigation canals, bridges, or other right-of-way shall be construed to follow such centerlines. 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 Code Interpretation procedure, in accordance with Chapter 5-4.8.



## Chapter 5-2.2 - Residential Land Use Districts

### Sections:

- 5-2.2.010 Residential Districts – Purpose**
- 5-2.2.020 Residential Districts – Allowed Land Uses**
- 5-2.2.030 Residential Districts – Development Standards**
- 5-2.2.040 Residential Districts – Setback Yards and Build-To Line: Exceptions, Reverse Frontage Lots, Flag Lots**
- 5-2.2.050 Residential Districts – Infill Standards**
- 5-2.2.060 Residential Districts – Housing Density**
- 5-2.2.070 Residential Districts – Lot Coverage and Impervious Surfaces**
- 5-2.2.080 Residential Districts – Building Height: Measurement, Exceptions, RL Step-Down Requirement**
- 5-2.2.090 Residential Districts – Building Orientation**
- 5-2.2.100 Residential Districts – Special Use Standards**

### **5-2.2.010 Residential Districts – Purpose**

The Residential Districts are intended to promote the livability, stability and improvement of the City's neighborhoods. Three districts are provided: 1) The Residential Limited (RL) district is intended to accommodate a wide variety of housing types, including attached and detached housing on small to medium size lots in the neighborhoods close to downtown. The RL district also supports parks, schools, places of worship, and other services at an appropriate neighborhood scale; 2) The Residential General (RG) district is intended to accommodate household living at somewhat lower densities than the RL district because it applies to the hillsides of John Day; and 3) The Residential-Commercial (RC) district is intended to encourage business formation, housing options, and transportation efficiency by combining a variety of housing, like that allowed in the RL district, with public and commercial services at an appropriate neighborhood scale. This chapter provides standards for land use and development in each of the three 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.
- Provide direct and convenient access to schools, parks and neighborhood services.
- Maintain and enhance the City's historic character and traditional neighborhoods.

## 5-2.2 – Residential (R) Land Use Districts – Allowed Land Uses

### 5-2.2.020 Residential Districts – Allowed Land Uses

Table 5-2.2.020 identifies the land uses that are allowed in the Residential Districts. The specific land use categories are described and uses are defined in Chapter 5-1.3.

Table 5-2.2.020 – Land Uses Allowed in Residential Districts (RL, RG, RC)				
Uses	Status of Use in District			
Use Categories (Examples of uses are in Chapter 5-1.3; definitions are in Chapter 5-6.1)	Residential Limited (RL)	Residential General (RG)	Residential Commercial (RC)	[Reserve]
<b>Residential Categories</b>				
<b>Household Living</b>				
Single Family (not attached)	P	P	P	
Accessory Dwelling, per Section 5-2.2.100A.	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	P	P	P	
- More than one duplex (4+ units), per Section 5-2.2.100B	S	S	S	
Single Family Attached (2 or more common-wall single family dwellings), each on its own lot, per Section 5-2.2.100B	S	S	S	
Cottage Cluster (2-4 single family dwellings on one lot, accessed via an alley and oriented to a common green of at least 200 sq ft per unit, and each unit containing not more than 1,000 square feet of floor area)	P	P	P	
Manufactured Home, per Section 5-2.2.100F	S	S	S	
Manufactured Home Park, per Section 5-2.2.100G.	CU	S	CU	

**Key:**

P = Permitted, subject to site/development review

S = Permitted with standards (Section 5-2.2.100)

CU = Conditional Use permit required (Chapter 5-4.4)

N = Not permitted

5-2.2 – Residential (R) Land Use Districts – Allowed Land Uses

Table 5-2.2.020 – Land Uses Allowed in Residential Districts (RL, RG, RC)				
<i>Uses</i>	<i>Status of Use in District</i>			
<b>Use Categories</b> (Examples of uses are in Chapter 5-1.3; definitions are in Chapter 5-6.1)	<b>Residential Limited (RL)</b>	<b>Residential General (RG)</b>	<b>Residential Commercial (RC)</b>	<i>[Reserve]</i>
Zero Lot Line Housing (not common wall), per Section 5-2.2.100J	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), per Section 2.2.100H	S	S	S	
<b>Group Living</b>				
Group Care Home, per Section 5-2.2.100D	S	S	S	
Group Care Facility, per Section 5-2.2.100D	N	S	S	
<b>Commercial Categories</b>				
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 5-2.3.100A	N	N	N	
Bed and Breakfast Inn, per Sec. 5-2.2.100C	CU+S	CU+S	S	
Educational Services, not a school (e.g., tutoring or similar services), floor area limited to 2,000 square feet per use	N	N	P	
Entertainment, Major Event	N	N	N	
Home Occupation, per the standards in Section 5-2.2.100E and the procedures in Section 5- 4.9.020.	S	S	S	

**Key:**

P = Permitted, subject to site/development review

S = Permitted with standards (Section 5-2.2.100)

CU = Conditional Use permit required (Chapter 5-4.4)

N = Not permitted

## 5-2.2 – Residential (R) Land Use Districts – Allowed Land Uses

Table 5-2.2.020 – Land Uses Allowed in Residential Districts (RL, RG, RC)				
Uses	Status of Use in District			
Use Categories <i>(Examples of uses are in Chapter 5-1.3; definitions are in Chapter 5-6.1)</i>	Residential Limited (RL)	Residential General (RG)	Residential Commercial (RC)	[Reserve]
Office, floor area (limited to 2,000 square feet floor area per use)	N	N	P	
Outdoor Recreation, Commercial	N	N	N	
Quick Vehicle Servicing or Vehicle Repair	N	N	N	
Retail Sales and Commercial Services (limited to 2,000 square feet floor area per use)	N	N	P	
Self-Service Storage	N	N	N	
Short-Term Vacation Rental, per Section 5-2.2.100I	CU+S	CU+S	S	
<b>Industrial Categories</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	
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	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 5-2.2.100)
- CU = Conditional Use permit required (Chapter 5-4.4)
- N = Not permitted

## 5-2.2 – Residential (R) Land Use Districts – Allowed Land Uses

Table 5-2.2.020 – Land Uses Allowed in Residential Districts (RL, RG, RC)				
<i>Uses</i>	<i>Status of Use in District</i>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 5-1.3; definitions are in Chapter 5-6.1)</i>	Residential Limited (RL)	Residential General (RG)	Residential Commercial (RC)	[Reserve]
<b>Daycare</b>  Family Daycare (16 or fewer children) as allowed under ORS 657A.250 and ORS 657A.440(4), subject to State licensing  Daycare Center subject to State licensing  Adult daycare, subject to State licensing	P   CU  P	P   CU  P	P   P  P	
<b>Parks and Open Space</b>  Parks and Open Space, when designated on an adopted Specific Area Plan, or when part of a subdivision application (Chapter 5-4.3) or master planned development application (Chapter 5-4.5)	CU  P	CU  P	CU  P	
Religious Institutions and Houses of Worship	CU	CU	CU	
Schools	CU	CU	CU	
<b>Other Categories</b>				
<b>Other Categories</b> Accessory Structures (with a permitted use) <ul style="list-style-type: none"> <li>- no taller than 14 ft. and no larger than 1,000 square feet of building footprint</li> <li>- taller than 14 ft. or larger than 1,000 square feet of building footprint</li> </ul>	P  CU	P  CU	P  CU	
Animals, keeping of	Per John Day Municipal Code			

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 5-2.2.100)
- CU = Conditional Use permit required (Chapter 5-4.4)
- N = Not permitted

## 5-2.2 – Residential (R) Land Use Districts – Allowed Land Uses

Table 5-2.2.020 – Land Uses Allowed in Residential Districts (RL, RG, RC)				
<i>Uses</i>	<i>Status of Use in District</i>			
<b>Use Categories</b> <i>(Examples of uses are in Chapter 5-1.3; definitions are in Chapter 5-6.1)</i>	<b>Residential Limited (RL)</b>	<b>Residential General (RG)</b>	<b>Residential Commercial (RC)</b>	<i>[Reserve]</i>
Agriculture – Nurseries and similar horticulture (indoor or outdoor)	N	N	CU	
Mining	N	N	N	
Radio Frequency Transmission Facilities	CU	CU	CU	
Utility Corridors, Regional  Regional utility corridors extending through the City and existing prior to November 24, 2005 are permitted. All other regional utility corridors require a conditional use permit.	CU	CU	CU	
Temporary Uses (limited to “P” and “CU” uses), per Section 5-4.9.010.	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	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 5-2.2.100)
- CU = Conditional Use permit required (Chapter 5-4.4)
- N = Not permitted

**5-2.2.030 Residential Districts – Development Standards**

The development standards in Table 5-2.2.030 apply to all uses, structures, buildings, and development, and major remodels, in the Residential Districts.

<b>Table 5-2.2.030 – Development Standards for Residential Districts (except as modified by 5-4.4 Master Planned Development)</b>				
<b>Standard</b>	<b>RL</b>	<b>RG</b>	<b>RC</b>	<b>[Reserve]</b>
<b>Minimum Lot Area* (square feet)</b>				
Single Family, not attached	5,000 sf	10,000 sf	5,000 sf	
Single Family, attached	4,000 sf	6,000 sf	3,000 sf	
Single Family with Secondary DU	7,500 sf	10,000 sf	6,000 sf	
Duplex	7,500 sf	12,000 sf	7,500 sf	
Multiple-Family or Cottage Cluster	10,000 sf	12,000 sf	10,000 sf	
Non-Residential Uses	10,000 sf	10,000 sf	10,000 sf	
Lot Size on Slopes >20%, except as modified through a Master Planned Development	10,000 sf	10,000 sf	10,000 sf	
*Average lot size in land divisions may be reduced through <i>lot size averaging</i> . See related procedures in Chapter 5- 4.3.115. Minimum lot sizes do not apply to open space tracts.				
<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 building line.</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 5- 4.3.115.				

5-2.2 – Residential (R) Land Use Districts – Development Standards

**Table 5-2.2.030 – Development Standards for Residential Districts  
(except as modified by 5-4.4 Master Planned Development)**

<b>Standard</b>	<b>RL</b>	<b>RG</b>	<b>RC</b>	<b>[Reserve]</b>
<p><b><u>Building/Structure Height</u></b> (See also, Sections 5-2.2.040 Setback Yards; 5-2.2.050, Infill Standards; 5-2.2.080, RL Height Step-Down; 5-3.1.2, Clear Vision, and 5-3.2.500, Fences and Walls.)</p> <p><u>Level Site (slope less than 15%), maximum height</u></p> <p><u>Sloping Site (15% or greater), maximum height</u></p> <p><u>Building Height Transition</u> Required Adjacent to RL District, per Section 5-2.2.080</p> <p><u>Fences, Retaining/Garden Walls</u> See requirements in Section 5-3.2.050</p>	<p>35 ft 45 ft with CUP</p> <p>level site +5'</p> <p>No</p>	<p>35 ft 45 ft with CUP</p> <p>level site +5'</p> <p>Yes</p>	<p>35 ft 45 ft with CUP</p> <p>level site +5'</p> <p>Yes</p>	
<p><u>Lot Coverage (two options)</u></p> <p>1. Maximum Building Coverage (Foundation plane as % of lot area)</p> <p><u>Single-Family Dwelling</u></p> <p><u>Single Family – Common Wall</u></p> <p><u>Duplex</u></p> <p><u>Multifamily or Cottage Cluster</u></p> <p><u>Mixed-Use/Live-Work/Commercial</u></p> <p><u>Civic/Institutional/Open Space</u></p>	<p>50%</p> <p>70%</p> <p>60%</p> <p>60%</p> <p>NA</p> <p>60%</p>	<p>40%</p> <p>60%</p> <p>60%</p> <p>60%</p> <p>NA</p> <p>60%</p>	<p>50%</p> <p>70%</p> <p>60%</p> <p>60%</p> <p>70%</p> <p>60%</p>	
<p>2. Coverage Bonus</p>	<p>The allowable building coverage increases by a ratio of one-half (1/2) square foot for every one (1) square foot of required parking area that is paved using a City-approved porous/permeable paving material (i.e., allowing stormwater infiltration) or 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.</p>			



## 5-2.2 – Residential (R) Land Use Districts – Development Standards

**Table 5-2.2.030 – Development Standards for Residential Districts  
(except as modified by 5-4.4 Master Planned Development)**

<b>Standard</b>	<b>RL</b>	<b>RG</b>	<b>RC</b>	<b>[Reserve]</b>
<b>Min. Landscape Area (% site area)</b> , except does not apply to Single Family Dwellings. Landscape area may include plant areas and some non- plant areas as allowed under Section 5-3.2.300.D.	7%	10%	7%	
<b>Minimum Setbacks (feet):</b> (See also, Sections 5-2.2.040 Setback Yards; 5- 2.2.050, Infill Standards; 5-2.2.080, RL Height Step-Down; 5-3.1.2, Clear Vision, and 5-3.2.500, Fences and Walls.)  <b>Front/Street Setback (includes corner yards abutting street)</b>  <u>Standard Minimum Setback</u>  <u>Garages and Carport Entries</u> (minimum distance from garage/carport opening to sidewalk or right-of-way, whichever is closest)  <u>Open Structures</u> (e.g., porch, balcony, portico, patio, wall), where structure is less than 50% enclosed on side elevations and does not encroach into utility easement	15 ft  20 ft  5 ft	15 ft  20 ft  5 ft	10 ft  20 ft  5 ft	

**Note: Other standards may preclude building at a minimum setback. Avoid utilities and easements. See also, special setbacks for planned street improvements.**

5-2.2 – Residential (R) Land Use Districts – Development Standards

**Table 5-2.2.030 – Development Standards for Residential Districts  
(except as modified by 5-4.4 Master Planned Development)**

<b>Standard</b>	<b>RL</b>	<b>RG</b>	<b>RC</b>	<b>[Reserve]</b>
<b>Side Setback, except alleys and corner lots</b> <b>(total of 2 sides, 3 ft minimum)</b> <u>Structure &gt;28' height</u> <u>Structure 16'-28' height</u> <u>Structure &lt;=16' height</u> <b>Garage/Carport Entry, except alley</b> <b>Exceptions*</b> <u>Alley</u> <u>Open Structures</u> (e.g., porch, balcony, portico, patio wall), where structure is less than 50% enclosed on side elevations <u>Common Walls/Zero Lot Line</u> <i>*Sight distances shall be maintained along arterial and collector streets, per City standards. The City may defer to guidelines from the American Association of State Highway Officials (AASHTO).</i>	10 ft total 10 ft total 10 ft total  20 ft  3 ft  5 ft min. on side with open structure  10 ft one side	15 ft total 12 ft total 10 ft total  20 ft  3 ft  5 ft min. on side with open structure  10 ft one side	10 ft total 10 ft total 10 ft total  20 ft  3 ft  5 ft min. on side with open structure  10 ft one side	
<b>Rear Setback</b> <u>Standard Setback, except as approved for Common Walls</u> <u>Alley Setbacks</u>	10 ft  3 ft	15 ft  3 ft	10 ft  3 ft	
<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 (See also, Section 5-2.3.090)	Not Applicable	Not applicable	20 ft	
Special Setback for Planned Street Improvements	The City may require a minimum setback of up to 40 feet, measured from the street centerline to any structure, when a structure would abut a street containing less than the standard right-of-way for the subject street classification. Street classification and required right-of-way are as indicated by the City of John Day Transportation System Plan.			

### **5-2.2.040 Residential Districts – Setback Yard Purpose, 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 5-2.2.030 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 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 5-3.1.100 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 30 inches in height may encroach into setbacks as provided in Table 5-2.1.030. Walls and fences built on property lines are subject to the height standards in Table 5-2.1.030 and the provisions of Sections 5-3.1.100, Vision Clearance, and 5-3.2.500, Fences and Walls.

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

Buildings on reverse-frontage lots (through lots) shall be required to meet the front yard setback build-to line standard on only one street. Reverse frontage lots are subject to the fence height and setback requirements in Section 5-2.2.030 and the landscape buffer requirements in Chapter 5-3.2.300.

#### **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 flagpole from which access is taken.

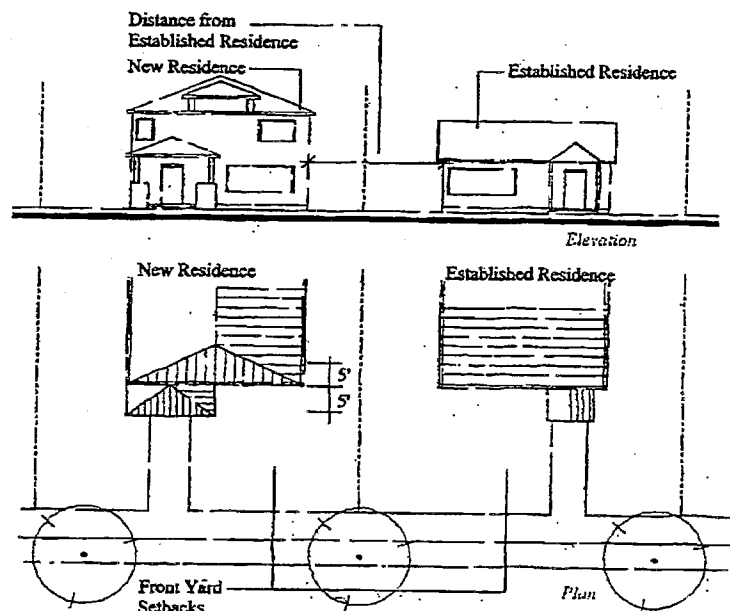
The applicant for a building permit may choose either Option 1 or Option 2, except as otherwise prescribed by conditions of a partition or subdivision approval. [Note: The City may impose such conditions as provided under Section 5-2.2.050 and Section 5-4.3.040.]

### 5-2.2.050 Residential Districts – Infill Standards

The purpose of Section 5-2.2.050 is to ensure compatibility of new development and redevelopment to existing residences and to provide flexibility in code standards. The setback standard in Section 5-2.2.050 supplements the standards in Table 5-2.2.030 when a building or building addition is proposed on a lot in a Residential District that was platted prior to *November 24, 2005*. The approval body shall use the criteria and standards in subsections A and B, below, in determining applicable setbacks and building heights.

- A. Compatibility with Yards of Adjacent Residence(s).** When an existing single family residence is located within 20 feet of a proposed dwelling or dwelling addition on the same side of the street, and said residence has a front yard setback that is less than the minimum setback in Section 5-2.2.030, a front yard setback “similar” to that of the nearest single family residence(s) may be used for the new dwelling or dwelling addition. “Similar” means the setback is equal to or within 5 feet of the setback provided by the nearest single family residence on the same side of the street, but in no case shall the setback be reduced to less than 10 feet. (Figure 5-2.2.050.A) For example, if the existing single family residence has a front yard setback of 10 feet, then the new or remodeled dwelling may have a front yard setback of 10 feet. If the new building is to be located between two existing residences, then the applicant may choose a setback for the new building that is within 5 feet of the average setback of both adjacent residences. In no case may a front setback be less than 10 feet, or less than the minimum special street setback along such designated streets.

Figure 5-2.2.050.A – Residential Infill Front Yards



- B. Exception to Standard for Redevelopment Potential on Adjacent Lot(s).** The provisions of Section 5-2.2.050.A allowing reduced setbacks do not apply when the approval body finds that the subject single family residential lots located within 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 the Grant 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.

**5-2.2.060 Residential Districts – Housing Density**

Allowable housing densities are calculated by dividing the total parcel or lot area by the applicable lot size standard after subtracting street rights-of-way. Areas reserved for flag lot access (flag poles) are not counted for the purpose of calculating minimum lot sizes.

**5-2.2.070 Residential Districts – Lot Coverage and Impervious Surfaces**

- A. Lot Coverage Calculation.** The maximum allowable lot coverage is as provided in Table 5-2.2.030. Lot coverage is calculated as the percentage of a lot or parcel covered by buildings or structures (as defined by the foundation plane) and other structures with surfaces greater than 36 inches above the finished grade. It does *not* include paved surface-level developments such as driveways, parking pads, and patios. See subsection B, Impervious Surfaces.
- B. Impervious Surface Calculation.** Impervious surfaces are calculated as the percentage of a lot or parcel covered by the foundation plane area (lot coverage) and other non-permeable surface-level development (e.g., asphalt, concrete, and similar impervious paving). It does not include planted areas, and other areas allowing stormwater infiltration, as approved by the City.

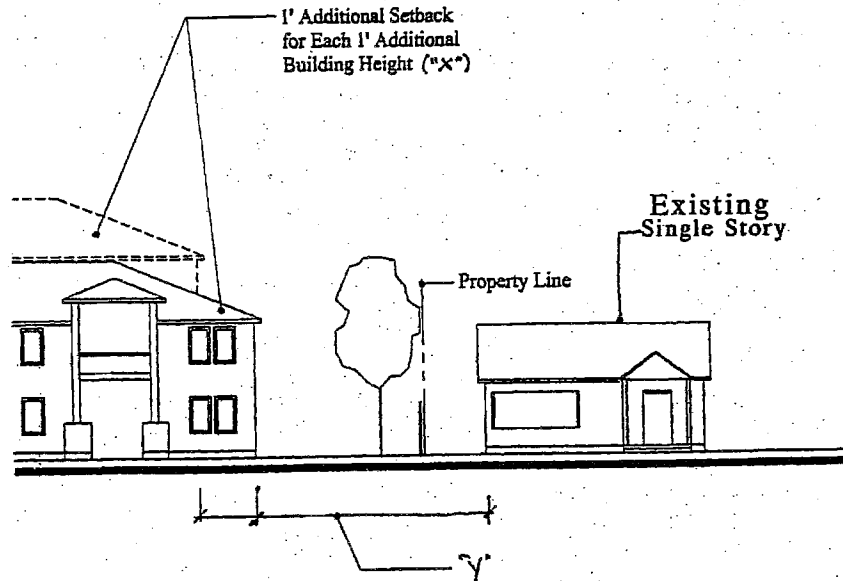
**5-2.2.080 Residential Districts – Building Height: Measurement, Exceptions, RL Step-Down Requirement**

Building heights shall conform to the standards in Table 5-2.2.030, and subsections A-C, below:

- A. Building Height Measurement.** Building height is measured as provided under the International Building Code.
- 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 and exterior lighting complies with Airport Safety and Compatibility Overlay zone requirements.
- 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 RC, GC, D, LI, and GI districts are required to “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 20 feet (as measured horizontally) of an existing single-story building in the RL District with a height of 20 feet or less, as shown in Figure 5-2.2.080.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 5-2.2.080.D.

**Figure 5-2.2.080.C - RL Height Step-Down/Transition**



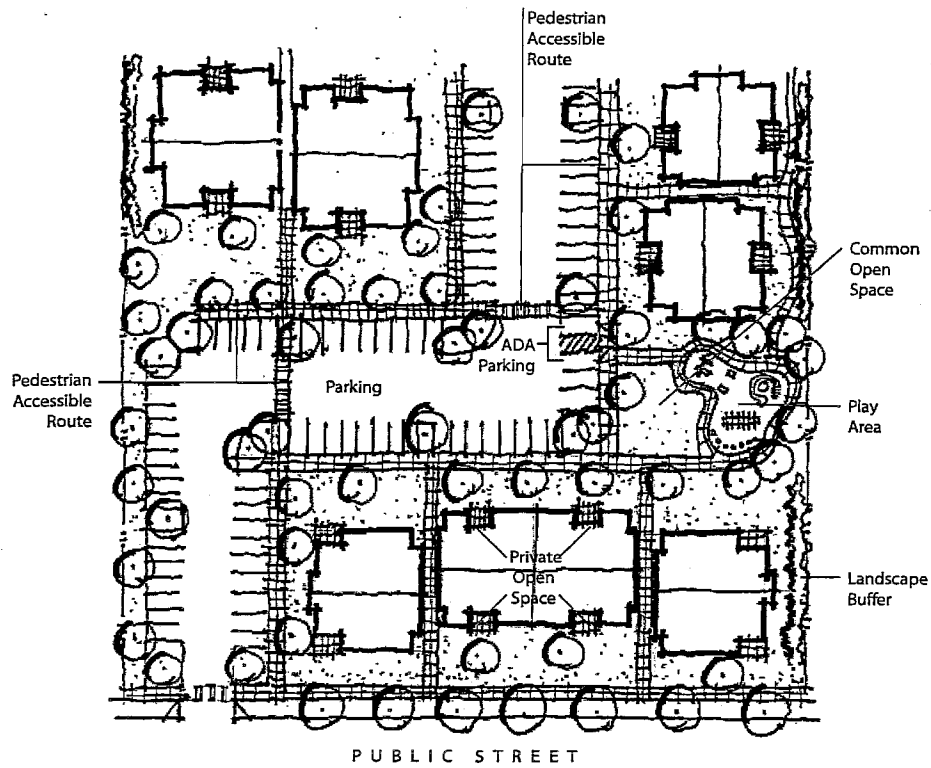
3. Exception: The provisions of subsections 5-2.2.080.C.1-2 do not apply when the approval body finds that the subject single story buildings located within 20 of the subject site are redevelopable. “Redevelopable,” for the purposes of this Section, means a lot either has an assessed market value that exceeds the assessed market value of all improvements on the lot, based on the most recent data from the Grant 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.



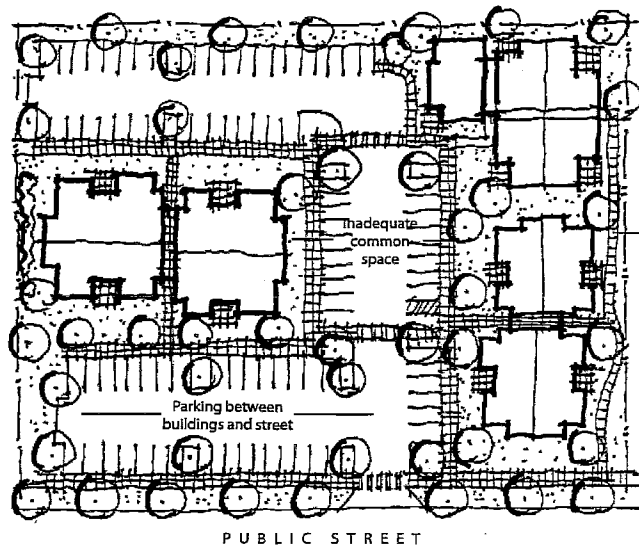
**5-2.2.090 Residential Districts – Building Orientation**

- A. Purpose.** The following standards are intended to orient building entrances close to streets to promote pedestrian-oriented development where walking is encouraged, and to avoid conflicts between pedestrians and vehicles. 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 5-2.2.090 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 5-2.2.090 shall have buildings that are oriented to a street. This standard is met when all of the following criteria are met:
1. Development in the RC zone is required to comply with build-to line standards in Section 5-2.2.030;
  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 40 feet from a street sidewalk. See Figures 5-2.2.090.C(1);

Figure 5-2.2.090.C(1) – Residential District Building Orientation



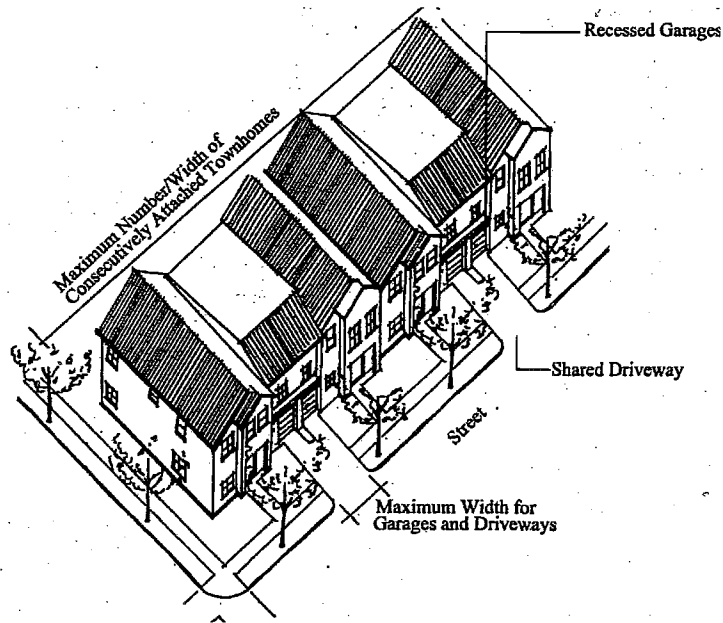
Site Plan - Acceptable



Site Plan - Unacceptable

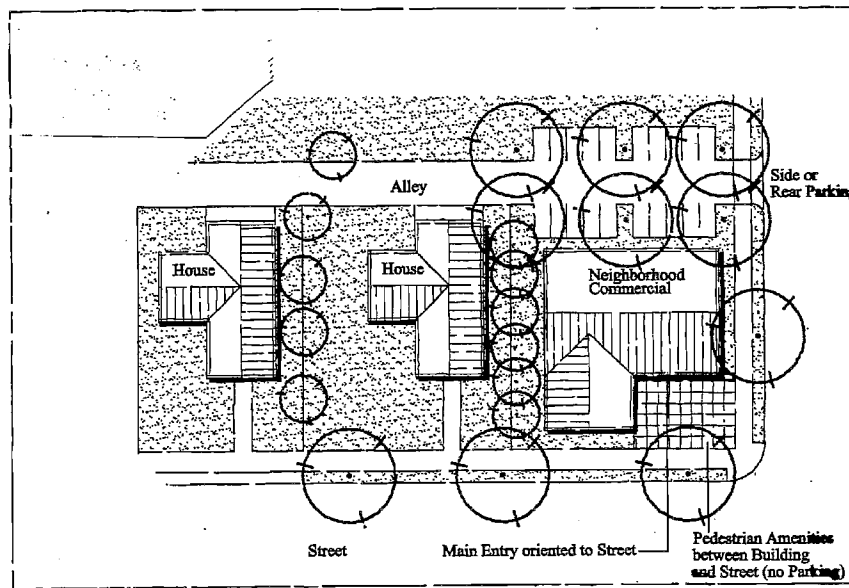
3. Off-street parking, driveways, and other vehicle areas shall not be placed between buildings and the street(s) to which they are oriented, as per subsection 2 and Figure 5-2.2.090C(1); except the following vehicle areas are allowed where the approval body finds that they will not adversely affect pedestrian safety and convenience:
  - a. Schools, multiple family buildings, assisted living facilities, and other institutional uses may have one driveway not exceeding 24 feet in width plus one row of parking on one or both sides of the driveway. ADA accessible spaces must be located closest to the primary building entrance, and the building's primary entrance must be connected to an adjacent street by a pedestrian walkway. In addition, the driveway/parking area must be crossed by a clearly defined pedestrian walkway, as required by Section 5-3.1.030. The intent of this exception is to allow driveways between primary building entrances and the street only when necessary and provided such driveways have walkways adjacent to them;
  - b. Attached single family housing developments (townhomes) with street-facing garages may have one driveway access located between the street and the primary building entrance for every two dwelling units, provided they meet the following criteria, as generally shown in Figure 5-2.2.090C(2):
    - 1) Where two 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. The driveway may taper out and be wider where it connects to paired garages;
    - 2) All primary building entrances shall be connected to a sidewalk or driveway via a pedestrian walkway that is not less than three (3) feet wide;
    - 3) The maximum number of consecutively attached townhomes with garages facing the same street is four (4) (two driveways); and
    - 4) Street-facing garages shall be setback at least 20 feet from the street; where a building is placed less than 20 feet from the street, the 20-foot garage setback may be accomplished by recessing the garage behind the front building elevation.

Figure 5-2.2.090.C(2) – Townhome Building Orientation



- c. Commercial buildings and uses (e.g., neighborhood commercial or mixed-use) 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 5-3.2, as generally shown in Figure 5-2.2.090.C(3). Off-street parking shall not be located between any building and any street.

Figure 5-2.2.090.C(3) – Commercial Orientation in a Residential District



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 5-3.1.030. See example in Figure 5-2.2.090C(1) “acceptable site plan.” See also, requirements for Cottage Cluster housing in Section 5-2.2.020.

### 5-2.2.100 – Residential Districts – Special Use Standards

Section 5-2.2.100 provides standards for specific land uses and building types, as identified in Table 5-2.2.020 that control the scale and compatibility of those uses within Residential Districts. The standards in Section 5-2.2.100 supplement (are in addition to and do not replace) the standards in Sections 5-2.2.010 through 5-2.2.090. This Section applies to the following uses and building types:

- A. Accessory Dwelling
- B. Attached Single Family (Townhouses or Rowhouses) and Attached Duplexes
- C. Bed and Breakfast Inns
- D. Group Living (Residential Care Homes and Residential Care Facilities)
- E. Home Occupations
- F. Manufactured Homes
- G. Manufactured/Mobile Home Parks
- H. Multiple Family Housing
- I. Short-Term Vacation Rentals
- J. Zero-Lot Line Housing (not common wall)
- K. Temporary Medical Hardship Dwellings

**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 exceeding 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 shall comply 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 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 dwelling units shall not exceed the height of the primary dwelling; 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.

**B. Attached Single Family (Townhouses and Rowhouses) and Duplexes.** Single-family attached housing with three or more dwellings (lots), and developments with two or more consecutively attached duplexes, shall comply with the standards in sub-sections 1 and 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 consecutively attached duplexes (4+ dwelling units), shall provide vehicle access to all such lots and units from an alley or shared driveway, as described in Section 5-3.1.020, to minimize the number of individual driveway approaches on adjacent streets.
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.

**C. Bed and Breakfast Inns.** Bed and Breakfast Inns are permitted in the Residential Districts, and shall comply with all of the following standards. (See also, Vacation Rentals, which are different than Bed and Breakfast Inns, under Section 5-2.2.100.I.)

1. Accessory Use. The use must be accessory to a household already occupying the structure as a residence.
2. Maximum Size. In the RL and RG zones, four (4) bedrooms for guests, and a maximum of eight (8) guests are permitted per night; in the RC zone, twelve (12) bedrooms are allowed for guests, with a maximum of twenty-four (24) guests per night. No separate structures are permitted, except for customary residential accessory structures as defined in section J. above.
3. Length of Stay. Maximum length of stay is 28 days per guest; anything longer is classified as a hotel or commercial lodging.
4. Employees. Up to two (2) non-resident employees. There is no limit on residential employees.
5. Food Service. Food service may be provided only to overnight guests of the business, except where zoning allows restaurant uses (e.g., RC District).
6. Owner-Occupied. Bed and breakfast inns shall be owner-occupied.
7. Signs. Signs shall not exceed a total of four (4) square feet of surface area on each side of one or two faces.
8. Business License. The Bed and Breakfast Inn owner shall maintain a current City of John Day business license.



**D. Group Living (Residential Care Homes and Residential Care 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. Developments with two or more homes, i.e., projects housing more than 5 individuals, are classified as residential care facilities. 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. Access. Comply with access and circulation requirements of Chapter 5-3.1.
3. Parking. Comply with parking requirements of Chapter 5-3.2.
4. Landscaping. Comply with landscaping of Chapter 5-3.3.
5. 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, landscaping, screening, transportation, and other requirements of this Code.

**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 a current business license and all other uses and structures on the subject property are in conformance with the applicable zoning; 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 5-4.9.020.

### **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 no other/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.

## 5-2.2 – 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. Advertising and Signs: Signs shall comply with all applicable sign regulations. In no case shall a sign in the Residential District exceed four (4) square feet of surface area on all sides.
5. Vehicles, Parking and Traffic:
- a. Off-street parking shall be provided for all commercially licensed vehicles associated with the home occupation. Such parking shall conform to the standards of Chapter 5-3.3.
  - 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.
6. 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, Monday through Friday, subject to subsections 1 and 5, above.
7. 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 objectionable impacts similar to those listed (i.e., due to motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, or other nuisance), are prohibited:
    - (1) Ambulance service;
    - (2) Animal hospital, veterinary services, kennels or animal boarding;

**5-2.2 – Residential (R) Land Use Districts – Special Use Standards: Home Occupations**

- (3) Auto and other vehicle repair, including auto painting; and
  - (4) Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.
8. Inspection: The Planning Official or designee may visit and inspect the site of a home occupation during normal business hours, and with reasonable notice, to ensure compliance with all applicable regulations.

**F. Manufactured Homes.** Manufactured homes are permitted on individual lots, subject to all of the following design standards. Manufactured dwellings relocated into the City of John Day shall conform to City standards. The following standards do not apply to units existing within the City prior to *November 24, 2005*, provided they were lawfully established.

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 which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (*e.g.*, horizontal wood or wood-appearance siding is considered “superior” to metal siding and 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. Flood Plain. Manufactured homes, when placed in a flood hazard area, pursuant to Chapter 5-2.9, shall comply with the following supplemental standards.
  - a. The stand shall be a minimum of 12 in. above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped. *[Manufactured Dwelling Specialty Code, 4-3.1(5)]*
  - b. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE. *[See definition of Lowest Floor in Manufactured Dwelling Specialty Code]*
  - c. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for anchoring

**5-2.2 – Residential (R) Land Use Districts – Special Use Standards: Manufactured Homes**

techniques). *[44 CFR 60.3(c)(6)]*

- d. Electrical crossover connections shall be a minimum of 12 inches above BFE.  
*[Manufactured Dwelling Specialty Code 6-4.2(1)]*
8. Foundation Skirt. The foundation area of the manufactured home shall be fully skirted with concrete, horizontal wood or vinyl siding, or other materials, pursuant to applicable building codes.
9. 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 compliance with subsections 1-5, below:

1. 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).
2. 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 446.010(c).
3. 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 which 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.
4. 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 10-foot wide landscape buffer between the right-of-way and a manufactured home park for the privacy and security of residents or aesthetics of the streetscape.
5. 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 which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered "superior" to metal siding and roofing);
  - c. Exception: Subsections a-b, above, do not apply to manufactured dwellings existing within the City prior to *November 24, 2005*.
6. Flood Plain. Manufactured homes, when placed in a flood hazard area, pursuant to Chapter 5-2.9, shall comply with the following supplemental standards.
  - a. The stand shall be a minimum of 12 in. above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped.  
[*Manufactured Dwelling Specialty Code, 4-3.1(5)*]
  - b. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the

#### 5-2.2 – Residential (R) Land Use Districts – Special Use Standards: Manufactured/Mobile Home Parks

lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE. *[See definition of Lowest Floor in Manufactured Dwelling Specialty Code]*

- c. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for anchoring techniques). *[44 CFR 60.3(c)(6)]*
- d. Electrical crossover connections shall be a minimum of 12 inches above BFE. *[Manufactured Dwelling Specialty Code 6-4.2(1)]*



**H. Multiple Family Housing.** Where multiple 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 5-2.2.100.H provides a conceptual illustration of the requirements listed below.

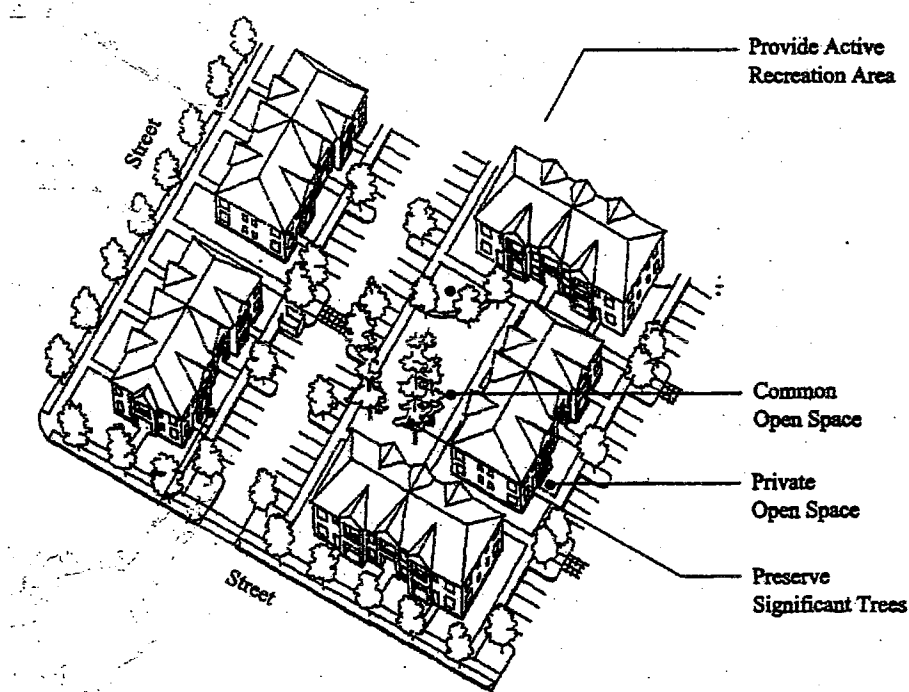
1. **Building mass.** The maximum width or length of a multiple family building shall not exceed 100 feet from end-wall to end-wall, not including outdoor living areas (*e.g.*, porches, balconies, patios, and similar unenclosed spaces).
2. **Common open space.** A minimum of 10 percent of the site area shall be designated and permanently reserved as common open space, 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 that are open to the public may count toward meeting the common open space requirements when approved by Planning Commission or City Council.
  - d. To receive credit under Section 5-2.2.100.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. Projects in the Residential-Commercial District that provide pedestrian amenities between primary building entrance(s) and adjoining street(s) are required to provide a minimum of 5 percent of the site in common open space;
  - 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 (measured walking distance) of a public park, and there is a direct, accessible (*i.e.*, Americans With Disabilities Act-compliant), lighted walkway connecting the site to the park. If the park is not developed, or only partially developed, the approval body may require the multiple family housing developer to improve park land in an amount comparable to that which 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

## 5-2.2 – 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, multiple family dwellings are exempt from the private open space standard where the development contains a plaza of at least 200 square feet in area between primary building entrance(s) and adjoining streets. The plaza must contain pedestrian amenities such as benches and planters, subject to Site Design Review.

**Figure 5-2.2.100H – 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.

**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 Business License is required to operate one or more short-term vacation rentals. The license application shall identify all short-term rental properties under the same ownership or management, and shall provide the City with information regarding the name, address and telephone number of a contact person who can be on the vacation home rental site within four (4) hours to respond to problems.
3. A Conditional Use Permit is required to operate one or more short-term vacation rentals in any RL or RG district;
4. The vacation rental unit shall provide two (2) off-street parking spaces, as is required for a single family dwelling;
5. In the RL and RG districts, all required parking shall be provided on the same lot as the vacation home rental unit;
6. 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
7. 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 other 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 5-2.2.100.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 10 feet;

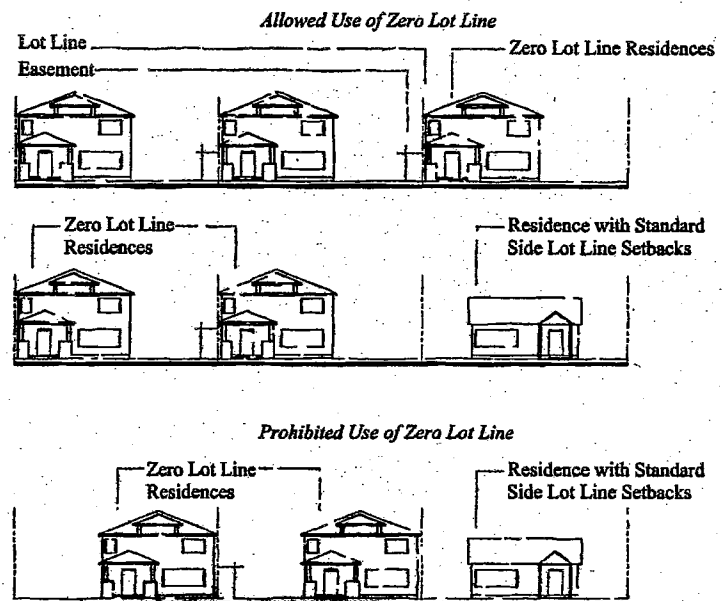
4. Building Orientation and Design.

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 5-2.2.100.J – Zero-Lot Line Housing



**K. Temporary Medical Hardship Dwellings.** A temporary medical hardship dwelling must meet the following requirements:

- 1) The temporary hardship dwelling must either be occupied by someone who will care for the resident of the subject property, or it may be occupied by a relative of the resident when the relative has the medical hardship and the resident of the property will be the caregiver. (Relative is defined as a parent, child, grandparent, grandchild, brother, or sister of the existing resident.)
- 2) The temporary hardship dwelling must use the same subsurface sewage disposal system as the existing dwelling, provided that the system is adequate to accommodate the additional dwelling. If on an existing septic system, the system will need to be inspected and approved by the John Day Public Works Director. Once the hardship has ended, the system must be abandoned in accordance with DEQ requirements.
- 3) The application must include a written statement from the patient's primary care medical doctor (MD) or osteopath (DO). The statements must be on the doctor's stationery or stamped by their office. The statement must indicate that for health or age-related reasons the patient is unable to maintain a residence on a separate property and is dependent upon someone being close by for assistance.
- 4) The permit authorizing the temporary hardship dwelling must be renewed every two years. In order to renew the temporary hardship permit, a letter from a doctor stating that the hardship still exists must be submitted to the Department, along with the renewal fee. If the hardship dwelling is connected to the same septic system as the existing dwelling, the septic system may also need to be re-inspected.
- 5) Within three months of the end of the hardship, the manufactured dwelling, recreational vehicle, or travel trailer must be removed from the property or demolished. In the case of an existing building that has been converted for temporary residential use, the building must be removed, demolished or returned to an allowed use.
- 6) The temporary dwelling must comply with applicable fire safety standards.
- 7) A Temporary Medical Hardship Dwelling permit is obtained through a Type I Land Use Review, in accordance with Section 5-4.1. The application must include the following information:
  - a. The aforementioned letter from a medical doctor or osteopath confirming that the person with the hardship is unable to maintain their own separate residence because of a health or age related condition or infirmity; and
  - b. A site plan, drawn to scale on 8½ " by 11" paper, showing property lines, existing streets and driveways, existing and proposed buildings, including distances to property lines, location of any existing wells and/or septic systems, location of any physical features on the parcel such as streams, irrigation ditches, steep slopes, etc. must be submitted with the application.
- 8) The Planning Official will review the application to determine whether it conforms to the criteria listed above. If approved, a manufactured dwelling installation permit must be obtained from Grant County. If the hardship dwelling is to be a recreational vehicle or travel trailer, applicable sewage disposal requirements shall be met.

## Chapter 5-2.3 — Commercial Districts

### Sections:

- 5-2.3.010 Commercial Districts – Purpose**
- 5-2.3.020 Commercial Districts – Allowed Land Uses**
- 5-2.3.030 Commercial Districts – Development Standards**
- 5-2.3.040 Commercial Districts – Zero Setbacks and Build-To Line**
- 5-2.3.050 Commercial Districts – Lot Coverage and Impervious Surface**
- 5-2.3.060 Commercial Districts – Building Orientation and Commercial Block Layout**
- 5-2.3.070 Commercial Districts – Building and Structure Height; Bonus for Mixed-Use**
- 5-2.3.080 Commercial Districts – Architectural Design Standards**
- 5-2.3.090 Commercial Districts – Pedestrian Amenities**
- 5-2.3.100 Commercial Districts – Special Use Standards**

### **5-2.3.010 Commercial Districts – Purpose**

This Chapter provides two commercial districts to accommodate the range of commercial land uses in the community. The Downtown 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 District;
- Provide connections to and appropriate transitions between residential areas and commercial areas;
- Discourage automobile-oriented and automobile-dependent uses in the Downtown District, and accommodate those uses with appropriate design standards in the General Commercial District;
- Provide for visitor accommodations and tourist amenities;
- Reduce reliance on the automobile and minimize the need for off-street parking;
- Implement design standards / guidelines that maintain and enhance the City's historic character.

Table 5-2.3.020 identifies the land uses that are allowed in the Commercial Districts. The specific land use categories are described and uses are defined in Chapter 5-1.3 and 5-1.4.

<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> (Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)	<b>Downtown (D)</b>	<b>General Commercial (GC)</b>	[Reserve]
<b>Residential Categories</b>			
<b>Household Living</b>			
<p>All Residential Uses and Structures (Household Living and Group Living) allowed, if:</p> <ul style="list-style-type: none"> <li>- lawfully existing as of November 24, 2005*</li> <li>- a dwelling that does not occupy ground floor space fronting Main Street*</li> </ul> <p>*A residential use existing in the Downtown as of November 24, 2005 may be rebuilt within the same building envelope (setbacks and height) in the event of involuntary damage or destruction due to fire or other event beyond owner's control, provided the dwelling lawfully existed in its current location and the rebuilt structure complies with current building and development code requirements.</p> <p>Group Living Uses shall conform to the provisions in Section 5-2.2.100.</p>	<p>P</p> <p>P</p>	<p>P</p> <p>P</p>	
<b>Commercial Categories</b>			
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 5-2.3.100	CU+S	CU+S	

P = Permitted, subject to site/development review  
S = Permitted with standards (Section 5-2.2.100)  
CU = Conditional Use permit required (Chapter 5-4.4)  
N = Not permitted

# 5-2.3 – Commercial (C) Land Use Districts – Allowed Land Uses

**Table 5-2.3.020 – Land Uses Allowed in Commercial Districts (D, GC)**

<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> (Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)	<b>Downtown (D)</b>	<b>General Commercial (GC)</b>	<b>[Reserve]</b>
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	
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 5-2.3.100)  - fully enclosed (e.g., garage)  - not enclosed, except accessory uses	CU  N	P  CU	
Retail Sales and Commercial Services (See also Drive-Up Uses, per Section 5-2.3.100)	P	P	
Self-Service Storage	N	CU	
<b>Industrial Categories</b>			
Industrial Service (See also Drive-Up Uses)  - fully enclosed (e.g., office)  - not enclosed	P  N	P  CU	

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (Section 5-2.2.100)
- CU = Conditional Use permit required (Chapter 5-4.4)
- N = Not permitted



## 5-2.3 – Commercial (C) Land Use Districts – Allowed Land Uses

Table 5-2.3.020 – Land Uses Allowed in Commercial Districts (D, GC)			
Uses	Status of Use in District		
Use Categories (Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)	Downtown (D)	General Commercial (GC)	[Reserve]
Manufacturing and Production			
- fully enclosed	P	P	
- not enclosed	N	CU	
Warehouse and Freight Movement	N	CU	
Waste-Related	N	N	
Wholesale Sales			
- fully enclosed, less than 20,000 square feet of floor area	CU	P	
- fully enclosed, equal to or greater than 20,000 square feet of floor area	N	CU	
- not enclosed	N	CU	
<b>Institutional Categories</b>			
Basic Utilities	P	P	
Community Service	P	P	
Daycare			
Family Daycare (16 or fewer children) as allowed under ORS 657A.250 and ORS 657A.440(4), subject to State licensing	P	P	
Daycare Center subject to State licensing	CU	CU	
Adult daycare, subject to State licensing	P	P	
Parks and Open Space, consistent with a downtown plan or in conjunction with a business (e.g., plaza, pocket park, etc.)	P	P	
Other Parks and Open Space uses	CU	CU	

## 5-2.3 – Commercial (C) Land Use Districts – Allowed Land Uses

**Table 5-2.3.020 – Land Uses Allowed in Commercial Districts (D, GC)**

<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)</i>	<b>Downtown (D)</b>	<b>General Commercial (GC)</b>	<b>[Reserve]</b>
Religious Institutions and Houses of Worship, - lawfully existing as of November 24, 2005 - new	P  CU	P  CU	
Schools - lawfully existing as of November 24, 2005 - new	P  CU	P  CU	
<b>Other Categories</b>			
Accessory Structures (with a permitted use)	P	P	
Buildings and Structures Exceeding the Height Limits in Table 5-2.3.030	CU	CU	
Radio Frequency Transmission Facilities, including building-mounted facilities, that project above roofline	CU	CU	
Utility Corridors	CU	CU	
Temporary Uses (limited to "P" and "CU" uses), per Section 5-4.9.010.	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 5-2.2.210)
- CU = Conditional Use permit required (Chapter 5-4.4)
- N = Not permitted

**5-2.3.030 Commercial Districts – Development Standards**

The development standards in Table 5-2.3.030 apply to all new structures, buildings, and development, and major remodels, in the Commercial Districts.

<b>Table 5-2.3.030 – Development Standards for Commercial Districts</b>			
<b>Standard</b>	<b>D</b>	<b>GC</b>	<b>[Reserve]</b>
<b>Minimum Lot Area* (square feet)</b>  *Development must conform to lot width, depth, yard setback and coverage standards.	2,000 sf	2,000 sf	
<b>Minimum Lot Width</b>  Single Family, not attached Single Family, attached Duplex Multiple-Family Non-Residential Uses  <i>For flag lots, width is measured at the front building line.</i>	40 ft 20 ft 50 ft 50 ft 20 ft	40 ft 20 ft 50 ft 50 ft 20 ft	
<b>Minimum Lot Depth</b>	2 times min. width	2 times min. width	
<b>Building/Structure Height</b> <i>Height may be increased with Conditional Use Permit, per Chapter 5-4.4. Height transition required adjacent to RL District, per Section 5-2.2.080.</i>  <u>Fences, Retaining/Garden Walls:</u> See Section 5-3.2.050	60 ft	45 ft	
<b>Lot Coverage</b> , maximum building coverage (Foundation plane as % of site area)	95%	90%	—
<b>Landscape Area (% site area)</b> , except does not apply to single family dwellings. Landscape area may include a combination of plant beds, planters, and plaza space	5%	10%	

5-2.3 – Commercial Land Use Districts – Development Standards

Table 5-2.3.030 – Development Standards for Commercial Districts (*continued*)

<b>Standard</b>	<b>D</b>	<b>GC</b>	<b>[Reserve]</b>
<b>Minimum Setbacks (feet):</b> (See also, Section 5-2.2.080, RL Height Step-Down.)  <u>Front, Street, Side, and Rear</u> property lines, except garage or carport  <u>Garage/Carport Entry</u> , setback from street  <u>Alley</u>  <u>Adjacent to RL District</u>	0 ft   20 ft   3 ft   10 ft, and per Section 5-2.2.080	0 ft   20 ft   3 ft   10 ft, and per Section 5-2.2.080	
<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, Section 5-2.3.090.)	0 ft; may be increased when pedestrian amenities are provided between a primary building entrance and street	60 ft; may be increased when a shopping street connects the primary building entrance(s) to the street, per Section 5-2.3.060.D	
Special Setback for Planned Street Improvements	The City may require a minimum setback of up to 40 feet, measured from the street centerline to any structure, when a structure would abut a street containing less than the standard right-of-way for the subject street classification. Street classification and required right-of-way are as indicated by the City of John Day Transportation System Plan.		

#### **5-2.3.040 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 5-2.3.030, 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 5-3.1 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) shall be required to meet the front setback and build-to line standards on only one street. Reverse frontage lots are subject to the fence height and setback requirements in Section 5-3.2.050 and the landscape buffer requirements in Chapter 5-3.2.030.

##### **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 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 5-2.2.050 and Section 5-4.3.115.]

#### **5-2.3.050 Commercial Districts – Lot Coverage and Impervious Surface**

Lot coverage and impervious surfaces are calculated as provided under Section 5-2.2.070.

**5-2.3.060 Commercial Districts – Building Orientation and Commercial Block Layout**

- A. Purpose.** Section 5-2.3.060 orients buildings close to streets to promote pedestrian-oriented development where walking is encouraged, and to avoid conflicts between pedestrians and vehicles. 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 5-2.3.060 applies to projects that are subject to Site Design Review.
- C. Building orientation standards.** Buildings shall have their primary entrance(s) oriented to a street, as generally shown in Figures 5-2.3.060.C(1)-(3). This standard is met when all of the following criteria are met:
1. Compliance with the setback and build-to line standards in Section 5-2.3.030, 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 5-2.3.060.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 40 feet from a street sidewalk, except to provide pedestrian amenities; a walkway shall connect the primary entrance to the sidewalk in this case.
  3. In the Downtown 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 provided under subsection 5-2.3.060.C(4). Off-street parking in the Downtown District shall be oriented internally to the site and divided by landscape areas into bays of not more than 24 parking spaces per bay, as required by Section 3.2.030.

**Figure 5-2.060.C(1) – Building Orientation**

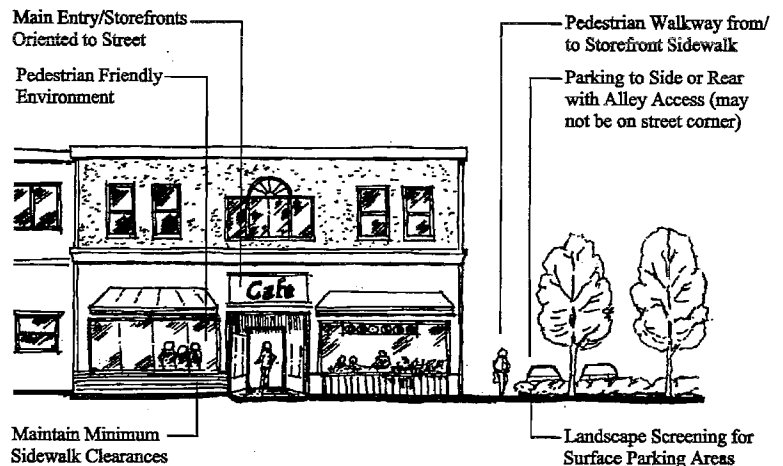
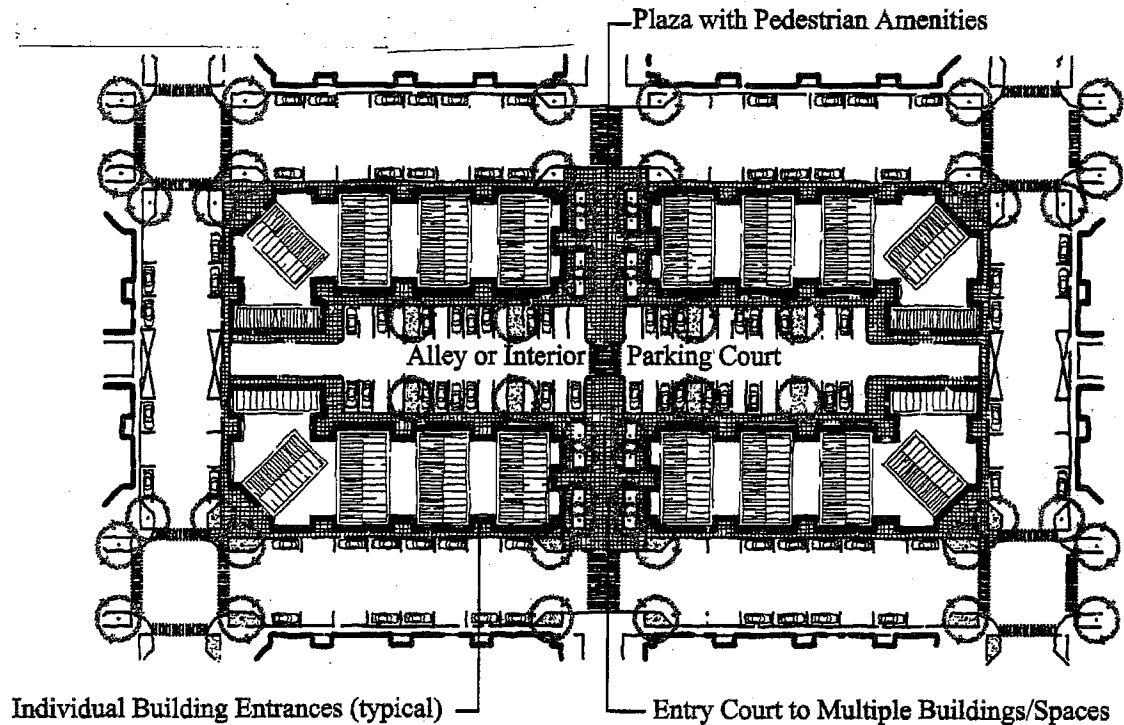


Figure 5-2.3.060.C(2) – Building Orientation With Internal Parking



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 24 feet in width with adjoining walkways and 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 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 5-3.1.300.
5. Where a development contains multiple buildings and there is insufficient street frontage

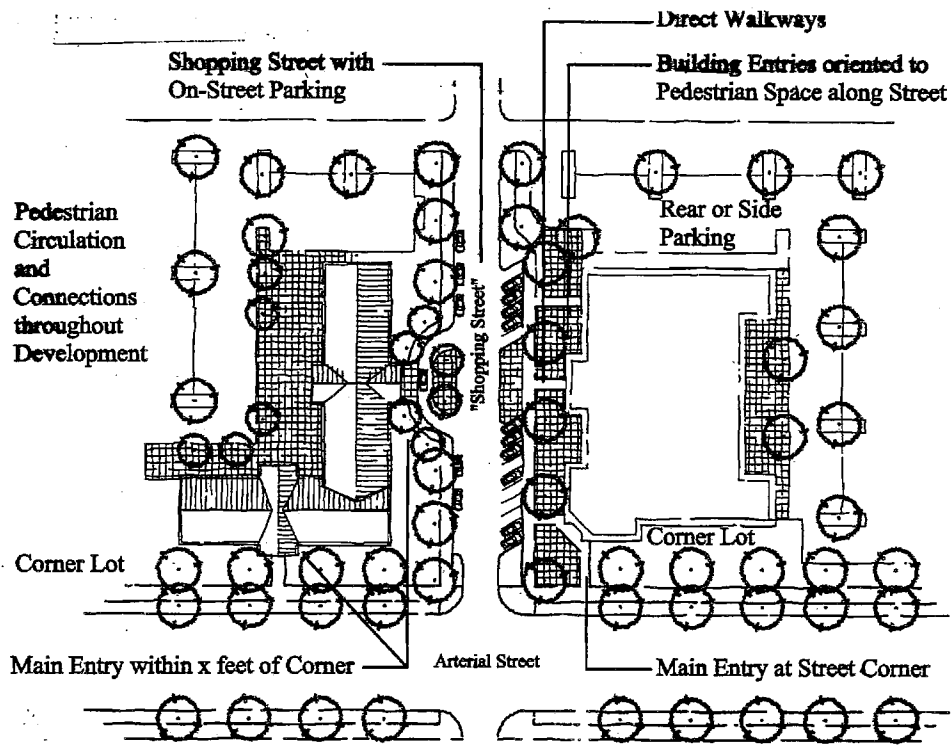
### 5-2.3 – Commercial Land Use Districts – Building Orientation and Commercial Block Layout

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 5-3.1.300.

**D. Block Layout Standard.** Developments containing 40,000 square feet or more building floor area 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 5-2.3.060.C(2), above), or shopping streets (as generally shown in Figure 5-2.3.060.C(3), below). All parking courts and shopping streets shall contain on-street parking (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 be broken down into lengths of not more than 400 feet, and shall have a perimeter not exceeding 1,400 feet;
3. Walkways 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 5-2.3.060.C(3) – Shopping Street Example**

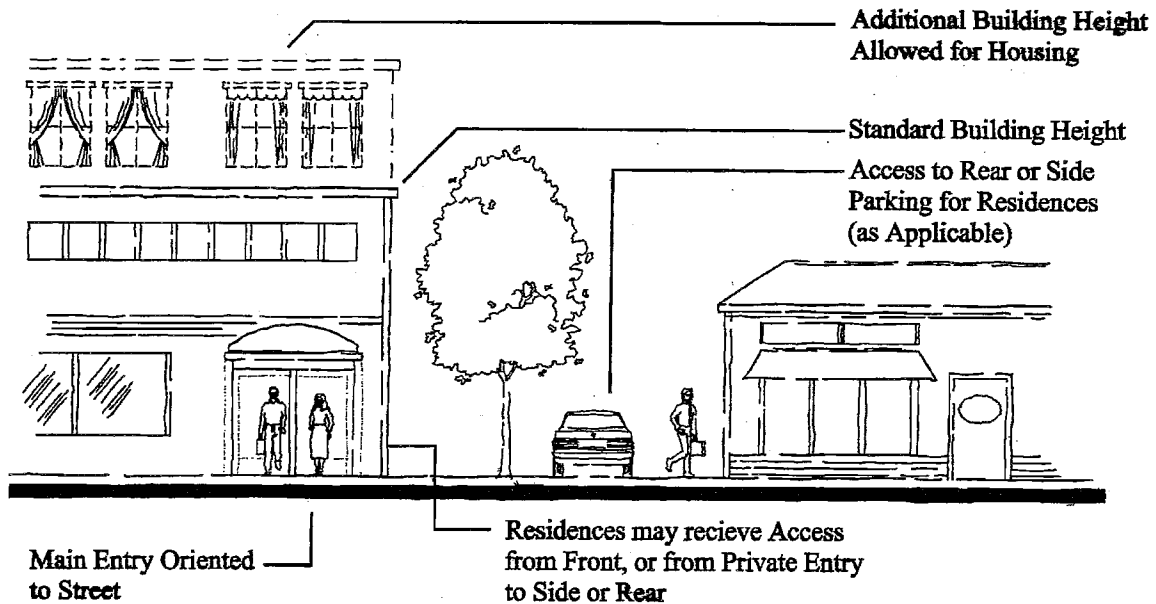




**5-2.3.070 Commercial Districts – Building and Structure Height; Bonus for Mixed-Use**

- A. Method of Measurement.** Building and structure heights shall conform to the standards in Table 5-2.3.030; height is measured in conformance with Section 5-2.2.080. RL height step-down requirements, shall conform to the standards in Section 5-2.2.080.C.
- B. Height Bonus for Housing.** Allowable building height in the Downtown District may be increased from 35 feet to 45 feet when housing is provided above ground floor commercial use(s), as generally shown in Figure 5-2.3.070B. 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.

**Figure 5-2.3.070B - Building Height Bonus for Housing**



**5-2.3.080 Commercial Districts – Architectural Design Standards**

**A. Purpose and Applicability.** Section 5-2.3.080 is intended to provide detailed, human-scale design that is characteristic of the City of John Day while affording flexibility to use a variety of architectural building styles. All new buildings and major remodels shall meet the standards of subsections 5-2.3.080.B-D., which are applied through Site Design Review. The applicant demonstrates that the standards are met by complying with the criteria under each standard.

**B. Pedestrian-Orientation.** 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 a different design upon finding that the design contains an equally good or superior way of achieving the above standard.

1. The building orientation standards under Section 5-2.3.060 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 60 percent of the building's front façade (measured horizontally in linear feet) shall be located at the build-to line or closer to the street; build-to lines are prescribed by Section 5-2.3.030; and
5. Ground floor windows or window displays shall be provided along at least 40 percent of the building's (ground floor) street-facing elevation(s); windows and display boxes shall be integral to the building design and not mounted to an exterior wall; and
6. Primary building entrance(s) are designed with weather protection, such as awnings, canopies, overhangs, or similar features; and
7. Drive-up and drive-through facilities, when allowed, shall conform to Section 5-2.3.100; the provisions of which shall not be modified without a variance (Chapter 5-5.1).

**C. 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 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 height step-down, as required by Section 5-2.2.080.C.
4. Roof elevation is compatible with adjacent commercial buildings (roof pitch, shape, height step-down);
5. There is continuity of building sizes on the site, if more than one building is proposed;
6. There is continuity in the orientation, proportion, and detailing of windows and doors on the proposed building(s);
7. 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).

**D. 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 5-2.3.080D contrasts examples of building elevations that are consistent/inconsistent with human scale criteria.

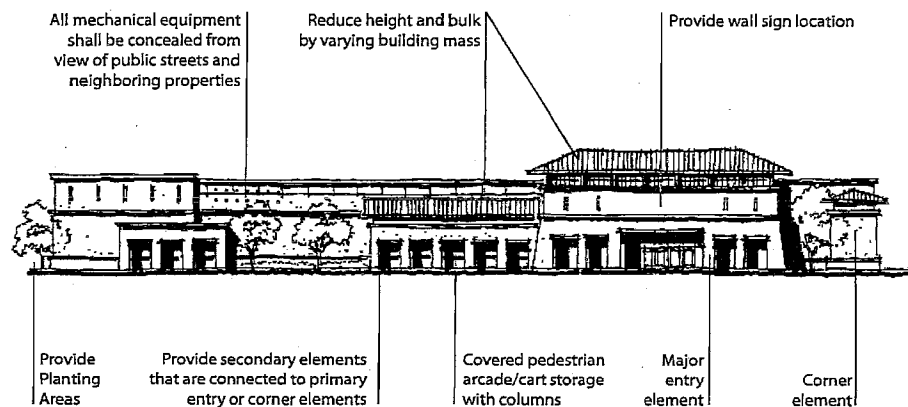
1. Regularly spaced and similarly-shaped windows are provided on all building stories;
2. Ground floor retail spaces have tall ceilings (*i.e.*, 12-16 feet) with display windows on the ground-floor;
3. Display windows are trimmed, recessed, or otherwise defined by wainscoting, sills, water tables, or 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

### 5-2.3 – Commercial Land Use Districts – Architectural Design Standards

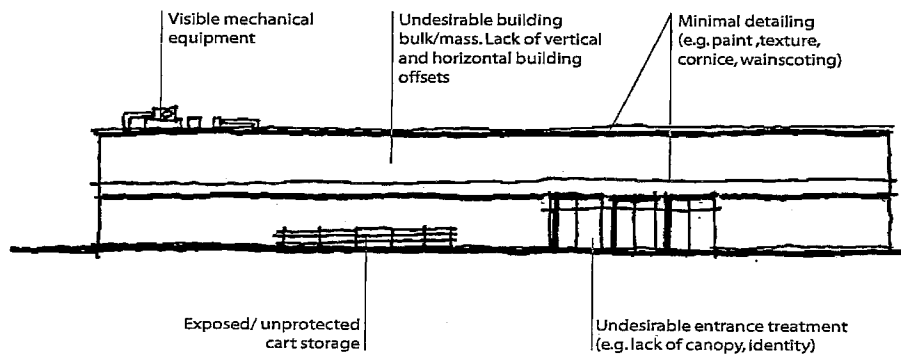
consistent with the surrounding architecture;

7. Historic design and compatibility requirements, where applicable, are met; and
8. Where buildings with greater than 20,000 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 5-2.3.080.D. Note: Figure 5-2.3.080.D should not be interpreted as a required architectural style.

**Figure 5-2.3.080.D – Examples of Large Commercial Design Elements**



#### **Large Commercial Massing - Acceptable**



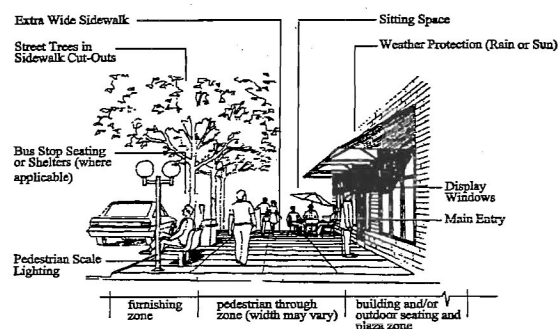
#### **Large Commercial Massing - Unacceptable**

### 5-2.3.090 Commercial Districts – Pedestrian Amenities

- A. Purpose and Applicability.** Section 5-2.3.090 provides standards for pedestrian amenities when pedestrian amenities are required as part of new developments and major remodels in the Downtown 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 contribute to a walkable district.
- B. Standards.** New developments and major remodels in the Downtown 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 5-2.3.090.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 5-2.3.090.B. Use of the public right-of-way requires approval by the road authority.

1. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance (minimum width of 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 bus shelter in accordance with the following guidelines:
  - a. Three walls (a rear and two sides with a minimum covered area of 48 square feet. For areas with space limitations, other types of shelters (*e.g.*, umbrella or half wall or canopies) may be used.
  - b. Interior seating.
  - c. A minimum front clearance of four feet (five feet desirable) from the shelter to the edge of the curb.
  - d. Minimum sidewalk around shelter (*i.e.*, sides and rear) of three feet (five feet desirable).
  - e. Display panel for route and schedule information, if not provided on information kiosk.

**Figure 5-2.3.090 – Examples of Pedestrian Amenities**



### 5-2.3.100 Commercial Districts – Special Use Standards

This section supplements the standards contained Sections 5-2.3.020 through 5-2.3.090. It provides standards for the following land uses to control the scale and compatibility of those uses:

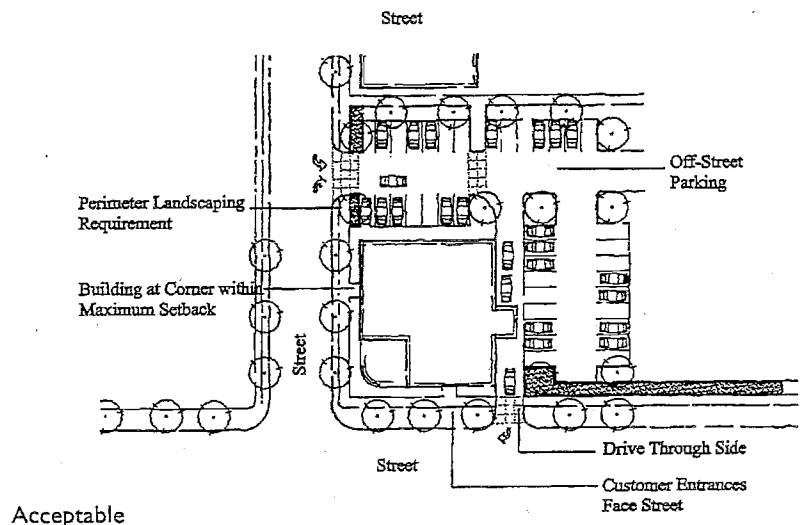
- Drive-up and Drive-through Uses and Facilities
- [reserved]

#### A. Drive-Up/Drive-In/Drive-Through Uses and Facilities.

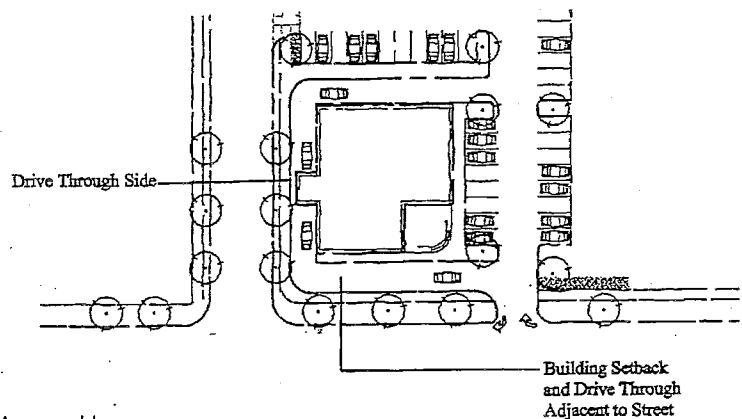
When drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, and protect pedestrian comfort and safety.

1. The drive-up/drive-through facility shall orient to an alley, driveway, or interior parking area, and not a street [Figure 5-2.3.100.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 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
3. In the Downtown District, no more than one drive-up, drive-in, or drive-through facility is allowed for a distance of 400 linear feet along the same block face (same side of street).

**Figure 5-2.3.100.A(1) – Drive-Up and Drive-Through Facilities**



Acceptable



Not Acceptable

## Chapter 5-2.4 —Industrial (I) Districts

### Sections:

- 5-2.4.010 Industrial Districts – Purpose**
- 5-2.4.020 Industrial Districts – Allowed Uses**
- 5-2.4.030 Industrial Districts – Setback Yards and Buffering**
- 5-2.4.040 Industrial Districts – Lot Coverage**
- 5-2.4.050 Industrial Districts – Site Layout and Design**
- 5-2.4.060 Industrial Districts – Building and Structure Height**

### **5-2.4.010 Industrial Districts – Purpose**

Chapter 5-2.4 accommodates a range of industrial and commercial land uses in three Industrial Districts, Light Industrial (LI), General Industrial (GI), and Airport Industrial Park (AIP). The districts are intended to provide for land use compatibility while providing a high-quality environment for businesses and employees. The AIP district is also intended to provide for compatible land use adjacent to Ogilvie Field, and provide for economic development consistent with Oregon's Certified Industrial Lands program. The GI district is 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 5-2.4 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, airport, 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.

**5-2.4.020 Industrial Districts – Allowed Land Uses**

Table 5-2.4.020 identifies the land uses that are allowed in the Industrial Districts. The specific land use categories are described and uses are defined in Chapter 5-1.3 and 5-1.4.

<b>Table 5-2.4.020 – Land Uses Allowed in Industrial Districts</b>			
<i>Uses</i>	<i>Status of Use in District</i>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)</i>	<b>General Industrial (GI)</b>	<b>Light Industrial (LI)</b>	<b>Airport Industrial Park (AIP)</b>
<b>Residential Categories</b>			
<b>Household Living</b>			
Residential Uses (Household Living and Group Living) allowed, if:			
- Lawfully existing as of November 24, 2005	P	P	N
- New dwelling built in conjunction with a permitted commercial or industrial use (residential use is allowed above ground floor only)	N	P	N
- Manufactured dwelling on an individual lot, subject to Section 5-2.2.100F.	N	N	N
- Manufactured dwelling park	N	N	N
<i>Group Living Uses, if allowed above, shall conform to the provisions in Section 5-2.2.100D.</i>			

**Key:**

- P = Permitted, subject to site/development review
- S = Permitted with standards (See cross-reference)
- CU = Conditional Use permit required (Chapter 5-4.4)
- N = Not permitted



Table 5-2.4.020 – Land Uses Allowed in Industrial Districts

Uses	Status of Use in District		
Use Categories (Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)	General Industrial (GI)	Light Industrial (LI)	Airport Industrial Park (AIP)
<b>Commercial Categories</b>			
Drive-Up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities), per Section 5-2.3.100A for uses in LI District	P	S	N except "P" when accessory to a industrial use
Bed and Breakfast Inn	N	N	N
Educational Services, not a school (e.g., tutoring or similar services)	N	CU	N
Entertainment, Major Event	N	CU	N
Offices	P	P	P
Outdoor Recreation, Commercial	N	CU	N
Parking Lot (when not an accessory use)	CU	CU	N
Quick Vehicle Servicing or Vehicle Repair (See also Drive-Up Uses, Section 5.2.3.100A)	P	S	N
Retail Sales and Commercial Service, <ul style="list-style-type: none"> <li>- less than 10,000 square feet floor area</li> <li>- greater than 10,000 square feet floor area, per Section 5-2.4.050</li> </ul> See also, Drive-Up Uses	CU N	P N	N N
Self-Service Storage	P	CU	N

Table 5-2.4.020 – Land Uses Allowed in Industrial Districts

<i>Uses</i>	<i>Status of Use in District</i>		
<b>Use Categories</b> <i>(Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)</i>	<b>General Industrial (GI)</b>	<b>Light Industrial (LI)</b>	<b>Airport Industrial Park (AIP)</b>
<b>Industrial Categories</b>			
Industrial Service (See also Drive-Up Uses) <ul style="list-style-type: none"> <li>- fully enclosed (e.g., office)</li> <li>- not enclosed</li> </ul>	P P	P CU	P P
Manufacturing and Production <ul style="list-style-type: none"> <li>- fully enclosed</li> <li>- not enclosed</li> </ul>	P P	P CU	P P
Warehouse and Freight Movement	P	CU	P
Waste-Related	CU	N	N
Wholesale Sales, per Section 5-2.4.050 <ul style="list-style-type: none"> <li>- fully enclosed</li> <li>- not enclosed</li> </ul>	P P	P CU	N except "P" when accessory to a industrial use
<b>Institutional Categories</b>			
Basic Utilities	P	P	N except "P" for utilities required to serve AIP district
Community Service, except as otherwise allowed by Public Facilities Overlay zone	N except "P" for public safety facilities	N except "P" for public safety facilities	N except "P" for public facilities

**Key:**

P = Permitted, subject to site/development review

S = Permitted with standards (See cross-reference)

CU = Conditional Use permit required (Chapter 5-4.4)

N = Not permitted

<b>Table 5-2.4.020 – Land Uses Allowed in Industrial Districts</b>			
<b>Uses</b>	<b>Status of Use in District</b>		
<b>Use Categories</b> (Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)	<b>General Industrial (GI)</b>	<b>Light Industrial (LI)</b>	<b>Airport Industrial Park (AIP)</b>
Daycare	N	N	N
Parks and Open Space, except open space areas are permitted by right when accessory to a primary permitted use	CU	CU	CU
Religious Institutions and Houses of Worship	N	CU	N
Schools, except education uses are permitted by right when accessory to a primary permitted use (e.g., flight instruction at airport, or vocational instruction in conjunction with industrial use)	N	CU	N
<b>Other Categories</b>			
Accessory Structures (with a permitted use)	P	P	P
Agriculture – Animals, when			
- existing use as of November 24, 2005	P	P	Not applicable
- accessory to a permitted industrial use	P	N	P
- new use	N	N	N
Agriculture – Nurseries and similar horticulture (See also, Wholesale and Retail Uses)	P	P	N
Buildings and Structures Exceeding the Height Limits in Section 5-2.3.030	CU	CU	N Except as required per Ogilvie Field Airport Master Plan
Mining	CU	N	N

**Key:**

- P = Permitted, subject to site/development review  
 S = Permitted with standards (See cross-reference)  
 CU = Conditional Use permit required (Chapter 5-4.4)  
 N = Not permitted

Table 5-2.4.020 – Land Uses Allowed in Industrial Districts

Uses	Status of Use in District		
Use Categories (Examples of uses are in Chapter 5-1.4; definitions are in Chapter 5-6.1.)	General Industrial (GI)	Light Industrial (LI)	Airport Industrial Park (AIP)
Radio Frequency Transmission Facilities - within height limit of district - exceeds height limit (free-standing or building-mounted facilities)	P CU	P CU	N  except "P" in conjunction with airport operations
Rail Lines and Utility Corridors, except those existing prior to November 24, 2005 are allowed.	CU	CU	P
Temporary Uses (limited to "P" and "CU" uses), per Section 5-4.9.010.	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

**5-2.4.030 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, airport operations, and visual separation.

**B. Applicability.** The setback yard and buffer standards in subsections 5-2.4.030.C-F are minimum standards that apply to buildings, accessory structures, parking areas, mechanical equipment, and other development. In granting a Conditional Use Permit, the approval body may increase the standard yards and/or buffers consistent with the criteria in Chapter 5-4.4. 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 are met.

**C. Front and Street Yard Setbacks.** The following setbacks may be increased by the approval body for development adjacent to streets with substandard right-of-way; in such cases, additional setback shall be required to reserve space for the ultimate right-of-way required for the subject street classification, in accordance with the Transportation System Plan.

1. General Industrial (GI) District: Minimum of 20 feet;
2. Light Industrial (LI) District: Minimum of 10 feet
3. Airport Industrial Park (AIP) District: Minimum of 10 feet

**D. Rear Yard Setbacks.**

1. General Industrial (GI) District: Minimum of 20 feet where adjacent to a Commercial or

Industrial District, except common wall buildings with 0-setback are allowed;

2. **Light Industrial (LI) District:** Minimum of 10 feet where adjacent to a Commercial or Industrial District, except common wall buildings with 0-setback are allowed;
3. **Industrial District (GI or LI) Abutting a Residential District:** Minimum of 40 feet, and conformance with the RL height step-down standards in Section 5-2.2.080.C.
4. **Airport Industrial Park (AIP):** Minimum of 10 feet.

**E. Side Yard Setbacks.** There are no required side-yard setbacks, except compliance with building and fire codes is required; and a minimum side yard of 20 feet and conformance with the RL height step-down standards in Section 5-2.2.080.C is required when a General Industrial District or Light Industrial District (GI or LI) abuts an RL District.

**F. Landscaping, Buffering, and Other Yard Requirements.**

1. **Buffering.** A minimum of ten (10) percent of the overall site shall be landscaped in accordance with Chapter 5-3.2. The approval body may require additional landscaping, fences, walls or other buffering that exceed the landscaping standards in Chapter 5-3.2 when it finds through Site Design Review (Chapter 5-4.2), Conditional Use Permit review (Chapter 5-4.4), and/or Master Planned Development review (Chapter 5-4.5), as applicable, that more or different buffering is necessary to 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 other streets or sidewalks. The design of access ways shall conform to Section 5-3.1.300.

**5-2.4.040 Industrial Districts – Lot Coverage**

- A. General Industrial (GI) District:** Maximum lot coverage, including all impervious surfaces, 90 percent.
- B. Light Industrial (LI) District:** Maximum lot coverage, including all impervious surfaces, 80 percent.
- C. Airport Industrial Park (AIP) District:** Maximum lot coverage, including all impervious surfaces, 80 percent.

**5-2.4.050 Industrial Districts – Site Layout and Design**

Industrial uses and developments shall be oriented on the site to accommodate multiple modes of transportation (pedestrians, vehicles, bicycles), to minimize adverse impacts (e.g., noise, glare, smoke, dust, exhaust, vibration, etc.) on adjacent uses, and to provide compatibility with adjacent uses to the extent practicable. The following standards shall apply to all development in the General Industrial and Light Industrial Districts:

1. Comply with the site design and public improvement standards, and standards for access, circulation, parking, loading areas, landscaping and screening, and other applicable provisions of Article 3;
2. 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 5-2.4.030.
3. Projects within the Airport Safety and Compatibility (AASC) Overlay shall additionally conform to Chapter 5-2.5. Where a conflict arises between the provisions of Chapter 5-2.5 and this Chapter, the provisions of Chapter 5-2.5 shall apply.

#### **5-2.4.060 Industrial Districts – Building and Structure Height**

The maximum allowable height of buildings and structures in the GI, LI, and AIP 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 5-2.2.080.C.

## **Chapter 5-2.5. Airport Safety and Compatibility Overlay (AASC) Zone**

### **Sections:**

- 5-2.5.010**      **Scope and Purpose of Regulations**
- 5-2.5.020**      **Definitions**
- 5-2.5.030**      **Imaginary Surface and Noise Impact Boundary Delineation**
- 5-2.5.040**      **Notice of Land Use and Permit Applications within Overlay Zone Area**
- 5-2.5.050**      **Height Limitations on Allowed Uses in Underlying Zones**
- 5-2.5.060**      **Procedures**
- 5-2.5.070**      **Land Use Compatibility Requirements**
- 5-2.5.080**      **Water Impoundments within Approach Surfaces and Airport Direct and Secondary Impact Boundaries**
- 5-2.5.090**      **Wetland Mitigation, Creation, Enhancement and Restoration within Approach Surfaces and Airport Direct and Secondary Impact Boundaries**
- 5-2.5.100**      **Nonconforming Uses**
- 5-2.5.110**      **Aviation Easement Required**

### **5-2.5.010 Scope and Purpose of Regulations**

The purpose of the AASC overlay zone is to encourage and support the continued operation and vitality of Ogilvie Field and to support compatible land uses adjacent to the airport. The overlay establishes land use compatibility and navigational safety standards to reduce potential safety hazards for persons living, working and recreating near Ogilvie Field, consistent with applicable State law and administrative rules. [ORS 836.600; ORS 836.619; OAR 660-013-0070; OAR 660-013-0080]

### **5-2.5.020 Definitions**

The following definitions are incorporated consistent with applicable State law and administrative rules. [ORS 836.605; ORS 836.623(6); OAR 660-013-0020; OAR 660-013-0070(1)A., B.; OAR 660-013-0080(1)A.]

**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 Direct Impact Area.** The area located within 5,000 feet of an airport runway, excluding lands within the runway protection zone and approach surface.

**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. Areas located within 1,500 feet of an airport runway or within established noise contour boundaries exceeding 55 Ldn.

Airport Secondary Impact Area. The area located between 5,000 and 10,000 feet from an 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.

- A. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to a width of:
  - 1. 2,000 feet for a utility runway having a non-precision instrument approach;
  - 2. 3,500 feet for a non-precision instrument runway, other than utility, having visibility minimums greater than three-fourths statute mile;
  - 3. 4,000 feet for a non-precision instrument runway, other than utility, having visibility minimums at or below three-fourths statute mile; and
  - 4. 16,000 feet for precision instrument runways.
- B. The approach surface extends for a horizontal distance of:
  - 1. 5,000 feet at a slope of 20 feet outward for each foot upward for all utility runways;
  - 2. 10,000 feet at a slope of 34 feet outward for each foot upward for all non-precision instrument runways, other than utility; and
  - 3. 10,000 feet at a slope of 50 feet outward for each one foot upward, with an additional 40,000 feet at slope of 40 feet outward for each one foot upward, for precision instrument runways.
- C. 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.

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 USDAAPHIS-Wildlife Services.

Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

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:

- A. 5,000 feet for all runways designated as utility.
- B. 10,000 feet for all other runways.
- C. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000 foot arc is encompassed by tangents connecting two adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

Non-precision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach has been approved, or planned, and for which no precision approach facilities are planned or indicated on an FAA approved airport layout plan or other FAA planning document.

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.

Precision Instrument Runway. A runway having an existing instrument approach procedure utilizing air navigation facilities that provide both horizontal and vertical guidance, such as an Instrument Landing System (ILS) or Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA-approved airport layout plan or other FAA planning document.

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:

- A. 500 feet for utility runways having non-precision instrument approaches,
- B. 500 feet for other than utility runways having non-precision instrument approaches with visibility minimums greater than three-fourths statute mile, and
- C. 1,000 feet for non-precision instrument runways with visibility minimums at or below three-fourths statute mile, and for precision instrument runways.

Public Assembly Facility. For the purposes of Chapter 5-2.5, 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 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:

- A. 1,000 feet for utility runways.
- B. 1,700 feet for other than utility runways having non-precision instrument approaches.
- C. 2,500 feet for precision instrument runways.

*[NOTE: The outer width of the RPZ is specified by airport type in OAR 660, Div. 13, Exhibit 4]*

Significant. 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.

Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

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.

Visual Runway. A runway intended solely for the operation of aircraft using visual approach procedures, where no straight-in instrument approach procedures or instrument designations have been approved or planned, or are indicated on an FAA-approved airport layout plan or any other FAA planning document.

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 the AASC ordinance.

**5-2.5.030 Imaginary Surface and Noise Impact Boundary Delineation**

The airport elevation, the airport noise impact boundary, and the location and dimensions of the runway, primary surface, runway protection zone, approach surface, horizontal surface, conical surface and transitional surface, as delineated by the Ogilvie Field Airport Master Plan, are hereby made part of the Official City of John Day Zoning Map.

All lands, waters and airspace, or portions thereof, that are located within these boundaries or surfaces shall be subject to the requirements of this overlay zone. [ORS 836.619; OAR 660-013-0040(8); OAR 660-013-0070(1); OAR 660-013-0080(1)]

**5-2.5.040 Notice of Land Use and Permit Applications within Overlay Zone Area**

Except as otherwise provided herein, written notice of applications for land use or limited land use decisions, including comprehensive plan or zoning amendments, in an area within this overlay zone, shall be provided to the airport sponsor and the Department of Aviation in the same manner as notice is provided to property owners entitled by law to written notice of land use or limited land use applications. *See Development Code Article 5-4.* [ORS 836.623(1); OAR 738-100-010; ORS 215.416(6); ORS 227.175(6)]

- A. Notice shall be provided to the airport sponsor and the Department of Aviation when the property, or a portion thereof, that is subject to the land use or limited land use application is located within 10,000 feet of the sides or ends of a runway:
- B. Except as provided under subsection 5-2.5.040D, notice of land use and limited land use applications shall be provided within the following timelines.
  1. Notice of land use or limited land use applications involving public hearings shall be provided prior to the public hearing at the same time that written notice of such applications is provided to property owners entitled to such notice.
  2. Notice of land use or limited land use applications not involving public hearings shall be provided at least 20 days prior to entry of the initial decision on the land use or limited land use application.
- C. Notice of the decision on a land use or limited land use application shall be provided to the airport sponsor and the Department of Aviation within the same timelines that such notice is provided to parties to a land use or limited land use proceeding.
- D. Notices required under Paragraphs A-C of this section need not be provided to the airport sponsor or the Department of Aviation where the property that is the subject of the land use or limited land use application is more than 35 feet lower in elevation at the site of structural development than any runway surface at Ogilvie Field; or, that meets all of the following criteria:
  1. Would only allow structures not exceeding 35 feet in height;
  2. Involves property located entirely outside the approach surface;
  3. Does not involve industrial, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar

transmission facilities or electrical transmission lines; and

4. Does not involve wetland mitigation, enhancement, restoration or creation.

#### **5-2.5.050 Height Limitations on Allowed Uses in Underlying Zones**

All uses permitted by the underlying zone shall 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 control. *[ORS 836.619; OAR 660-013-0070]*

- A. Except as provided in subsections B and C of this Section, no structure or tree, plant or other object of natural growth shall penetrate an airport imaginary surface. *[ORS 836.619; OAR 660-013-0070(1)]*
- 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, the maximum allowable structure height is 35 feet, except as approved with a Conditional Use Permit and pursuant to this Chapter.
- C. Where a structure height exceeding 35 feet is proposed, it may be approved only where it is supported in writing by the airport sponsor, and not opposed by the Department of Aviation or the FAA, unless the at-grade elevation of the structure's footprint is such that the proposed maximum structure height is lower than the elevation of any runway surface at Ogilvie Field. Applications for increased height on any other property within this overlay zone shall follow the procedures set forth in Chapter 5-4.4 Conditional Use Permits and shall be subject to such conditions and terms as recommended by the Department of Aviation and the FAA.

#### **5-2.5.060 Procedures**

An applicant seeking a land use or limited land use approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

- A. A map or drawing showing the location of the property in relation to the airport imaginary surfaces.
- B. A site plan drawn to scale including the location and elevation of the building site, all existing and proposed structures, measured in feet above mean sea level.
- C. If a Conditional Use Permit or Variance is requested for increased structure height, letters of support from the airport sponsor, the Department of Aviation and the FAA unless the at-grade elevation of the structure's footprint is such that the proposed maximum structure height is lower than the elevation of any runway surface at Ogilvie Field.

#### **5-2.5.070 Land Use Compatibility Requirements**

Applications for land use or building permits for properties within the boundaries of this overlay zone shall comply with the requirements of this chapter as provided herein. *[ORS 836.619; OAR 660-013-0080]*

- A. Noise. Within airport noise impact boundaries, land uses shall be established consistent with the levels identified in OAR 660, Division 13, Exhibit 5. A declaration of anticipated noise levels shall 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, 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 shall 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. *[OAR 340-035-0045(1)D., (4)] [NOTE: FAA Order 5100.38A, Chapter 7 provides that interior noise levels should not exceed 45 decibels in all habitable zones.]*
- B. Outdoor Lighting. No new or expanded outdoor lighting shall project directly onto an existing runway or taxiway or into existing airport approach surfaces except where necessary for safe and convenient air travel and only as approved by the airport sponsor. Lighting for these uses shall incorporate shielding in their designs to reflect light away from airport approach surfaces. No use shall 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, shall 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, shall, as part of its regular operations, cause emissions of smoke, dust or steam 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 shall impose such conditions as necessary to ensure that the use does not obscure visibility.
- E. Communications Facilities and Electrical Interference. Proposals for the location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within this overlay zone shall be coordinated with the Department of Aviation and the FAA prior to approval. Approval of cellular and other telephone or radio communication towers on leased property located within airport imaginary surfaces shall be conditioned to require their removal within 90 days following the expiration of the lease agreement. A bond or other security shall be required to ensure this result.
- F. Landfills. No new sanitary landfills shall be permitted within 10,000 feet of any airport runway. Expansions of existing landfill facilities within these distances shall be 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 shall be provided to the airport sponsor, the Department of Aviation and the FAA, and any approval shall be accompanied by such conditions as are necessary to ensure that an increase in bird/aircraft collisions is not likely to result.
- G. Limitations and Restrictions on Allowed Uses in the RPZ, Approach Surface, and Airport Direct and Secondary Impact Areas. The land uses allowed in the Airport Industrial District (Chapter 5-2.4) are allowed within the AA overlay, subject to the following standards and

limitations:

1. No Structures shall be allowed within the Runway Protection Zone (RPZ). Exceptions shall be made only for structures accessory to airport operations whose location within the RPZ has been approved by the Federal Aviation Administration.
2. In the RPZ, public airport uses are restricted to those uses and facilities that require location in the RPZ.
3. Agricultural and farming practices normal and accepted for the area are not considered a conflict; however, deliberate attempts to attract birds with agricultural and/or farming practices shall be prohibited.
4. Roads and parking areas are permitted in the RPZ only upon demonstration that there are not practicable alternatives. Lights, guardrails, and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.
5. In the RPZ, utilities, power lines and pipelines must be underground. In approach surfaces and in airport direct and secondary impact areas, the proposed height of utilities shall be coordinated with the airport sponsor and Department of Aviation (ODA).
6. Public assembly facilities are prohibited in the RPZ.
7. Golf courses may be permitted only upon demonstration, supported by substantial evidence, that management techniques will be utilized to reduce existing wildlife attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of the approval. Structures are not permitted within the RPZ. For purposes of this document, tee markers, tee signs, pin cups and pins are not considered to be structures.
8. Public assembly facilities may be allowed in an approach surface only if the potential danger to public safety is minimal. In determining whether a proposed use is appropriate, consideration shall be given to: proximity to the RPZ; density of people per acre; frequency of use; level of activity at the airport; and other factors relevant to public safety. In general, high density uses should not be permitted within airport approach surfaces, and on residential structures should be located outside approach surfaces unless no practicable alternatives exist.
10. Mining operations involving the creation or expansion of water impoundments shall comply with the requirements of this document regarding water impoundments.
12. Water impoundments are prohibited within 5,000 feet from the edge or end of a runway; however, Agricultural Irrigation Structures, including but not limited to; impoundments in rivers or streams; conveyance structures such as ditches and canals; and, the ponding of water caused by irrigation practices on crops in fields and runoff from irrigated fields, shall be exempt from this prohibition.
13. Wetland Mitigation required for projects located within an approach surface, the airport direct or secondary impact area shall be authorized only upon demonstration, supported by substantial evidence, that it is impracticable to provide mitigation outside of these areas. Proposals for wetland mitigation shall be coordinated with the airport sponsor, the Department of Aviation, the FAA and the wetland-permitting agencies prior to the issuance of required permits. Wetland mitigation shall be designed and located to avoid

creating a wildlife hazard or increasing hazardous movements of birds across runway and approach surfaces. Conditions shall be imposed as are appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runway and approach surfaces.

14. See also, Chapter 5-2.4 Airport Industrial District.

**5-2.5.080 Water Impoundments within Approach Surfaces and Airport Direct and Secondary Impact Boundaries**

Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the requirements of this section. *[ORS 836.623(2); OAR 660-013-0080(1)(f)]*

- A. Except as provided under subsection (B) of the section, and as set forth in 502.5.070 (G) (12) “Agricultural Irrigation Structures”, above, no new or expanded water impoundments of one-quarter acre in size or larger are permitted:
  - 1. Within an approach surface and within 5,000 feet from the end of a runway; or
  - 2. On land owned by the airport sponsor that is necessary for airport operations.
- B. Storm water management basins established by an airport identified under ORS 836.610(1) are allowed.

**5-2.5.090 Wetland Mitigation, Creation, Enhancement and Restoration within Approach Surfaces and Airport Direct and Secondary Impact Boundaries**

- A. Notwithstanding the requirements of Subsection 5-2.5.080, wetland mitigation, creation, enhancement or restoration projects located within areas regulated under Subsection 5-2.5.080 shall be allowed upon demonstration of compliance with this requirements of this Section.
- B. Wetland mitigation, creation, enhancement or restoration projects existing or approved on the effective date of this ordinance and located within areas regulated under Subsection 5-2.5.080 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 and areas regulated under Subsection 5-2.5.080 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 Subsection 5-2.5.080 shall be considered utilizing the review process applied to applications for conditional use permits and shall be 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. of this Section shall 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 Subsection 5-2.5.080, and that would result in the creation of a new water impoundment or the expansion of an existing water impoundment, shall be considered utilizing the review process applied to applications for conditional use permits and shall be 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 shall 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 Division 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 shall 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.

#### **5-2.5.100 Nonconforming Uses**

- A. These regulations shall not be construed to require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations shall 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 overlay zone, except as may be required under Chapter 5-5.2 Non-Conforming Uses and Development.
- B. Notwithstanding subsection A. of this section, the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.
- C. No land use or limited land use approval or other permit shall 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 the overlay zone.

#### **5-2.5.110 Avigation Easement Required**

Within this overlay zone, property owners who apply 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, shall, as a condition of obtaining such approval or permits, dedicate an avigation easement to the airport sponsor. The avigation easement shall be in a form acceptable to the airport sponsor and shall be



signed and recorded in the deed records of the County. The aviation easement shall 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.

## **5-2.6. Geological Hazard (GH) Overlay**

### **Sections:**

- 5-2.6.010 Scope and Purpose Of Regulations**
- 5-2.6.020 Application Of Provisions**
- 5-2.6.030 Uses Permitted Outright**
- 5-2.6.040 Conditional Use Permitted In The GH Zone**
- 5-2.6.050 Permit For Use Or Development**
- 5-2.6.060 Application Requirements For Use**
- 5-2.6.070 Standards For Building Construction In GH Zone**
- 5-2.6.080 Standards For An Access Route**
- 5-2.6.090 Regulations Not A Guarantee**

### **5-2.6.010 Scope and Purpose Of Regulations**

In any zone which is a GH Geological Hazard Overlay, the requirements and standards of this Chapter shall apply in addition to those of the underlying zone; provided, that if a conflict in regulations or standards occurs, the provisions of this Chapter shall govern. The purpose of the GH overlay zone is to promote the public safety and welfare by preventing certain types of development in those areas which natural hazards or other factors pose threats to human occupancy safety.

### **5-2.6.020 Application Of Provisions**

The provisions of this Chapter shall apply to all areas of special geological hazards within the jurisdiction of the City. The areas of special geological hazard identified by the Oregon Department of Geology and Mineral Industries in a report entitled "Engineering Geology of the John Day Area, Grant County, Oregon – Dated 1975" are hereby adopted by reference and declared to be a part of this Title, and thereof, the provisions of this Chapter shall apply to all geological hazard areas identified by said report.

### **5-2.6.030 Uses Permitted Outright**

In a zone with which the GH Zone is an overlay, the following uses are the only uses permitted outright, and these uses are permitted only if such uses are permitted in the zone regulations for the primary zone:

- A. Agricultural use conducted without locating a structure in the zone, except for a boundary fence, and shall be restricted to prevent destruction of vegetation sufficient to cause erosion.
- B. Industrial or commercial use that does not require a structure other than surfacing at ground level such as for a loading area, parking area, or that requires only temporary structures that

will not necessitate ground excavation for placement.

- C. Recreational use that requires no structures, alteration of the natural geology or vegetation removal without immediate replacement.
- D. Portions of a residential use that do not contain buildings such as a lawn, garden, parking area or play area, or a related use thereof that does not require alteration of the natural geology or excavation thereof.

#### **5-2.6.040 Conditional Use Permitted In The GH Zone**

In a zone with the GH overlay, those uses permitted by the primary zone shall be permitted, subject to this Chapter and the provisions of the primary zone.

#### **5-2.6.050 Permit For Use Or Development**

No person shall construct, reconstruct or install a development, install a mobile home, or divide land in a GH Zone unless a permit has been received for the work, except for those uses permitted by 5-2.6.040 of this Chapter. Except for improvement of an existing structure which is less than substantial as determined by a certified building official or the City upon appeal, no permit shall be issued unless the work will be reasonably safe from geological hazard and otherwise comply with this Chapter and this Title, and other applicable regulations. Said permits shall be processed in the same manner as a conditional use permit under this Title as set forth in Chapter 5-4.4 of this Title.

#### **5-2.6.060 Application Requirements For Use**

An application for a use or development in a GH overlay zone shall be accompanied by the following:

- A. **Site Investigation Report:** An application for a use or development in a GH overlay zone requires a site investigation report for the subject area. The site investigation report shall provide information on the site of the development and adjacent land that is likely to be affected by a proposed development. Unless the City determines specific terms are not required, the report shall include the information described in this Section together with appropriate identification of information sources and the date of the information. Before a development permit can be issued, the site investigation report must be approved as part of the development permit approval process. The approved site investigation report shall be referred to in the deed and other documents of sale and shall be recorded with the record of deeds.
- B. **Background Data In Report:** The site investigation report shall contain the following background information:
  - 1. A general analysis of the local and regional topography and geology including the faults, folds, geologic and engineering geologic units and any soil, rock and structural details

important to engineering or geologic interpretations and their relative activity.

2. A history of problems on land adjacent to the site, which may be desired from discussions with local residents and officials and the study of old photographs, reports and newspaper files.
  3. The extent of the surface soil formation and its relationship to the vegetation of the site, the activity of the land form, and the location of the site.
  4. The following ground photographs of the site with information showing the scale and date of the photographs and their relationship to the topographic map and profiles:
    - a. A view of the general area.
    - b. The site of the proposed development.
    - c. Any features which are important to the interpretation of the hazard potential of the site, including all sites of erosion and accretion.
- C. Topography Map: A topography base map of one hundred feet to one inch (100' = 1") scale and with a contour interval of two feet (2") shall be prepared identifying the following features and shall be accompanied by references to the source and date of information used:
1. The position of the lot line.
  2. The boundaries of the property.
  3. Each geological feature classification type.
  4. Areas of open ground and the boundaries and species identification of major plant communities.
  5. Any springs, streams, marshy areas, standing bodies of water or intermittent waterways.
  6. Cut terraces, erosion scarps and areas exhibiting significant surface erosion due to improper drainage and runoff concentration.
  7. Geological information, including lithologic and structural details important to engineering and geologic interpretation.
- D. Subsurface Analysis: If upon initial investigation it appears there are critical areas where the establishment of geologic conditions at depth is required, a subsurface analysis obtained by drill holes, well logs and other geophysical techniques shall be conducted by the person responsible for the site investigation report to include the following data, as appropriate:
1. The lithology and compaction of all subsurface horizons to bedrock.

2. The depth, width, slope and bearing of all horizons containing significant amounts of silt and clay and any other subsurface layers which could reduce surface water infiltration.
- E. Development Proposals: The site investigation report shall include the following information on the proposed development as applicable:
1. Plans and profiles showing the position and height of each structure, paved area and area where cut and fill is required for the construction.
  2. The percent and location of the surface of the site which will be covered by impermeable surfaces.
  3. A stabilization program for the development describing:
    - a. How much of the site will be exposed during construction and what measures will be taken to reduce wind erosion and soil movement during construction.
    - b. A revegetation program designed to return open soil areas, both preexisting and newly created, to a stable condition as soon as possible following construction and the period of time during which revegetated areas will receive revegetation maintenance.
- F. Conclusions In The Site Investigation:
1. The site investigation report shall contain conclusions stating the following:
    - a. How the intended use of the land is compatible with the conditions.
    - b. Any existing or potential hazards noted during the investigation.
  2. Mitigating recommendations for specific areas of concern shall be included.
  3. Conclusions shall be based on data included in the report, and the sources of information and facts shall be specifically referenced.

#### **5-2.6.070 Standards For Building Construction In GH Zone**

- A. Building construction shall only be approved under conditions that do not adversely affect geologically stability or vegetation. The grading of land and the orientation and design of a building shall avoid creating conditions that will cause erosion or accretion of soil. Where there is some risk of these conditions occurring, a “qualified geological expert” shall certify that the design and control measures will comply with this standard.
- B. Construction work shall be scheduled and constructed to avoid erosion and temporary stabilization measures may be needed until permanent installations are accomplished.

**5-2.6.080 Standards For An Access Route**

An access route within a GH overlay zone shall comply with the following:

- A. A road or street shall be stabilized by planking, gravel or pavement as deemed necessary.
- B. A roadway shall be built without installation of excessive fill, diversion of water or excessive cuts unless the site investigation determined that such conditions will not be detrimental to the area or create unwarranted maintenance problems or additional hazards.

**5-2.6.090 Regulations Not A Guarantee**

The degree of geological hazard protection afforded by the provisions of this Title is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Greater hazards than those anticipated by these provisions may occur on occasion or the natural hazard may be increased by human or natural causes. The identification of areas subject to geological hazards pursuant to the provisions of this Title does not imply that lands outside such areas will be free from such hazards. This Title shall not create liability on the part of the City or any office or employee thereof for any damages that result from reliance of the provisions or designations of this Title or any administrative decisions lawfully made thereunder.

## **5-2.7. Park Reserve (PR) Overlay**

### **Sections:**

#### **5-2.7.010 Scope and Purpose of Regulations**

#### **5-2.7.020 Uses Permitted Outright**

#### **5-2.7.030 Conditional Uses Permitted**

#### **5-2.7.040 Dimensional Standards**

#### **5-2.7.050 Setbacks**

#### **5-2.7.060 Limitations On Conditional Uses**

#### **5-2.7.010 Scope and Purpose of Regulations**

The Park Reserve (PR) Overlay applies to park lands, existing and/or proposed, consistent with the John Day Comprehensive Plan and as designated on the Zoning Map. In any zone that is a GW overlay zone, the requirements and standards of this Chapter shall apply in addition to those of the underlying zone; provided, that if a conflict in regulations or standards occurs, the provisions of this Chapter shall govern. The purpose of the PR overlay zone is to promote the public safety and welfare by preventing certain types of development in those areas which are best suited or deemed necessary for public protection against development for parks, open space or other natural resource qualities not protected by other zone designations.

#### **5-2.7.020 Uses Permitted Outright**

In a PR overlay zone, the following uses are permitted outright:

- A. Farm use, not including structures or permanent facilities.
- B. Public reserve areas of natural, historical or geological significance.
- C. Public wildlife reserve or management area.
- D. Single-family dwelling, including a mobile home.

#### **5-2.7.030 Conditional Uses Permitted**

In a PR overlay zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 5-4.4 of this Title:

- A. Commercial, private or public picnic or campgrounds.
- B. Utility facility.
- C. Public or private golf courses.

- D. Master planned development.
- E. Commercial recreation use, including marina, riding stable, resort-type establishment, gun club, recreation camp and dude ranch.
- F. Public marina, recreation camp or resort.
- G. Public picnic grounds, parks, playgrounds, campgrounds or nature trails.
- H. Farm structures and permanent facilities.

#### **5-2.7.040 Dimensional Standards**

In a PR overlay zone, the following dimensional standards shall apply:

- A. The minimum lot size shall be as determined by the City to be necessary for the protection of public health and natural resource.

#### **5-2.7.050 Setbacks**

In a PR overlay zone, the following setback requirements shall apply:

- A. There shall be a setback of a minimum of 60 feet from an arterial or collector street or road right of way, and a 20-foot setback from a street within a duly platted and recorded subdivision.
- B. The setback from a stream high-water mark shall be a minimum of 100 feet, except as approved by the City.
- C. Each side setback shall be a minimum of five (5) feet, except on a corner lot, it shall be 10 feet on the street side.
- D. The rear setback shall be 10 feet.

#### **5-2.7.060 Limitations On Conditional Uses**

In addition to the standards and conditions that may be attached to the approval of a conditional use as provided by Chapter 5-4.4 of this Title, the following limitations shall apply to a conditional use in a PR overlay zone:

- A. The City may require establishment and maintenance of fire breaks, the use of fire resistant materials in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce fire hazards or prevent the spread of fire to surrounding areas.
- B. The City may limit changes in the natural grade of land, or the alteration, removal or



destruction of natural vegetation in order to prevent or minimize erosion, pollution or degradation of the natural attractiveness of the area.

- C. An application for a conditional use in a PR overlay zone shall be denied if, in the opinion of the City, the proposed use would exceed the carrying capacity of the area or would be detrimental to the natural features or resources of the area.

## **5-2.8. Greenway (GW) Overlay**

### **Sections:**

- 5-2.8.010 Scope and Purpose of Regulations**
- 5-2.8.020 Uses Permitted Outright**
- 5-2.8.030 Conditional Uses**
- 5-2.8.040 Limitations On Uses**
- 5-2.8.050 Review Process**
- 5-2.8.060 Zone Application**
- 5-2.8.070 Review Factors**

### **5-2.8.010 Purpose**

The Greenway (GW) Overlay applies to riparian areas and other open spaces, consistent with the John Day Comprehensive Plan and as designated on the Zoning Map. In any zone which is a GW overlay zone, the requirements and standards of this Chapter shall apply in addition to those of the underlying zone; provided, that if a conflict in regulations or standards occurs, the provisions of this Chapter shall govern. The purpose of the GW overlay zone is to provide an area adjoining certain identified streams which is uncluttered and unobstructed by structures or other personal property on the land within the zone.

### **5-2.8.020 Uses Permitted Outright**

In a GW overlay zone, the following uses are permitted outright:

- A. Only those uses considered compatible with the applicable resource shall be permitted outright in the GW overlay zone. Such uses shall be limited to open land uses such as agriculture and recreation, and may not include any use involving a structure, the storing or placing of personal property, the removal of natural vegetation or modification of the natural channel or stream banks.
- B. Any use not prohibited by subsection A above, but which must be compatible with the zoned or permitted use of land adjoining that within the GW overlay zone.

### **5-2.8.030 Conditional Uses**

All uses not included in Section 5-2.8.020 shall be conditional uses and subject to approval in accordance with the provisions of Chapter 5-4.4 of this Title and limitations of Section 5-2.8.040 of this Chapter.

### **5-2.8.040 Limitations On Uses**

No use shall be permitted that is not in compliance with the following conditions:

- A. Preserves or enhances the natural vegetation.
- B. Does not require channelization, removal of streamside vegetation, stream bank alteration or stream channel filling, except as deemed necessary to protect public or private life and property.

#### **5-2.8.050 Review Process**

In addition to the standard notice requirements, notice of any application for a use in a GW overlay zone shall be provided to the affected resource managing agency(s).

#### **5-2.8.060 Zone Application**

The GW overlay zone shall comprise an area abutting Canyon Creek and the John Day River, on each side thereof, for a distance perpendicular to and (20 feet for Canyon Creek) (20 feet for John Day River) distant from the normal average high water mark or identifiable stream channel.

#### **5-2.8.070 Review Factors**

The following factors, at a minimum, shall be considered in the review of an application for a land use in the GW overlay zone:

- A. Maintenance or enhancement of fish passages.
- B. Protection of streamside vegetation.
- C. Limitations on stream fords.
- D. Minimization of fill or material removal.
- E. Maximum protection of water quality.
- F. Reclamation of any natural disturbance.
- G. The timing of any in-stream work necessary.
- H. The need for buffer or special management zones or areas.

## 5-2.9. Flood Plain (FP) Overlay

### Sections:

- 5-2.9.010 Purpose.**
- 5-2.9.020 Applicability.**
- 5-2.9.030 Definitions – Flood Hazard Provisions.**
- 5-2.9.040 Review Procedures.**
- 5-2.9.050 Information Required for Floodplain or Riparian Development Proposals.**
- 5-2.9.060 Floodplain Review Criteria.**
- 5-2.9.070 Floodplain Development Standards.**
- 5-2.9.080 Variances Within a Floodplain.**
- 5-2.9.090 Floodplain Data.**
- 5-2.9.100 Alteration of Watercourses.**

### 5-2.9.010 Purpose

The purpose of this chapter is to manage development within designated floodplains, consistent with the following objectives:

- A. Ensure City compliance with Statewide Planning Goal 7 (Natural Disasters and Hazards), and minimizes potential damage to life, property and water quality.
- B. Promote public health, safety, and general welfare; and minimize public and private losses due to flood conditions in specific areas.
- C. In order to accomplish these purposes, this Chapter includes methods and provisions for:
  - 1. Restricting or prohibiting uses that are dangerous to health, safety, and property due to water or erosion hazards, or that can result in damaging increases in erosion or in flood heights or velocities.
  - 2. Requiring that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction.
  - 3. Controlling the alteration of natural floodplains, stream channels, and stream corridors that help accommodate or channel flood waters and protect fish and wildlife habitat.
  - 4. Control filling, grading, dredging, and other development that may increase flood damage or reduce the functions and values provided by stream corridors and wetlands.
  - 5. Preventing or regulating the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards in other areas; and
  - 6. Establishing variance criteria.

### 5-2.9.020 Applicability

This chapter applies to the 100-Year floodplain and floodway. The 100-year floodplain and floodway are areas of special flood hazard at or below the base flood elevation identified in "The Flood Insurance Study, Grant County, Oregon, and Incorporated Areas," dated February 23, 1982 (or as subsequently amended and approved by the City of John Day), with accompanying

Flood Insurance Maps. The Flood Insurance Study is on file at the City of John Day.

- A. **Disclaimer.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, any officer or employee of the City for any flood damages that result from reliance on this chapter or any administrative decision lawfully made under them.
- B. **Interpretations.** The Development Official shall administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. The Development Official shall make interpretations, where needed, as to exact location of the boundaries of the areas of special flood hazards. A person contesting the location of the boundary shall bear the burden of demonstrating why the official floodplain map is in error.

#### 5-2.9.030 Definitions – Flood Hazard Provisions

Unless specifically defined below, or as specifically defined in Article 6, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**APPEAL** means a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

**AREA OF SHALLOW FLOODING** means a designated AO, or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

**AREA OF SPECIAL FLOOD HAZARD** means the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

**BASE FLOOD** means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

**BASEMENT** means any area of the building having its floor subgrade (below ground level) on all sides.

**CRITICAL FACILITY** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous

materials or hazardous waste.

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

ELEVATED BUILDING means for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters *and/or* (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN means the lowlands adjoining a water body such as the John Day River. The BASE FLOODPLAIN means the 100-year floodplain, or floodplain with a 1.0 percent chance of flooding in any given year. (Code of Federal Regulations Title 10, Part 1022)

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

LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the

applicable non-elevation design requirements of this ordinance.

MANUFACTURED HOME means a dwelling constructed off-site in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976, then assembled or placed on-site in accordance with the requirements of this Code. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

RECREATIONAL VEHICLE means a vehicle that is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation of the property or accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

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

The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE means a grant of relief from the requirements of this ordinance, which permits construction in a manner that would otherwise be prohibited by this ordinance.

WATER DEPENDENT means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

#### 5-2.9.040 Review Procedures

- A. **Floodplain Development.** Applications for development within the 100-year floodplain shall be reviewed by the Development Official under Type I procedure. Adjustments to floodplain regulations shall not be permitted. Variance applications shall be reviewed by the Commission under the Type III procedure. Property owners entitled to notice shall be notified in writing, prior to the public hearing, that such a variance may have the cumulative effect of:
  1. Increasing premium rates for insurance.
  2. Increasing risks to life and property.
  3. If a variance is approved by the City, documentation of the reasons for the variance shall be reported to the Federal Insurance Administration of the Department of Housing and Urban Development.
- B. **Floodway development prohibited.** Except for public utilities and transportation facilities, development within the floodway is prohibited. For public utilities and transportation facilities, the city will prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer is provided demonstrating through hydrological and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood. If the no-rise requirement is satisfied then public utilities and transportation facilities shall comply with all applicable flood hazard reduction provisions of this Chapter.



### 5-2.9.050 Information Required for Floodplain or Riparian Development Proposals

In addition to meeting the informational requirements specified in Chapter 4.2, Land Use Review, the required site plan shall indicate the location of the designated floodplain and floodway. Specifically, the following information is required:

- A. Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;
- B. Elevation in relation to mean sea level to which a structure has been flood-proofed;
- C. Certification by a registered professional engineer, surveyor, or architect that the flood-proofing methods for a nonresidential structure meet the flood-proofing criteria in this Chapter; and
- D. Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

### 5-2.9.060 Floodplain Review Criteria

Floodplain development, including but not limited to vegetation removal, grading, construction, reconstruction, alteration, or placement of a dwelling on any lot or parcel of land at or below the base flood elevation shall conform to the following standards:

- A. Structures shall be designed and anchored, as applicable, to prevent flotation, collapse or lateral movement due to flooding. See Section 5-2.2.100(F)-(G) for manufactured dwellings.
- B. Utilize construction methods and practices that minimize flood damage and provide adequate drainage in order to reduce exposure to flood hazards.
- C. Avoid placing structures in the floodway to the extent practical.
- D. Place structures, access drives, and utilities to minimize or eliminate flood damage to sewer, gas, electrical and water systems.
- E. Avoid altering the flow or depth of surface water and maintain flood storage capacity so that development does increase risk of flooding to downstream properties. Design development so that, if inundated, it does not increase flood hazards to area inhabitants or associated property.
- F. Design development to protect water supply and sewage disposal systems during periods of inundation, to the greatest extent practicable.
- G. Design structures such that the lowest floor of any permanent structure shall be at least one foot above the base flood elevation for that area.

- I. Avoid alteration of stream courses.

#### 5-2.9.070 Floodplain Development Standards

- A. **Anchoring.** 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, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- B. **Construction Materials and Methods.** All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located to prevent water from entering or accumulating within the components during conditions of flooding.
- C. **Utilities.** All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and 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.
- D. **Land Division Proposals.** All land division proposals shall be consistent with the need to minimize flood damage. All land division proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage. All land division proposals shall have adequate drainage provided to reduce exposure to flood damage. If base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for land division proposals and other proposed developments that contain at least 50 lots or five acres, whichever is less.
- E. **Review of Building Permits.** If elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for building 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 of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.
- F. **Residential Standards.** Except as provided for manufactured dwellings under Section 5-2.2.100F and 5-2.2.100G, new construction and substantial improvement of a residential structure shall:

1. Have the lowest floor, including basement, elevated one foot above the base flood elevation.
2. Prohibit fully enclosed areas below the lowest floor that are subject to flooding, unless designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - a. A minimum of 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.
  - b. The bottom of all openings shall be no higher than one foot above grade.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - d. Below-grade crawlspaces are allowed subject to the standards in FEMA Technical Bulletin 11-02 or any updates thereto.

**G. Nonresidential Construction.** New construction and substantial improvement of a commercial, industrial, or other nonresidential structure shall either:

1. Have the lowest floor, including basement, elevated one foot above the base flood elevation, below-grade crawlspaces are allowed subject to the standards in FEMA Technical Bulletin 11-02 or any updates thereto; or,
2. Together with attendant utility and sanitary facilities, shall:
  - a. Be flood-proofed so that the structure is watertight below the base flood level, with walls substantially impermeable to the passage of water.
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; or
  - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications, and plans.
3. The certifications shall be provided to the official as required in this Chapter.
4. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in this Chapter.
5. Applicants flood-proofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the flood-proofed level, *e.g.*, a building constructed to the base flood level will be rated as one foot below that level.

**H. Manufactured Homes.** All manufactured homes to be placed or substantially improved within a designated flood hazard area shall conform to the provisions of Section 5-2.2.100(F)-(G).

- I. **Recreational vehicles.** Recreational vehicles placed within the floodplain are required to 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 elevation and anchoring requirements for manufactured homes.
- J. **Encroachments.** A proposed development shall be analyzed to determine effects on the flood carrying capacity of the areas of special flood hazard as set forth in this Chapter.

#### 5-2.9.080 Variances Within a Floodplain

Any variance from the floodplain standards of this Code shall be discouraged. On rare occasions, unusual hardship may exist which leads the Commission to consider a variance application pursuant to the following criteria and procedures:

- A. **Floodway Variances.** Variances shall not be issued within a designated floodway if an increase in flood levels during the base flood discharge would result.
- B. **Variance Process.** Variances shall be processed under Type III procedure under Chapter 5.1 (Class B Variance).
- C. **Specific Floodplain Variance Criteria.** The following additional variance approval criteria must be satisfied:
  - 1. **No Increase in Base Flood Elevation.** The applicant's engineer shall certify that the variance will not result in increased base flood elevations, increased flood hazard to the public or decreased water quality in affected streams.
  - 2. **Mitigation.** The applicant shall agree in writing to perform such mitigation measures as may be required by the City.
  - 3. **Other Factors.** In determining whether to approve a variance, the Commission shall consider all technical evaluations, relevant factors, standards specified in other sections, and may also consider:
    - a. The danger that materials may be swept onto other lands to the injury of others;
    - b. The danger to life and property due to flooding or erosion damage;
    - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
    - d. The importance of the services provided by the proposed facility to the community;
    - e. The necessity to the facility of a waterfront location and the availability of an alternative location for the proposed use that is not subject to flooding or erosion damage;
    - f. The compatibility of the proposed use with existing and anticipated development;
    - g. The relation of the proposed use to the comprehensive plan and flood plain

- management program for that area;
- h. The safety of access to the property in times of flood for ordinary and emergency vehicles.
4. **Conditions.** The Commission may attach conditions to any approved variance where necessary to ensure compliance with variance approval criteria.

#### 5-2.9.090 Floodplain Data

- A. **Use of Other Base Flood Data.** When base flood elevation has not been established for a particular site, the Development Official shall obtain, review, and reasonably use any base flood elevation and floodway data available from a Federal, State, or other source in order to administer this chapter.
- B. **Information to be Obtained and Maintained.** The applicant shall be responsible for obtaining and providing the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures, whether or not the structure contains a basement. For all new or substantially improved flood-proofed structures, the Development Official shall: verify and record the actual elevation, in relation to mean sea level; maintain the flood-proofing certifications; and maintain for public inspection all records pertaining to the provisions of this Code.
- C. **Appeal Records.** The Development Official shall maintain the records of appeals and report variances to the Federal Insurance Administration upon request. An applicant to whom a variance is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

#### 5-2.9.100 Alteration of Watercourses

Alteration of watercourses (streams) shall be prohibited, except in emergency situations. Should such an alteration occur, the Development Official shall notify the Department of Land Conservation and Development, Grant County, and adjacent communities prior to any alteration or relocation of a watercourse and submit evidence of the notification to the Federal Insurance Administration; and require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.

## **5-2.10. Public Facilities (PF) Overlay**

### **Sections:**

- 5-2.10.010 Purpose of Regulations**
- 5-2.10.020 Applicability**
- 5-2.10.030 Uses Permitted Outright**
- 5-2.10.040 Conditional Uses Permitted**
- 5-2.10.050 Dimensional Standards**
- 5-2.10.060 Setbacks**
- 5-2.10.070 Development Standards**

### **5-2.10.010 Purpose Of Regulations**

The Public Facilities (PF) overlay is intended to facilitate the delivery of municipal services. The PF overlay allows land uses and activities by right, consistent with plans and policies adopted by the John Day City Council.

### **5-2.10.020 Applicability**

The Public Facilities (PF) overlay is automatically applied to property owned by the City of John Day, including property acquired by the City after the effective date of this ordinance. The PF overlay automatically expires upon City disposal of said property. The requirements and standards of this Chapter shall apply, in addition to those herein specified for the underlying zone; provided, that if a conflict in regulations or standards occurs, the provisions of the PF overlay apply.

### **5-2.10.030 Uses Permitted Outright**

In a PF overlay zone, the following uses and their accessory uses are permitted outright:

- A. Uses permitted outright by the underlying zone.
- B. Public picnic grounds, parks, playgrounds, campgrounds or nature trails.
- C. Utility facilities.
- D. Other uses as specifically approved by the City of John Day City Council, provided the use is consistent with an adopted City Master Plan; e.g., City of John Day Water System Master Plan, Sanitary Sewer Master Plan, Storm Drainage Plan, Parks Master Plan, and others that the City may adopt or update from time to time.

#### **5-2.10.040 Conditional Uses Permitted**

In a PF overlay zone, the following uses and their accessory uses are permitted when authorized in accordance with Chapter 5-4.4 of this Title:

- A. Uses allowed by the underlying zone subject to approval of a Conditional Use Permit.

#### **5-2.10.050 Dimensional Standards**

In a PF overlay zone, the following dimensional standards shall apply:

- A. The minimum lot size shall be as determined by the City to be necessary for the protection of public health and natural resource.

#### **5-2.10.060 Setbacks**

In a PR overlay zone, the following setback requirements shall apply:

- A. There shall be a setback of a minimum of twenty feet (20') from all property lines, except as specifically approved as part of a Conditional Use Permit.
- B. The setback from a stream high-water mark shall be a minimum of 100 feet, except as specifically approved as part of a Conditional Use Permit and subject to Flood Plain Development approval.

#### **5-2.10.070 Development Standards**

In addition to the standards and conditions of the underlying zone, and those that may be attached to the approval of a conditional use as provided by Chapter 5-4.4 of this Title, the following limitations shall apply to uses in a PF overlay zone:

- A. The City may require establishment and maintenance of fire breaks, the use of fire resistant materials in construction and landscaping, or may attach other similar conditions or limitations that will serve to reduce fire hazards or prevent the spread of fire to surrounding areas.
- B. The City may limit changes in the natural grade of land, or the alteration, removal or destruction of natural vegetation in order to prevent or minimize erosion, pollution or degradation of the natural attractiveness of the area.
- C. A use in a PF overlay zone shall be denied if, in the opinion of the City, the proposed use would exceed the carrying capacity of the area or would be detrimental to the natural features or resources of the area.

<b>ARTICLE 5-3 - COMMUNITY DESIGN STANDARDS</b>	<b>2</b>
<b>Chapter 5-3.0 - Design Standards Administration</b>	<b>3</b>
5-3.0.010 Design Standards - Purpose	3
5-3.0.020 Design Standards - Applicability	3
<b>Chapter 5-3.1 - Access and Circulation</b>	<b>4</b>
5-3.1.010 Purpose	4
5-3.1.020 Vehicular Access and Circulation	4
5-3.1.030 Pedestrian Access and Circulation	11
<b>Chapter 5-3.2 - Landscaping, Street Trees, Fences and Walls</b>	<b>14</b>
5-3.2.010 Purpose	14
5-3.2.020 Landscape Conservation	15
5-3.2.030 Landscaping and Screening	17
5-3.2.040 Street Trees	22
5-3.2.050 Fences and Walls	24
<b>Chapter 5-3.3 - Parking and Loading</b>	<b>26</b>
5-3.3.010 Purpose	26
5-3.3.020 Applicability	26
5-3.3.030 Automobile Parking Standards.	27
5-3.3.040 Bicycle Parking Standards	35
5-3.3.040 Loading Areas	37
<b>Chapter 5-3.4 - Public Facilities</b>	<b>38</b>
5-3.4.010 Purpose and Applicability	38
5-3.4.010 Transportation Standards	39
5-3.4.020 Public Use Areas	50
5-3.4.030 Sanitary Sewer and Water Service Improvements.	51
5-3.4.040 Storm Drainage Improvements	52
5-3.4.050 Utilities	53
5-3.4.060 Easements	54
5-3.4.070 Construction Plan Approval	55
5-3.4.080 Installation	56
5-3.4.090 Performance Guarantee and Warranty Bond	57
<b>Chapter 5-3.5 - Signs</b>	<b>58</b>
5-3.5.010 General Sign Standards in All Zoning Districts	58
5-3.5.020 Sign Standards in the Commercial and Industrial Zoning Districts	58



## **Article 5-3 - Community Design Standards**

### Chapters:

5-3.0 Design Standards Administration

5-3.1 Access and Circulation

5-3.2 Landscaping, Street Trees, Fences and Walls

5-3.3 Parking and Loading

5-3.4 Public Facilities

5-3.5 Signs

## **Chapter 5-3.0 - Design Standards Administration**

### **Sections:**

- 5-3.0.010      Design Standards - Purpose**  
**5-3.0.020      Design Standards - Applicability**

#### **5-3.0.010      Design Standards - Purpose**

The following describes how the Community Design Standards (Article 5-3) are applied, and the relationship between Article 5-3 and the supplemental design standards for specific land uses and building types contained in Article 5-2.

#### **5-3.0.020      Design Standards - Applicability**

The regulations of Article 5-3 apply only to new development and alterations to existing development. The City of John Day Planning Official, in consultation with the Public Works Director, shall determine which provisions of Article 5-3 apply to a particular project. The Planning Official shall consider the scope of the project proposal as presented by the applicant during pre-application meeting with the City, or as described on the application form(s) required for land use or other permit approvals. Property owners and applicants are advised to contact the City of John Day prior to applying for permits.

## Chapter 5-3.1 - Access and Circulation

### Sections:

#### 5-3.1.010 Purpose

#### 5-3.1.020 Vehicular Access and Circulation

#### 5-3.1.030 Pedestrian Access and Circulation

#### 5-3.1.010 Purpose

The purpose of this Chapter is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles. Section 5-3.1.020 provides standards for vehicular access and circulation. Section 5-3.1.030 provides standards for pedestrian access and circulation. Standards for streets and other transportation system improvements are provided in Section 5-3.4.010.

#### 5-3.1.020 Vehicular Access and Circulation

- A. **Intent and Purpose.** The intent of this Section is to manage access to land uses and on-site circulation, and to preserve the transportation system in terms of safety, capacity, and function. This Section applies to all public streets within the City of John Day, and to all properties that abut these roadways. This Section implements the transportation policies of the City of John Day Transportation System Plan.
- B. **Applicability.** This Chapter applies to all public streets within the City and to all properties that abut these streets. The standards apply 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.
- 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 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 roadway authority, as determined through the review procedures in Article 5-4.
- D. **Traffic Study Requirements.** The City may require a traffic study prepared by a qualified professional to determine access, circulation, and other transportation requirements in conformance with Section 5-4.1.090, Traffic Impact Study.
- E. **Conditions of Approval.** The City or other roadway authority, as applicable, 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. Access Spacing.** Driveway accesses shall be separated from other driveways and street intersections in accordance with the following standards:

1. State Highways. The following access spacing standards apply with regard to redevelopment or change in land use, roadway improvements, or new access points along Highway 26 within John Day. Access to State highways shall be subject to the applicable standards and policies contained in the Oregon Highway Plan and OAR 734-051 (Division 51).

Table 5-3.1.020F(1) Access Spacing Standards for State Highways within John Day

Speed	Urban Non-Expressway (feet)	Urban Business Area (UBA), Urban (feet)	Special Transportation Area (STA), Urban (feet)
55+ MPH	700		
40 & 45 MPH	500		
35 MPH or less	400	350	175*

\* Urban STA Spacing is 175 feet or mid-block if the current block spacing is less than 350 feet. Note: From OAR 734-051, Table 4, Access Management Spacing Standards for Private and Public Approaches on District Highways.

2. Collector Streets. A minimum of 50 feet separation between driveways (as measured from centerlines of the driveways) is required on collector streets, except that driveways may be consolidated and adjoin each other for more than one dwelling and meet this standard. See also, subsection 5-3.1.020(F)(3) below.
3. Special Provisions for All Streets. Direct street access may be restricted for some land uses in order to maintain the safety and function of adjacent roadways, and as required for specific land uses pursuant to Article 5-2. For example, access consolidation, shared access, and/or access separation greater than that specified by this Chapter may be required by the City, Grant County, or ODOT for the purposed of protecting the function, safety and operation of the street for all users. Where no other reasonable alternatives exist, the permitting agency may allow construction of an access connection along the property line farthest from an intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.

**G. Number of Access Points.** For single-family (detached and attached), two-family, and three-family housing types, one street access point is permitted per lot, when alley access cannot otherwise be provided; except that two access points may be permitted on corner lots, or for circular driveways, subject to the access spacing standards in subsection 5-3.1.020F above. The number of street access points for multiple family, commercial, industrial, and park &

open space developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required in order to maintain the required access spacing and minimize the number of access points.

**H. Shared Driveways.** The number of driveway and private street intersections with collector and arterial streets shall be minimized by the use of shared driveways with adjoining lots where feasible. As applicable, the City shall require shared driveways as a condition of land divisions or site design review for traffic safety and access management purposes in accordance with the following standards:

**I. Joint and Cross Access – Requirement.** 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 parking areas where multiple property owners have entered into a shared use agreement;
2. Where access onto an arterial street is limited;
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 10 miles per hour and a maximum driveway width, excluding parking stalls, of 24 feet; 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;

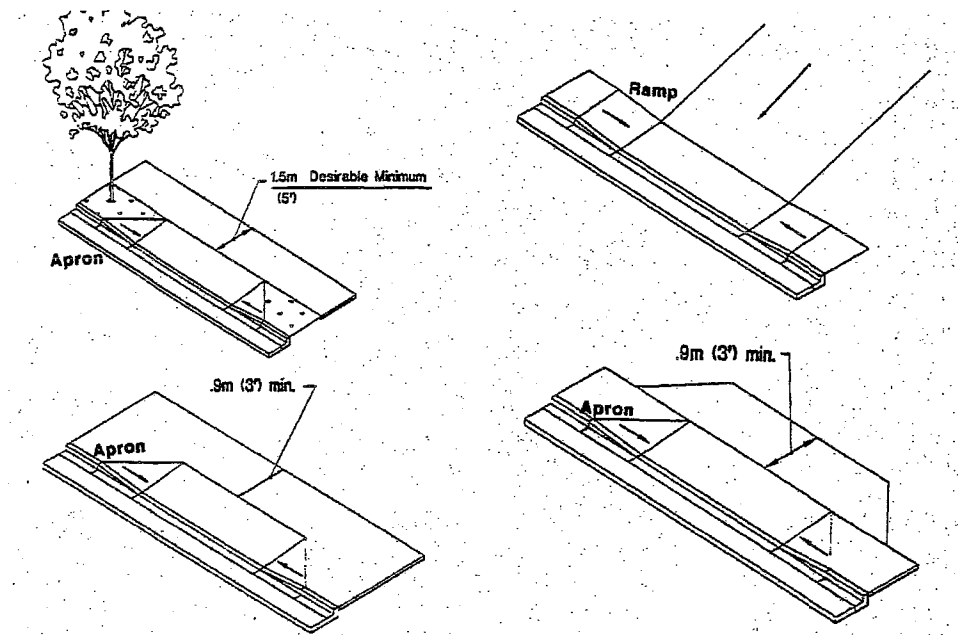
**J. Joint and Cross Access – Easement and Use and Maintenance Agreement.** Pursuant to this Section, property owners shall:

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 driveway connections to a public right-of-way (access) and driveways shall conform to all of the following design standards:

1. Driveway Width. Driveways shall meet the following standards:
  - a. One-way driveways (one way in or out) shall have a minimum driveway width of 10 feet (single lane) and a maximum width of 12 feet per lane, and shall have appropriate signage designating the driveway as a one-way connection.
  - b. For two-way access, each lane shall have a minimum width of 9 feet and a maximum width of 11 feet.
  - c. Driveway width shall increase (taper out) to provide for required emergency vehicle access and truck/trailer turning radius.
2. Driveway Approaches. Driveway approaches 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 5-3.3, Parking and Loading.
3. Driveway Construction.
  - a. Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive, as shown in Figure 5-3.1.020K.
  - b. Driveway aprons shall conform to Americans with Disability Act requirements for sidewalks and walkways, which generally require a continuous unobstructed route of travel that is not less than 3 feet in width, with a cross slope not exceeding 2 percent, and providing for landing areas and ramps at intersections.
  - c. Where no sidewalk exists and the Public Works Director determines that sidewalk improvements in the vicinity are unlikely in the future, a paved apron extending 10 feet behind the right-of-way is required.
  - d. Where a drainage ditch exists, a 12-inch minimum culvert extending a minimum of two (2) feet past the edge of the driveway on both sides of the driveway is required.

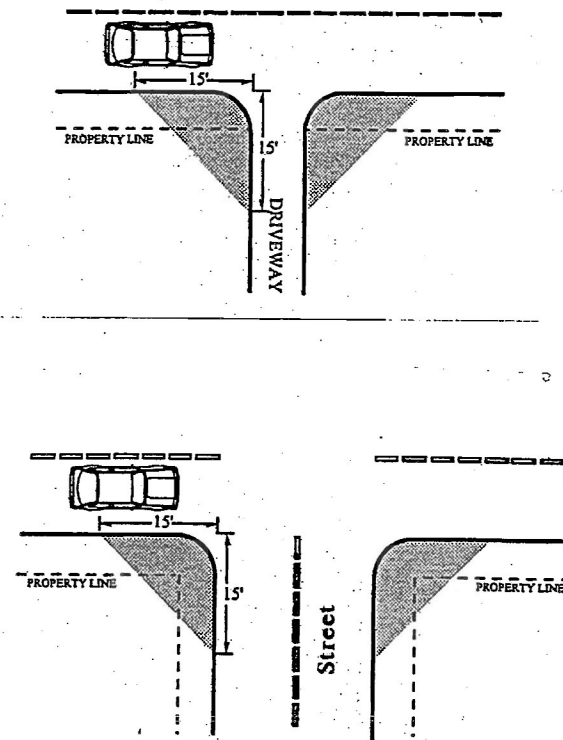
**Figure 5-3.1.020K Examples of Acceptable Driveway Openings Next to Sidewalks/Walkways**



**Note:** Configurations on the left are preferable. Use configurations on the right only where space or topographic limitations apply.

- L. **Fire Access and Turnarounds.** When required by applicable Fire Codes, 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 within 150 of all exterior walls of the first story of a building that is located more than 150 feet from an existing public street. The drive shall contain unobstructed adequate aisle width (14-20 feet) and turn-around area for emergency vehicles. The Fire Marshal may require that fire lanes be marked as “No Stopping/No Parking.” For requirements related to cul-de-sacs or dead-end streets, please refer to Section 5-3.4.010N.
- 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” at street intersections on streets, driveways, alleys, or mid-block lanes as shown in Figure 5-3.1.020N. The minimum vision clearance area may be modified by the Public Works Director upon finding that more or less sight distance is required (*i.e.*, due to traffic speeds, roadway alignment, etc.). The Public Works Director may allow light standards, utility poles, tree trunks and similar objects within a required clear vision area. See also, Chapter 6.2 Methods of Measurement.

Figure 5-3.1.020N Vision Clearance Areas

**N. Conditions and Exceptions.**

1. The City may impose turning restrictions (i.e., right in/out, right in only, or right out only) for safety and to maintain adequate traffic operations where a driveway opens onto a collector or arterial street.
2. Access to and from off-street parking areas shall not permit backing onto a public street, except for single-family dwellings.
3. The City may reduce required separation distance of access points where they prove impractical due to lot dimensions, existing development, other physical features, or conflicting code requirements, provided all of the following requirements are met:
  - a. Joint-use driveways and cross-access easements are provided;
  - b. The site plan incorporates a unified access and circulation system in accordance with this Section; and
  - c. The property owner(s) enter in a written agreement with the City, recorded with the



deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint-use driveway.

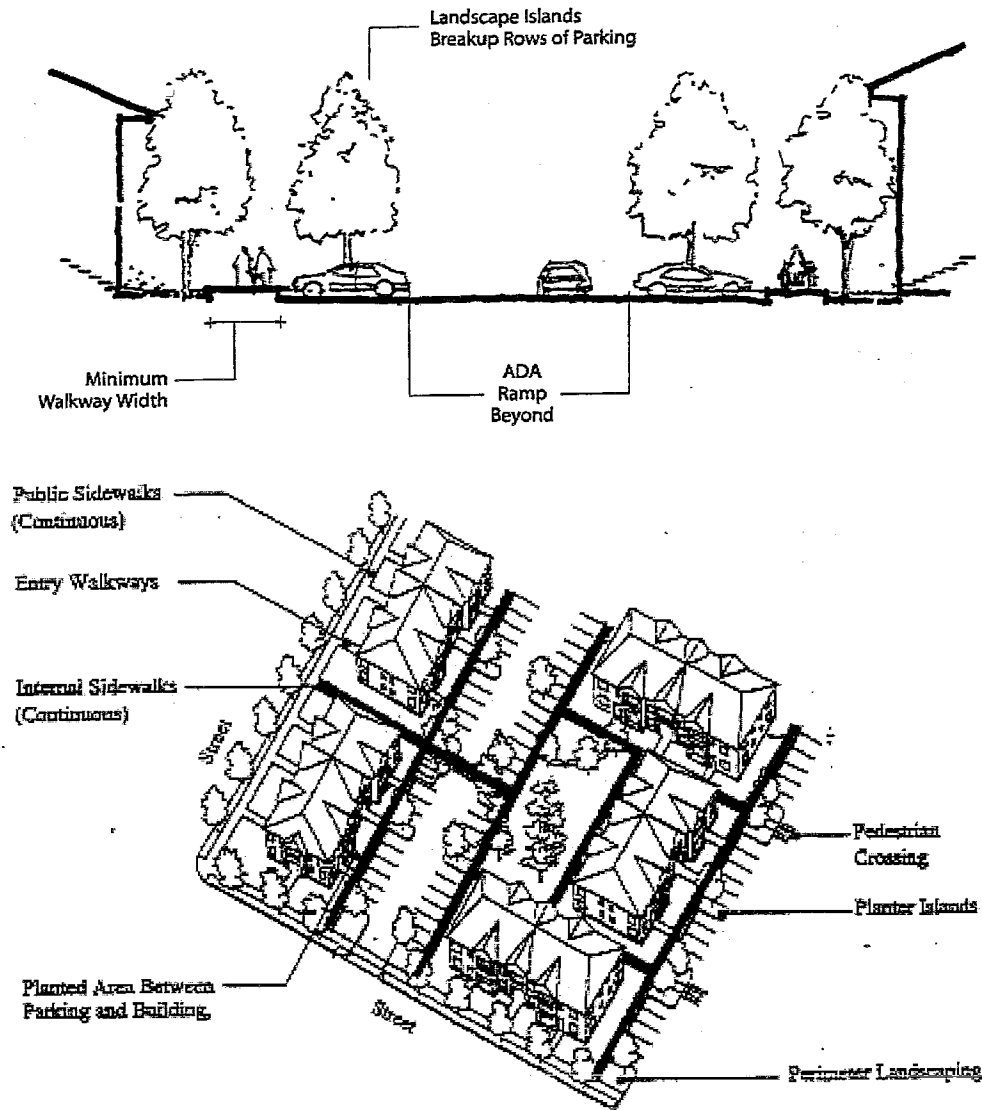
- O. **Site Circulation.** New developments shall be required to provide a circulation system that accommodates expected traffic on the site. Pedestrian connections on the site, including connections through large sites, and connections between sites (as applicable) and adjacent sidewalks, must conform to the provisions in Section 5-3.1.030.
- P. **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. Protection of Public Ways. Driveways and access roads shall be graveled to prevent tracking of mud onto city streets during site development and construction. The Public Works Director may also require rinsing of vehicles on-site before they are permitted to enter the public right-of-way.
  2. Surface Options. Driveways, parking areas, aisles, and turnarounds may be paved with asphalt, concrete, or comparable surfacing, including interlocking pavers or other durable paving material. When approved by the Public Works Director, porous paving systems may be used to manage surface water runoff. All paving materials shall be subject to review and approval by the Public Works Director.
  3. Surface Water Management. 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, and shall be subject to review and approval by the Public Works Director.
  4. 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 5-3.1.020K, above.)
    - a. Where no sidewalk exists and the Public Works Director determines that sidewalk improvements in the vicinity are unlikely in the future, a paved apron extending 10 feet behind the right-of-way is required.
    - b. Where a drainage ditch exists, a 12-inch minimum culvert extending a minimum of two (2) feet past the edge of the driveway on both sides of the driveway is required.

**5-3.1.030 Pedestrian Access and Circulation**

**A. Site Layout and Design.** To provide safe, direct, and convenient pedestrian circulation, all developments, except single-family and duplex dwellings shall provide a continuous pedestrian system within the development site that connects to the public right-of-way, regardless of whether a public sidewalk currently exists. 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, if any, 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 5-3.1.020, Vehicular Access and Circulation, and Section 5-3.4.010, 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 definitions:
  - 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" 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, as applicable.
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 5-3.1.030A(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 5-3.1.030A(1); and

Figure 5-3.1.030A(1) Pedestrian Pathway System (Typical)

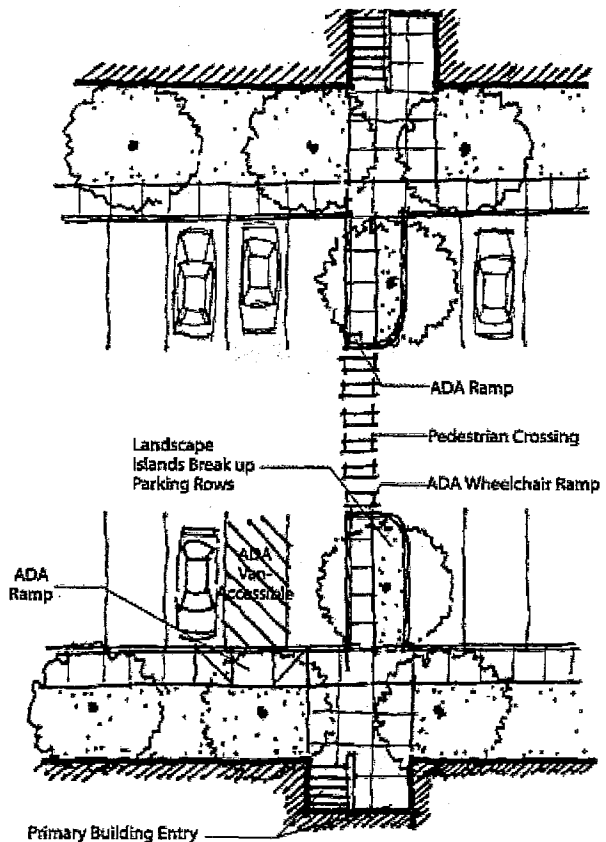


- c. Parking areas containing twenty four (24) or more parking spaces shall be broken up so that parking bays do not exceed twelve (12) contiguous parking spaces without a break. Parking areas may be broken up with landscape areas (per subsection 5-3.2.030.E), handicap-accessible walkways, plazas, streets, or driveways with street-like features. Street-like features, for the purpose of this section, means a raised sidewalk that is at least four (4) feet wide for residential projects and at least six (6) feet wide in all other projects, with 6-inch raised curbs, 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 access ways through a block, shall conform to all of the standards in subsections 1-4, below, as generally illustrated in Figure 5-3.1.030B:

1. Vehicle/Walkway Separation. Except for crosswalks (subsection 2), where a walkway abuts a driveway or street, it shall be raised 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 masonry 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 or pavers inlaid between asphalt), which may be part of a raised/hump crossing area. The reviewing body may approve painted or thermo-plastic striping and similar types of non-permanent applications may be approved for crosswalks not exceeding 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 Public Works Director, at least four (4) feet wide in residential projects and at least six (6) feet wide in all other projects. Multi-use paths (*i.e.*, for bicycles and pedestrians) shall be concrete or asphalt, at least 10 feet wide, or as required by the roadway authority or park district, as applicable.
4. Accessible routes. Walkways shall comply with 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 5-3.1.030B Pedestrian Walkway Detail (Typical)**



## Chapter 5-3.2 - Landscaping, Street Trees, Fences and Walls

### Sections:

- 5-3.2.010 Purpose
- 5-3.2.020 Landscape Conservation
- 5-3.2.030 Landscaping and Screening
- 5-3.2.040 Street Trees
- 5-3.2.050 Fences and Walls

### 5-3.2.010 Purpose

The purpose of Chapter 5-3.2 is to promote community health, safety, and welfare by protecting natural vegetation and setting development standards for the design, installation, and maintenance of landscaping, street trees, fences, and walls; and for alterations to the same. 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. Likewise, proper maintenance of landscape features is necessary to protect the public health and safety. The Chapter is organized into the following sections:

- A. **Section 5-3.2.020 Landscape Conservation** prevents the indiscriminate removal of significant trees and other vegetation, including vegetation associated with streams, wetlands, and other protected natural resource areas. Landscape conservation helps prevent soil erosion and landslide hazards, while protecting natural resource values (e.g., stream flow and water quality) and community aesthetics. Conservation of native, non-invasive plant and tree species is a high priority in areas subject to natural hazards, such as hillsides and riparian areas. Regulation of tree removal in other areas of the city is intended to balance residential privacy with the desire for views from, and solar access to, individual residences.
- B. **Section 5-3.2.030 - Landscaping** sets standards for and requires landscaping of all development sites that require Site Design Review. This section also requires buffering for parking and vehicle maneuvering areas, and in some instances between different land uses. Section 5-3.2.030 is to be applied in conjunction with Article 5-2, Land Use Districts.
- C. **Section 5-3.2.040 Street Trees** sets standards for and requires planting of trees where landscape park strips are designated. Street trees add to property values and community livability by providing summer shade along walks, comfort and safety to pedestrians, improved air quality along major streets, and improved community aesthetics.
- D. **Section 5-3.2.050 Fences and Walls** sets standards for new fences and walls, including allowable height and materials, to promote security, personal safety, privacy, and aesthetics.

**5-3.2.020 Landscape Conservation**

- A. **Applicability.** All development sites containing Significant Vegetation, as defined by subsection B, 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 to the greatest extent practicable. The retention of mature, native vegetation within developments is a preferred alternative to removal of vegetation and re-planting, particularly on steep slopes and areas prone to landslide or susceptible to soil erosion. 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 individual trees and shrubs within an Open Space District, any existing or proposed open space area within a development, geological hazard areas, flood plains, and jurisdictional wetlands, as determined by a natural resource agency with jurisdiction, except that protection shall not be required for plants listed as non-native, invasive plants by the Oregon State University (OSU) Extension Service, Grant County, or other government agency, where removal of vegetation is necessary to protect the public health, safety or welfare as determined by the City approval body.
- C. **Mapping and Protection Required.** Significant vegetation shall be mapped as required by Chapter 5-4.2, Site Design Review. Significant trees shall be mapped individually and identified by species and diameter or caliper at 4 feet above grade, except where a site contains more than five acres the Planning Official may accept a canopy-level inventory of trees based on an aerial photograph for a preliminary land division application. The City also may require an inventory, survey, or assessment prepared by a qualified professional when necessary to determine construction boundaries, building setbacks, and other protection or mitigation requirements.
- D. **Protection Standards.** Significant trees and shrubs identified as meeting the criteria in Section B, above, shall be retained to the extent practicable 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 to provide for a reasonable building envelope (area exclusive of required yard setbacks), and areas for access and utilities. Where other areas must be disturbed to provide for construction staging areas, the applicant shall be required to restore such areas after construction with landscaping 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; Erosion and Sediment Control.** An erosion and sediment control plan is required for all new 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. The City may limit grading activities and operation of vehicles and heavy equipment in and around significant vegetation areas, streams and other water bodies to prevent erosion,

pollution, or landslide hazards.

F. **Exemptions.** The protection standards in “D” and “E” shall not apply to:

1. Dead or Diseased Vegetation. Dead or diseased vegetation may be removed from an area containing significant vegetation, as defined by subsection B, provided the burden is on the property owner to demonstrate to the Planning Official that said vegetation is in fact diseased or dead before it is removed.
2. Hazardous Vegetation and Other Emergencies. Significant vegetation may be removed without land use approval pursuant to Article 4-1 when the vegetation poses an immediate threat to life or safety, or the vegetation must be removed for other reasons of emergency (e.g., fallen over road or power line, blocked drainage way, or similar circumstance), as determined by the City Planning Official or emergency service provider.

**5-3.2.030 Landscaping and Screening**

- A. **Applicability.** This Section shall apply to all new developments requiring Site Design Review. The landscape standards may be modified in accordance with the Adjustment procedure in Section 5-4.2.060.B. The Planning Official may approve an adjustment to any standard in this section by up to 20%; the Planning Commission reviews larger adjustments.
- B. **Landscaping Plan Required.** A landscape plan is required. All landscape plans shall conform to the requirements in subsection 5-4.2.050B.5 (Landscape Plans).
- C. **Landscape Area Standards.** The minimum percentage of site area required to be in landscaping varies by zone. See the development standards in Article 5-2.
- 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 canopy cover of all plants upon 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 with a trunk diameter greater than ten (10) inches are protected on a development 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. This provision does not waive the requirement for landscape areas or "breaks" between parking bays under subsections 5-3.1.030 and 5-3.2.030E; it only reduces the number of new trees that may be required where existing mature trees are preserved.
  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 5-3.2.020.B, shall be removed during site development, to the extent practicable, to prevent the plants from spreading; and the planting of new invasive species is prohibited.
  4. Hardscape features, In meeting the landscape area requirements of this Chapter, and where soil and drainage conditions allow, areas covered by unenclosed patios, decks, plazas, and similar hardscape features may count toward up to fifty percent (50%) of the required landscape area, provided that such surfaces allow for stormwater infiltration to the aquifer. Swimming pools, sports courts, and similar active recreation facilities may not be counted toward fulfilling the landscape requirement.
  5. Ground Cover Standard. All landscaped area, whether or not required, that is not planted with trees and shrubs, shall have ground cover plants that are sized and spaced as follows: a minimum of one (1) plant per twelve (12) inches on center in triangular spacing, or



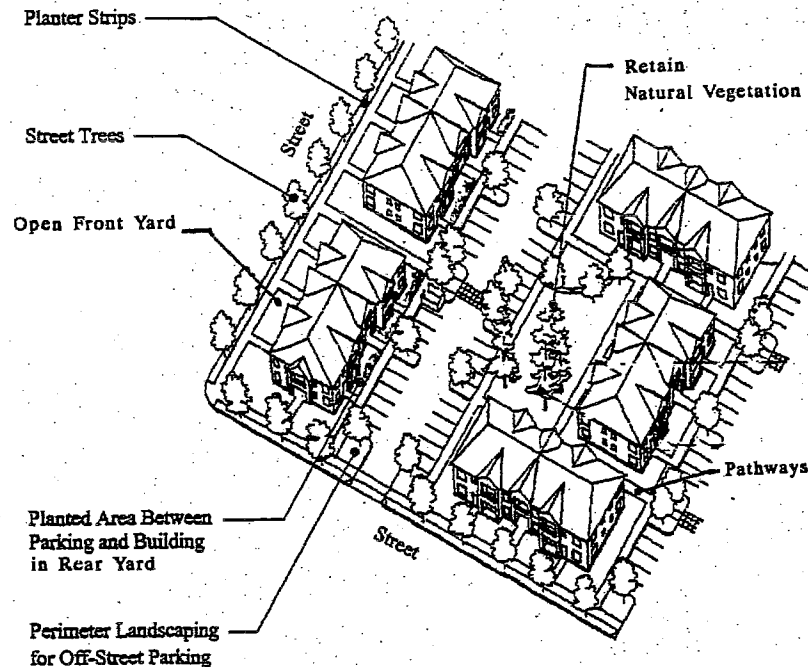
other planting pattern that is designed to achieve at least fifty percent (50%) coverage of all landscape surface areas.

6. Tree Size. Trees shall have a minimum diameter or caliper 4 feet above grade of two 2 inches or greater at time of planting.
  7. Shrub Size. Shrubs shall be planted from 5 gallon containers or larger.
  8. Non-plant Ground Covers. Bark dust, chips, or similar mulch shall be used to cover all landscape surfaces not otherwise planted or covered with hardscape surfaces. Stone, aggregate and similar materials may be used as ground cover, but shall cover no more than fifty percent (50%) of the area to be landscaped and shall be limited to footpaths, landscape bed borders, or structures providing erosion control or stormwater management. Non-plant ground covers cannot be a substitute for ground cover plants.
  9. Significant Vegetation. Significant vegetation protected in accordance with Section 5-3.2.020 may be credited toward meeting the minimum landscape area standards. Credit shall be granted on a per square foot basis. The Street Tree standards of Section 5-3.2.040 may be waived by the City when existing mature trees protected within the front yard provide the same or better shading, visual quality, and compatibility with adjacent structures and utilities as would otherwise be provided by standard street trees.
  10. Storm Water Facilities. Surface storm water treatment facilities (e.g., detention/retention ponds and swales designed for water quality treatment), when required under Section 5-3.4.040, shall be landscaped with water tolerant, native plants.
- E. Landscape Design Standards.** All yards, parking lots, and required street tree planter strips shall be landscaped to achieve the following criteria:
1. Yard Setback Landscaping. Landscaping in yards shall:
    - a. Provide visual screening and privacy within side and rear yards; while leaving front yards and building entrances mostly visible for security purposes and maintaining opportunities for solar access and territorial views;
    - b. Use shrubs and trees as wind breaks;
    - c. Consider the root and canopy growth characteristics of trees and avoid conflicts with utilities;
    - d. Retain natural vegetation where it does not conflict with clear vision requirements and utilities;
    - e. Define pedestrian pathways and open space areas with landscape materials;
    - f. Provide focal points within a development, for example, by preserving large or

unique trees or groves, hedges, and flowering plants;

- g. Use trees to provide summer shading within common open space areas and within front yards when street trees cannot be provided;
- h. Use a combination of plants for year-long color and interest;
- i. Use landscaping to screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales, and detention/retention ponds.

Figure 5-3.2.030E General Landscape Areas (Typical)



2. Parking areas. A minimum of ten percent (10%) 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 5-3.2.030.E.1, 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 twelve (12) 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-four (24) spaces shall include landscape islands with trees to break up the parking area into rows of not more than twelve (12) contiguous parking spaces. All parking area landscapes shall have dimensions of not less than 24 square feet of area, or not less than 4 feet in width by 6 feet in length, to ensure adequate soil, water, and space for healthy plant growth. (See Figures in Section 5-3.1.030.)
3. Buffering and Screening Required. Buffering and screening are required as follows:
  - a. Parking/Maneuvering Area Adjacent to Streets and Drives. Where a parking or maneuvering area abuts a street, a low (2-4 foot high) evergreen hedge, masonry wall (brick, concrete block, stone, poured-in-place concrete, or similar material), arcade, trellis, or similar screen structure shall be established between street and driveway. The required screening shall have breaks, where necessary, to allow pedestrian access

to the site and to allow visual surveillance of the site for security. Evergreen 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 the required screening within one (1) year after planting. Any areas between the wall/hedge and the street/driveway line shall be landscaped with plants or other vegetative ground cover.

- 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 a ground-floor residence, 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. Such screening shall be provided by a decorative wall (i.e., masonry, architectural quality vinyl, or similar quality material), and shall be subject to Site Design Review. Walls, fences, and hedges shall comply with the vision clearance requirements and provide for pedestrian circulation, in accordance with Chapter 5-3.1, Access and Circulation. (See Section 5-3.2.050 for standards specific to fences and walls.)
  - d. Flag Lot Screen. In approving a flag lot, as regulated under Chapter 5-4.3 Land Divisions, 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 5-4.3. 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.
- F. **Maintenance and Irrigation.** All yards and landscape areas, regardless of whether such areas are required by this Code, shall be maintained in good health, with sufficient irrigation and care. Irrigation shall be required through Site Design Review for new landscaping; temporary irrigation for a period of two years may be permitted where proposed species are 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.). All plants and non-plant materials, including man-made features, on a site shall be maintained in good condition, or otherwise be replaced by the owner upon being notified by the City of such code violation.

**5-3.2.040 Street Trees**

Street trees shall be planted for all developments that are subject to Land Division or Site Design Review where landscape park strips exist or are required with the development. Requirements for street tree planting strips are provided in Section 5-3.4.010, 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. 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, and in consideration of any list of desirable street trees that may be established from time to time by the City. The following should guide tree selection by developers and approval by the City:
1. Provide a broad canopy where shade is desired, except where limited by overhead utilities or other space limitations.
  2. Use low-growing trees for spaces under low utility wires.
  3. Select trees which can be “limbed-up” to comply with vision clearance requirements.
  4. Use narrow or “columnar” trees where awnings or other building features limit growth, where view protection is desired, 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 or pest damage and trees that produce excessive shoots (suckers), 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, exhaust, or other considerations.
  10. The diameter of the tree trunk at maturity shall not exceed the width and size of the planter strip or tree well.
- B. Tree Size at Planting.** The minimum tree size at planting is two (2) inch caliper measured four (4) feet above ground for deciduous trees, and six (6) foot height for evergreen trees.

- C. **Spacing and Location.** Street trees shall be planted within existing or proposed planting strips or in sidewalk tree wells on streets without planting strips, except where root system conflicts with utilities are unavoidable, in which case the City may approve trees planted in front yards of lots. 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 at least sixteen (16) square feet, or typically, four (4) feet by four (4) feet; trees shall be centered in the planter strip between sidewalk and curb. In general, trees should be spaced between thirty (30) feet and sixty (60) feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. Actual spacing should be based on the trees' growth characteristics and provide for a mostly continuous tree canopy cover over adjacent sidewalks when the trees mature.
- D. **Soil Preparation, Planting and Care.** The developer of subdivision or new site development with street frontage improvements shall be responsible for planting street trees, including soil preparation, ground cover material, staking, and temporary irrigation for two (2) 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.
- E. **Assurances.** The City shall require developers of subdivisions (4 or more lots), including those within Master Planned Developments, to provide a performance and maintenance bond in an amount determined by the Public Works Director, to ensure the maintenance, care and, if necessary, the replacement of required street trees during the first two (2) years after planting. See also, Section 5-3.4.090.
- F. **Tree Maintenance.** Maintenance of street trees, whether located in a public right-of-way or private property, is the ongoing responsibility of the adjoining property owner, subject to John Day City Code 3.814.

**5-3.2.050 Fences and Walls**

**A. General Requirements.** All fences and walls placed within a required setback yard shall comply with the standards of this Section.

1. The City may require installation of walls and/or fences as a condition of land use or development approval. (See also, Section 5-3.2.030 for screening requirements.)
2. Except as provided under subsection 5-3.2.050(B), below, fences and walls placed within a required setback yard shall not exceed the following height above grade, where grade is measured from the base of the subject fence or wall:
  - a. Within front and street-facing yard setbacks, four (4) feet
  - b. Within side and rear yard setbacks, six (6) feet
3. The allowable height of a fence or wall may be restricted to less than the dimensions under subsection 5-3.2.050(A)(2) to maintain required sight distance at a street intersection or driveway approach, as determined by the Public Works Director.
4. Where a fence or wall is placed atop another fence, wall, berm, or other manmade feature, height is measured from grade at the base of such feature.
5. Walls and fences required by the City for screening or buffering shall comply with Section 5-3.2.030.
6. Walls and fences shall comply with the vision clearance standards of Section 5-3.1.020.

**B. Exceptions and Adjustments.**

1. One arbor, gate, or similar fence or wall not exceeding eight (8) feet in height and six (6) feet in width is allowed within a front or street-facing yard provided it does not encroach into a required clear vision area.
2. Within a front or street-facing yard in a Residential district, a cyclone fence or similar type of fence is allowed to reach six (6) feet in height, provided such fence shall have openings evenly distributed and comprising at least fifty percent (50%) of the surface area of the fence. Alternatively, a solid fence or wall is allowed within the rear yard of a reverse frontage lot (i.e., where rear yard abuts a street right-of-way), provided such fence or wall shall be setback a minimum of five (5) feet from the right-of-way behind a landscape buffer.
3. Within side and rear yard setbacks, including rear yard setbacks on reverse frontage lots, the maximum fence and wall height is seven (7) feet, provided such fences and walls comply with the standards of subsection 5-3.2.050(B)(4) and the permitting requirements of subsection 5-3.2.050(C).
4. All portions of a fence or screening wall exceeding six (6) feet in height in a side or rear yard, including rear yard setbacks on reverse frontage lots, as allowed under subsection

5-3.2.050(B)(3), shall provide openings evenly distributed and comprising at least twenty percent (20%) of the surface area of that portion of the fence. For example, a six (6) foot solid cedar fence with one foot of latticework could meet this standard. Similarly, a wall consisting of a solid masonry base with ornamental (e.g., wrought iron) detailing could also meet the standard.

5. The Planning Commission, through a Type II Site Design Review, may approve a fence or wall exceeding the height limits of this Chapter. In approving such applications, the Planning Commission must find that the proposed fence or wall is necessary to buffer road noise, to protect the privacy of residents, or to mitigate adverse impacts of adjacent land uses, and does not pose a hazard to public health or safety. The Planning Commission shall also consider whether the proposed fence design (materials, color, detailing, etc.) is compatible with existing structures in the vicinity.

**D. Permitting.** A building permit is required for fences exceeding six (6) feet in height and retaining walls exceeding four (4) feet in height. In addition, walls exceeding four (4) feet require prior approval by the Public Works Director, who may require the applicant to submit plans prepared by a registered engineer.

**E. Maintenance.** For public health and safety, walls and fences shall be maintained in good condition, or otherwise replaced by the property owner.

**F. Materials.**

1. Permitted fence and wall materials include weather-treated wood; untreated cedar and redwood; metal (e.g., chain link, wrought iron, and similar fences); bricks, stone, masonry block, formed-in-place concrete, or similar masonry; vinyl and composite (e.g., recycled) materials designed for use as fencing; and similar materials as determined by the City Planning Official. In addition, non-invasive evergreen hedges kept to a height of not more than eight (8) feet may be considered screening walls for the purpose of this Chapter.
2. Prohibited fence and wall materials include straw bales, tarps, barbed or razor wire; scrap lumber, untreated wood, metal (except chain link), scrap materials, and tarps; dead, diseased, or dying plants; and materials similar to those listed herein.



## **Chapter 5-3.3 - Parking and Loading**

### **Sections:**

**5-3.3.010 Purpose**

**5-3.3.020 Applicability**

**5-3.3.030 Automobile Parking Standards**

**5-3.3.040 Bicycle Parking Standards**

**5-3.3.050 Loading**

### **5-3.3.010 Purpose**

The purpose of this Chapter is to provide basic and flexible standards for development of vehicle and bicycle parking. The design of parking areas is critically important to the 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.

### **5-3.3.020 Applicability**

All developments subject to site design review (Chapter 5-4.2), including development of parking facilities, shall comply with the provisions of this Chapter.

**5-3.3.030 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 5-3.3.030A, 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, City-approved shared parking, and designated on-street parking when approved by the City.

There is no minimum number of off-street parking required in the CBD district; however, new development and changes in use in the CBD shall be subject to a Downtown Parking District fee upon City adoption of a Downtown Parking District (or similar) ordinance. Where such Parking District applies, parking fees shall be calculated using the minimum parking ratios in Table 5-3.3.030A, below, or as established by City Ordinance.

**Table 5-3.3.030A – Minimum Required Parking by Use**

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.3; definitions are in Chapter 6.1.)</i>	<b>Minimum Parking per Land Use</b> <i>(fractions rounded down to the closest whole number)</i>
<b>Residential Categories</b>	
<b>Household Living</b>	
Accessory Dwelling	None
Single Family Dwelling, including attached and detached dwellings and manufactured homes	2 spaces, except attached dwellings shall conform to the parking requirements for multifamily uses
Duplex	4 spaces per duplex building (2 spaces per dwelling)
Multifamily	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, except the decision making body may require additional parking adjacent street(s) have limited or no on-street parking, where most residents are expected to drive, or where owner does not provide shuttle service for residents.

5-3.3.030 – Automobile Parking Standards

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.3; definitions are in Chapter 6.1.)</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 5-2.3.100	No requirement. See Section 5-2.3.100 for queuing area requirements
Bed and Breakfast Inn	2 spaces per use; additional parking may be required by the City through the Conditional Use Permit review (Chapter 5-4.4)
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 5-4.4)
Offices	2 spaces per 1,000 sq. ft. floor area
Outdoor Recreation, Commercial	per CU review (Chapter 5-4.4)
Surface Parking Lot (when not accessory to a permitted use)	per CU review (Chapter 5-4.4)
Quick Vehicle Servicing or Vehicle Repair. (See also Drive-Up/Drive-In/Drive-Through Uses, per Section 5-2.3.100)	2 spaces plus queuing space, or per CU review (Chapter 5-4.4)
Retail Sales and Commercial Service (See also Drive-Up Uses)	<u>Retail</u> : 2.5 spaces per 1,000 sq. ft., minimum and 4 spaces per 1,000 sq. ft. maximum; except 50% less for bulk retail (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales)
	<u>Restaurants and Bars</u> : 5 spaces per 1,000 sq. ft. floor area
	<u>Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys)</u> : 3 spaces 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
	<u>Theaters and Cinemas</u> : 1 per 6 seats
	<u>Other Commercial Services</u> : 2 per 1,000 sq. ft. floor area
Self-Service Storage	No standard; subject to CU review where CU applies.

## 5-3.3.030 – Automobile Parking Standards

<b>Use Categories</b> <i>(Examples of uses are in Chapter 1.3; definitions are in Chapter 6.1.)</i>	<b>Minimum Parking per Land Use</b> <i>(fractions rounded down to the closest whole number)</i>
<b>Industrial Categories</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; or as required by CU (Chapter 5-4.4)
Warehouse and Freight Movement	0.5 space per 1,000 sq. ft. of floor area; or as required by CU (Chapter 5-4.4)
Waste-Related	per CU review (Chapter 5-4.4)
Wholesale Sales - fully enclosed - not enclosed	1 space per 1,000 sq. ft. per CU review (Chapter 5-4.4)
<b>Institutional Categories</b>	
Basic Utilities	Parking based on applicant's projected parking demand, subject to City approval
Community Service	Parking based on applicant's projected parking demand, subject to City approval
Daycare, adult or child day care; does not include Family Daycare (16 or fewer children) under ORS 657A.250	1 space per 500 sq. ft. of floor area; or as required by CU (Chapter 5-4.4)
Parks and Open Space	Parking based on applicant's projected parking demand, subject to City approval
Religious Institutions and Houses of Worship	1 space per 75 sq. ft. of main assembly area; or as required by CU (Chapter 5-4.4)
Schools	Parking based on applicant's projected parking demand, subject to City approval

<b>Use Categories</b> (Examples of uses are in Chapter 1.3; definitions are in Chapter 6.1.)	<b>Minimum Parking per Land Use</b> (fractions rounded down to the closest whole number)
<b>Other Categories</b>	
Accessory Uses (with a permitted use)	Parking based on applicant's projected parking demand, subject to City approval
Agriculture – Animals	Parking based on applicant's projected parking demand, subject to City approval
Agriculture – Nurseries and similar horticulture	See Retail Sales and Wholesale, as applicable
Radio Frequency Transmission Facilities	None
Rail Lines and Utility Corridors	Parking based on applicant's projected parking demand, subject to City approval
Temporary Uses (limited to "P" and "CU" uses), per Section 5-4.9.010.	As determined per Section 5-4.9.010, subject to City approval
Transportation Facilities (operation, maintenance, preservation, and construction)	None, except for park-and-ride facilities; and where temporary parking is required for construction staging areas

## B. Vehicle Parking - Minimum Accessible Parking

1. Accessible (ADA) parking shall be provided for all uses in accordance with the standards in Table 5-3.3.030B; parking spaces used to meet the standards in Table 5-3.3.030B shall be counted toward meeting applicable off-street parking requirements;
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;

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.

<b>Table 5-3.3.030B - Minimum Number of Accessible Parking Spaces</b>			
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
	<i>Column A</i>		
1 to 25	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
>500	2% of total parking provided in each lot	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 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 5-3.3.030A 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 it 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 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 300 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.**

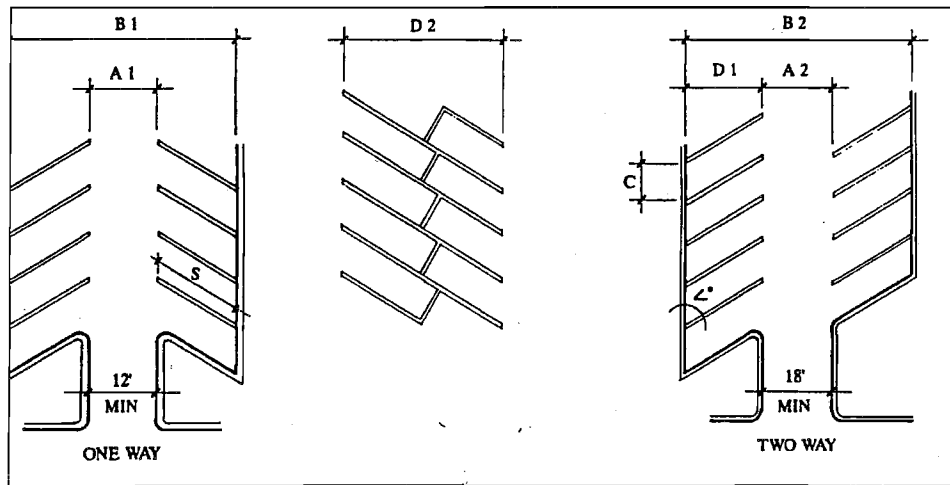
1. Location. Parking is allowed only on streets, within garages, carports, and other structures, or on driveways or parking lots that have been developed in conformance with this code. Article 2-1, Land Use Districts, prescribes parking location for some land uses (e.g., the requirement that parking for some multiple family and commercial developments be located to side or rear of buildings), and Chapter 5-3.1, 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.
4. 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.
5. Lighting. Lighting at levels appropriate for pedestrian safety shall be provided 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.
6. Screening of Parking Areas. Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses, per Section 5-3.2.030E.
7. Maintenance. All parking lots shall be maintained in good condition and repair.

- 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 5-3.3.030F(1) through (3), and Table 5-3.3.030F:

1. Parking area dimensions and layout shall conform to the dimensions in Figure 5-3.3.030F(1) and (2), and Table 5-3.3.030F, below;

2. Additional parking dimensions shall be provided in accordance to Americans With Disabilities Act (ADA) standards for required ADA parking spaces (van accessible parking spaces). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines. See Figure 5-3.3.030F.2; and

**Figure 5-3.3.030F(1) - Parking Area Layout**



**Figure 5-3.3.030.F(2) Disabled Person Parking Requirements**

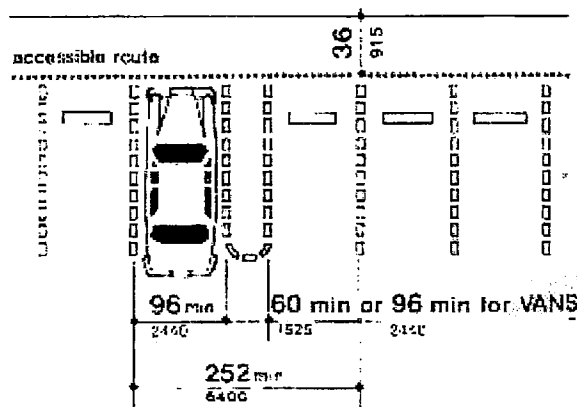




Table 5-3.3.030F - Parking Area Layout									
Standard Space  (See Figure 5-3.3.030F(3) for ADA space requirements)	PARKING ANGLE < °	CURB LENGTH H	STALL DEPTH		AISLE WIDTH		BAY WIDTH		STRIPE LENGTH
			SINGLE D1	DOUBLE D2	ONE WAY A1	TWO WAY A2	ONE WAY B1	TWO WAY B2	
	90°	8'-6"	18'	36'	23'	23'	59'	59'	18'
	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 5-2.2, Land Use District standards, for parking location requirements for some multifamily and commercial land uses; Chapter 5-3.1, Access and Circulation, for driveway standards; Chapter 5-3.2, Landscaping.

**5-3.3.040 Bicycle Parking Standards**

All uses that are subject to Site Design Review shall provide bicycle parking, in conformance with the standards in Table 5-3.3.040, and subsections A-G, below.

- A. Minimum Required Bicycle Parking Spaces.** Uses shall provide bicycle parking spaces, as designated in Table 5-3.3.040.

<b>Table 5-3.3.040 Minimum Required Bicycle Parking Spaces</b>		
<b>Use</b>	<b>Specific Uses</b>	<b>Required # of Spaces</b>
<b>Residential Categories</b>		
Household Living	Multifamily	2, or 1 per 20 units, whichever is greater
<b>Commercial Categories</b>		
Retail Sales And Service		1 per primary use or 1 per 20 vehicle spaces, whichever is greater
Office		2 per building or 1 per 20 vehicle spaces, whichever is greater
Industrial Uses		1 per 20 vehicle spaces
<b>Institutional Categories</b>		
Community Service		2, or as required by City
Parks (active recreation areas only)		8, or as required by City
Schools	Grades 2-5	2 per classroom, or per CU permit
	Grades 6-12	2 per 10 vehicle spaces, or per CU permit
Religious Institutions and Places of Worship		1 per 20 vehicle spaces, or per CU permit

- B. Exemptions.** This Section 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.** At least 20 percent of the required bicycle parking spaces shall be no farther from a primary building entrance than the distance from that entrance to the closest vehicle space, or 100 feet, whichever is less. Covered bicycle parking shall be incorporated wherever practical into building design (e.g., under eaves or stairwells). When allowed within a public right-of-way, bicycle parking 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. **Lighting.** For security, bicycle parking shall be at least as well lit as vehicle parking.
- F. **Reserved Areas.** Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.
- G. **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 5-3.1, Access and Circulation).

**5-3.3.040 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 5-3.3.040 applies to residential projects with 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 is in residential use shall meet the following standards:
    - a. Fewer than 50 dwelling units on a site that abuts a local street: No loading spaces are required.
    - b. All other buildings: One space (e.g., for moving trucks and deliveries).
  2. Non-residential and mixed-use buildings. Buildings where any floor area is 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 loading space.
    - c. More than 50,000 square feet of total floor area: Two loading spaces.
- D. **Size of Spaces.** Required loading spaces shall be at least 35 feet long and 10 feet wide, and shall have a height clearance of at least 13 feet. The City decision body may waive the above standards pursuant to subsection 5-3.3.040E.
- E. **Placement, setbacks, and landscaping.** Loading areas shall conform to the setback and perimeter landscaping standards in Chapters 5-3.1 and 5-3.2. Where parking areas are prohibited between a building and the street right-of-way, loading areas are also prohibited. Through Site Design Review, the decision body may approve a parking lot, driveway, or street right-of-way area for loading area use where it finds that loading and unloading operations are short in duration, do not obstruct traffic during peak traffic hours, and do not interfere with emergency response services.

## Chapter 5-3.4 - Public Facilities

### Sections:

- 5-3.4.010 Purpose and Applicability
- 5-3.4.010 Transportation Standards
- 5-3.4.020 Public Use Areas
- 5-3.4.030 Sanitary Sewer and Water Service Improvements
- 5-3.4.040 Storm Drainage Improvements
- 5-3.4.050 Utilities
- 5-3.4.060 Easements
- 5-3.4.070 Construction Plan Approval
- 5-3.4.080 Installation
- 5-3.4.090 Performance Guarantee and Warranty Bond

### 5-3.4.010 Purpose and Applicability

- A. **Purpose.** The purpose of this Chapter is to provide planning and general design standards for public and private transportation facilities and utilities. Streets serve both transportation and infrastructure needs and 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 functional, attractive and safe streets that can accommodate underground utilities and traffic from planned growth and provide a range of transportation options, including options for driving, walking, and bicycling. This Chapter implements the policies of the City of John Day Comprehensive Plan and Transportation System Plan.
- B. **When Standards Apply.** Unless otherwise provided, the standards of this Chapter apply when the Planning Official determines that a project proposal, due to projected traffic or the need to connect to City water, sewer or storm drainage, requires public improvements. All public improvements within the City shall occur in accordance with the standards and procedures of this Chapter.
- C. **Engineering Design Criteria, Standard Specifications and Details.** All public improvements are subject to compliance with engineering criteria and requirements, as determined by the Public Works Director. The design criteria, standard construction specifications and details maintained by the Public Works Director, or any other road authority with jurisdiction, are a part of this 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 improvements 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 how the required

improvements are directly related and roughly proportional to the impact.

#### 5-3.4.010 Transportation Standards

A. **Development Standards and Criteria.** Projects shall be required to meet the current standards in effect at the time an application is filed.

1. ***Adequate Public Facilities.*** No development shall be approved unless adequate transportation facilities are available or improvements will be constructed and operational, as required by this Code, the John Day Transportation System Plan and the John Day Local Street Network Plan. If existing improvements leading to or serving the site are inadequate to handle anticipated loads, improvements are to be constructed and operational prior to the issuance of building permits or in conjunction with construction of the approved lots or parcels pursuant to financial assurance for the improvements or a written agreement with the City prior to final plat approval. Development resulting in increased traffic on a state highway shall meet the traffic operations standards per the current Oregon Highway Plan.
2. ***Amendments Significantly Affecting Transportation Facilities.*** Amendments to the Comprehensive Plan, the Development Code or a Land Use District (zoning) that significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity and performance standards of the facility identified in the Transportation System Plan. This shall be accomplished through one of the following measures, subject to review and approval under Chapter 5-4.7 Amendments:
  - a. Adopting measures demonstrating allowed land uses are consistent with the planned function, capacity and performance standards of the transportation facility; or
  - b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land use uses consistent with the requirements of the Transportation Planning Rule. (Oregon Administrative Rule 60-12) Such amendments shall include a funding plan or mechanism consistent with the Transportation Planning Rule or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period; or
  - c. Altering land use designations, densities or design requirements to reduce demand of automobile travel and meet travel needs through other modes of transportation; or
  - d. Amending the Transportation System Plan to modify the planned function, capacity or performance standards of the transportation facility; or
  - e. Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Timing of such measures shall be provided.
  - f. Exceptions. An amendment that would significantly affect an existing transportation facility may be approved without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:
    - (i) The facility is already performing below the minimum acceptable performance standard identified in the Transportation System Plan on the date the amendment application is submitted.

- (ii) In the absence of the amendment, planned transportation facilities, improvements and services would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted John Day Transportation System Plan.
- (iii) 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 through one or a combination of transportation improvements or measures.
- (iv) The amendment does not involve property located in an interchange area as defined by the Transportation Planning Rule
- (v) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. If ODOT is given written notice and reasonable opportunity to submit a written statement but does not, the City may proceed with subsections (i) through (iv).

3. **Street Improvements.** Streets within and adjacent to a development shall be improved in accordance with the City of John Day Transportation System Plan and the provisions of this Chapter. Development of new streets, including sidewalks, curbs, gutters, bicycle lanes, vehicle travel lanes, traffic control devices, and park strips, and additional right-of-way or street width or improvements planned as a portion of an existing street, shall be improved in accordance with this Chapter; and all public streets shall be dedicated to the applicable road authority upon the Public Works Director's acceptance of said improvements;

4. **Access Improvements.** All new streets, and driveways connecting to streets, shall be paved; driveways and driveway aprons shall be improved as required under Section 5-3.4.030 and subject to approval by the Public Works Director.

B. **Guarantee.** The City may accept a future improvement guarantee (*e.g.*, cash, bond, and/or owner agreement not to object to the formation of a local improvement district in the future) in lieu of street improvements if one or more of the following conditions exist:

- 1. A partial improvement would create a potential safety hazard to motorists 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 standard improvement associated with the project under review would not, by itself, provide increased street safety or capacity, or improved pedestrian circulation;
- 3. The improvement would be in conflict with an adopted capital improvement plan; or
- 4. The improvement is associated with an approved land partition and the proposed land partition does not create any new streets or result in increased transportation demand.

- 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 John Day Transportation System Plan and Local Street Network Plan, and the deeded right-of-way and improvements conform to the standards of this Code.
- D. **Creation of Access Easements.** The City may approve an access easement connecting to a public street only when the easement is necessary to provide for access and circulation in conformance with Chapter 5-3.1, 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, Local Street Network Plan, or subdivision plat, as applicable. 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. Where the location of a street is not shown on an adopted City street plan, the location of streets in a development shall provide for the reasonable continuation and connection of existing streets to adjacent developable properties, conforming to the street standards of this Chapter.
- F. **Minimum Rights-of-Way and Street Sections.** Street rights-of-way and improvements shall be the widths in Table 5-3.4.010. Variances to street design standards are subject to review and approval by the Public Works Director. 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 Public Works Director based upon the following factors:
1. Transportation policies of the Transportation System Plan;
  2. Anticipated traffic generation;
  3. On-street parking needs;
  4. Sidewalk and bikeway requirements, including the extension of and connection to existing sidewalks;
  5. Requirements for placement of utilities;
  6. Street lighting;
  7. Minimize drainage, slope, and sensitive lands impacts;
  8. Street tree location, as provided in Chapter 5-3.2;
  9. Protection of significant vegetation, as provided in Chapter 5-3.2;
  10. Safety, comfort, and convenience of motorists, bicyclists, and pedestrians;
  11. Placement of street furnishings (e.g., benches, lighting, bus shelters, etc.), as applicable;
  12. Access needs for emergency vehicles and for emergency evacuation; and
  13. Transition between different street widths (i.e., existing streets and new streets).



**Table 5-3.4.010F Minimum Street, Sidewalk and Bikeway Standards.**

Table 5-3.4.010F specifies typical street, sidewalk and bikeway right-of-way, paving and design standards as identified in the City of John Day Transportation System Plan. The street right-of-way and improvement standards minimize the amount of pavement and ROW required for each street classification consistent with the operational needs for each facility, including requirements for pedestrians, bicyclists and public utilities.

Table 5-3.4.010F – Minimum Street, Sidewalk and Bikeway Standards									
Street Type	Right-of-Way Width	Curb-to-Curb Paved Width	Within Curb-to-Curb Area				Curb	Planting Strip	Side-walks
			Motor Vehicle Travel Lanes	Center Turn Lane	Bike Lanes	On-Street Parking			
<u>Local Residential</u>									
Option A	38'-40'	28'	10'/10'	None	None	8' (one side)	Yes	None	4'-6'
Option B	40'-42'	36'	10'/10'	None	None	8'/8'	Yes	None	4'-6' (one side)
Option C	38'-40'	28'	10'/10'	None	None	8' (one side)	Yes	None	4'-6' (one side)
Option D	50'	36'	10'/10'	None	None	8'/8'	Yes	None	4'-6'
Option E	60'	36'	10'/10'	None	None	8'/8'	Yes	(optional) 2'-6'/2'-6'	4'-6'
<u>Alley</u>									
A-1	16'-20'	16'-20'	8'-10'/8'-10'	None	None	None	No	None	None
<u>Collector</u>									
Option A	44'-56'	30'-32'	10'-11'/10'-11'	None	5'/5'	None	Yes	(optional) 2'-6'/2'-6'	6'/6'
Option B	40'-44'	30'-32'	10'-11'/10'-11'	None	5'/5'	None	Yes	(optional) 2'-6'	6' (one side)
Option C	54'	42'	12'/12'	None	5'/5'	8' one side	Yes	None	6'/6'
Option D	62'-74'	50'	12'/12'	None	5'/5'	8'/8'	Yes	(optional) 2'-6'/2'-6'	6'/6'

Table 5-3.4.010F – Minimum Street, Sidewalk and Bikeway Standards									
Street Type	Right-of-Way Width	Curb-to-Curb Paved Width	Within Curb-to-Curb Area				Curb	Planting Strip	Side-walks
			<i>Motor Vehicle Travel Lanes</i>	<i>Center Turn Lane</i>	<i>Bike Lanes</i>	<i>On-Street Parking</i>			
<b>Arterial</b>									
Option A	62'	50'	14'/14'	12'	5'/5'	None	Yes	None	6'/6'
Option B	80'	64'	12'/12'	12'	6'/6'	8'/8'	Yes	None	6'/6'
Option C	80'	50'	12'/12'	14'	6'/6'	None	Yes	None	5'-8'/ 5'-8'
<b>Arterial (One-Way)</b>	60'	18'	12'	None	6'	None	Yes	None	6'/6'

#### G. Subdivision Street Connectivity.

All subdivisions including those within Master Planned Developments, shall conform to all the following access and circulation design standards:

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 by the John Day Local Street Network Plan and the requirements of 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 Marshall, 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 Chapter 5-3.1. If vehicle access off a secondary street is possible, then the road authority may prohibit access to the arterial.
5. 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, all subdivisions and site developments requiring the extension of public streets shall be served by a connecting network of public streets

and/or accessways, in accordance with the John Day Local Street Network Plan. The block length in new residential subdivisions shall not exceed 600 feet.

5. Accessway Standards. Where a street connection in conformance with the maximum block length standards in subsection 4 is impracticable (e.g., due to topographic barriers or other physical constraints), an accessway shall be provided at or near the middle of a block in lieu of the street connection. The City may also require developers to provide an accessway where the creation of a cul-de-sac or dead-end street is unavoidable and the accessway would connect the ends of the street to another street or public access way. Such access ways shall conform to all of the following standards, which may be modified by the decision body without a variance when the modification affords greater convenience or comfort for, and does not compromise the safety of, pedestrians:
  - a. Accessways shall be no less than ten (10) feet wide and contain a minimum six (6) foot wide paved walkway surface within a right-of-way or easement allowing public access; where emergency vehicle access is required, the access way shall be no less than twenty (20) feet wide and contain an all-weather driving surface with the required weight-bearing capacity;
  - b. If the streets within the subdivision or neighborhood are illuminated, all access ways in the subdivision shall be lighted. Accessway lighting shall provide at least 2-foot candle of illumination of the walkway surface;
  - c. A right-of-way or public access easement provided in accordance with subsection b that is less than ten (10) feet wide may be allowed on steep slopes where the decision body finds that stairs, ramps, or switch-back paths are required;
  - d. All public walkways shall conform to applicable ADA requirements (exception allowed for hillsides); and
  - e. The City may require landscaping as part of the required accessway improvement to buffer pedestrians from adjacent vehicles, or to screen the accessway for the privacy of adjoining residents.

#### H. Traffic Signals and Traffic Calming Features.

1. Traffic signals shall be required with development when traffic signal warrants are met, in conformance with the Federal Highway Administration approved guidelines, including but not limited to: 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 traffic roundabout, in lieu of a traffic signal, if approved by the Public Works Director and applicable road authority.

3. The City may require the installation of traffic calming features such as traffic circles, curb extensions, reduced street width (parking on one side), medians with pedestrian crossing refuges, and/or special paving surfaces to slow traffic in neighborhoods or commercial areas with high pedestrian traffic.

**I. Extension of Streets, Sidewalks, and Bikeways.**

1. Where a subdivision is proposed adjacent to other developable land, 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 subdivision. The street plan is not binding; rather it is intended to show potential future street extensions with future development and ensure that the proposed development does not preclude future street connections to adjacent development land.
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-i, 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 5-3.1.020.
  - d. Wheelchair ramps and other facilities shall be provided as required by the Americans with Disabilities Act (ADA). The lower lip of the wheelchair ramp shall be flush with the roadway surface.
  - e. Mailboxes and utility cabinets shall not infringe on public sidewalks or access ways.
  - f. Bikeways shall be designed and constructed consistent with the design standards in the "Oregon Bicycle and Pedestrian Plan: Design Standards and Guidelines," and the American Association of State Highway and Transportation Officials' (AASHTO's) "Guide for the Development of Bicycle Facilities," as applicable.
  - h. Temporary dead-end streets (not cul de sacs) that may be extended in the future shall have a right-of-way and pavement width that will conform to City standards when

extended, and shall be posted as streets to be extended in the future.

- i. Where topographical requirements necessitate either cuts or fills for the proper grading of the streets, additional easements or rights of way shall be required to allow all cut and fill slopes to be within the easements or right-of-way. The Director of Public Works shall determine the required extra width.

**J. Street Alignment and Connections.**

1. The creation of new streets making "T" intersections at collectors and arterials shall provide for intersection spacing of not less than 300 feet, as measured from the centerlines of the offset streets.
2. Spacing between local street intersections shall have a minimum separation of 125 feet, except where the Public Works Director approves closer spacing due to topographic constraints or as necessary to provide a traffic calming feature, such as an open space, roundabout, or similar 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 it falls within the Geological Hazards Overlay or it contains a stream or other natural drainageway. 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.
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 Section 5-3.1.020.

- K. Sidewalks, Planter Strips, Bicycle Lanes.** Development shall be required to extend and improve sidewalks, planter strips, and bicycle lanes, as applicable, in conformance with the standards in Table 5-3.4.010, and pursuant to the City of John Day Transportation System Plan, John Day Local Street Network Plan, and/or the requirements of any other applicable roadway authority. The decision body may approve deferral of such improvements only as provided by Chapter 5-4.2 Site Design Review or Chapter 5-4.3 Land Divisions, as applicable. Maintenance of sidewalks and planter strips in the right-of-way is the continuing obligation of the adjacent property owner.

- L. Intersection Angles.** Streets shall be laid out so as to intersect at an angle as near to a right

angle as practicable, except where the Public Works Director approves closer spacing due to topographic constraints or as necessary to provide a traffic calming feature, such as an open space, roundabout, or similar amenity.

- M. **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 5-3.4.010.
- N. **Cul-de-sacs.** Streets shall be planned to continue to and through abutting properties, consistent with the connectivity standards in Section 5-3.4.010G. 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. For example, the Public Works Director may approve a cul-de-sac where a street extension would otherwise exceed allowable street grades or negatively impact a natural drainageway or jurisdictional wetland. When cul-de-sacs are allowed, 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 40 feet, and not more than a radius of 45 feet (i.e., from center to edge of pavement); 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 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 access ways, parks, or other right-of-way. Such accessways shall conform to Section 5-3.1.040.
- O. **Grades and Curves.** Except as approved by the Public Works Director, grades shall not exceed 10 percent on arterials, 12% on collector streets, or 12% on any other street. The Public Works Director may approve steeper grades for short street segments, provided the street grade does not exceed 15% for a distance greater than 250 feet), 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 20 feet of the edge of the intersecting street at full improvement.
- P. **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 5-3.1, Access and Circulation.
- Q. **Development Adjoining Arterial Streets.** Where a development adjoins or is crossed by an

existing or proposed arterial street, the development design shall separate residential access from through traffic and minimize traffic conflicts. (See also, the access requirements under Section 5-3.1.020.) The development design shall include one or more of the following, as required by the City based on multimodal safety, compatibility between the roadway and adjacent residential uses, maintenance and aesthetic considerations:

1. A parallel access street (frontage road) along the arterial with a landscape median with 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 adequate arterial buffering with access taken from the subordinate street;
  3. Screen planting within a non-access reservation (e.g., public easement or tract) of not less than five (5) feet in width at the rear or side property line along the arterial; or
  4. Other treatment approved by the decision body, consistent with the purpose of this Chapter.
- R. **Alleys, Public or Private.** Alleys shall conform to the standards in Table 5-3.4.010. The corners of alley intersections shall have a radius of not less than 12 feet and allow access to utilities.
- S. **Private Streets and Gated Streets.** Private streets, including gated drives serving more than two (2) dwellings (i.e., where a gate limits access to a development from a public street), are not permitted.
- T. **Street Names.** No new street name shall be used which will duplicate or be confused with the names of existing streets in John Day or vicinity.
- U. **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 have been reestablished and protected.
- V. **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.
- W. **Mail Boxes.** Mail box locations shall be as approved by the United States Postal Service.
- X. **Street Light Standards.** Street lights shall be installed in accordance with City standards. At a minimum street lights shall be installed at street intersections; additional street lights or lighting of pedestrian access ways may be required by the City to provide for public safety and welfare.
- Y. **Street Cross-Sections.** The final lift of asphalt or concrete pavement shall be placed on all new constructed public roadways prior to final City acceptance of the roadway unless otherwise approved by the Public Works Director. The final lift shall also be placed no later than one (1)

year from the commencement of initial construction of the development.



**5-3.4.020 Public Use Areas**

**A. Dedication of Public Use Areas.**

1. Where a proposed open space, park, playground, or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the public dedication or reservation of this area on the final plat for the subdivision, 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 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. Alternatively, the City may impose conditions of approval providing for reservation and ongoing ownership, improvement and maintenance of open space areas (e.g., through Master Plan Development approvals under Chapter 5-4.5), including payment of property taxes for said property, by a private entity such as a homeowners association.

**B. System Development Charge Credit.** Dedication of land to the City for public use areas, voluntary or otherwise, may be eligible as a credit toward required system development charges for parks, as applicable.

**5-3.4.030 Sanitary Sewer and Water Service Improvements.**

- A. **Sewers and Water Mains Required.** Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's Sanitary Sewer Master Plan, Water System Master Plan, and applicable engineering requirements. 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 Public Works Director when alternate alignment(s) are provided.
- B. **Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the Public Works Director has approved all sanitary sewer and water plans in conformance with City standards.
- 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, provided that the City may grant the developer credit toward any required system development charge for the same, or the City may authorize other cost-recovery or cost-sharing methods, in conformance with Section 5-3.4.010D.
- D. **Inadequate Facilities.** Development permits may be restricted or rationed by the City where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. The City may require water booster pumps or sanitary sewer lift stations be installed with backup power.
- E. **Water Pressure.** Above a certain elevation, where the City has limited ability to serve new development, a developer may be required to install a water storage reservoir and related infrastructure for required water flow pressure, consistent with adopted City master plans.

**5-3.4.040 Storm Drainage Improvements**

- A. **General Provisions.** A development permit may be granted only when adequate provisions for storm water and flood water runoff have been assured (*i.e.*, through plans and assurances approved by the City). See also, Section 5-3.4.090.
- B. **Accommodation of Upstream Drainage.** 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 Public Works Director.
- C. **Effect on Downstream Drainage.** The rate of stormwater runoff leaving a development site during and after development (post-development) shall not exceed the rate of stormwater runoff leaving the site before development (pre-development).
- D. **Storm Drainage Analysis and Mitigation Required.** The Public Works Director may require an applicant for development to provide a storm drainage analysis prepared by a qualified professional engineer registered in the State of Oregon to examine pre- and post-development stormwater runoff conditions and any required mitigation consistent with the City of John Day Stormwater Master Plan. Such analysis, at a minimum, shall quantify pre- and post-development runoff volumes and rates and propose mitigation based on stormwater management best practices, as specified by the Public Works Director. Such mitigation shall ensure that post-development runoff rates do not exceed pre-development rates and necessary facilities are provided to protect public health, safety, and welfare. If upon reviewing the applicant's storm drainage analysis, the Public Works Director determines that the stormwater runoff resulting from the development will overload any existing and/or proposed drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential adverse impacts.
- D. **Over-Sizing.** The City may require as a condition of development approval that any public storm drainage system serving new development be sized to accommodate future development upstream, provided that the City may grant the developer credit toward any required system development charge for the same, or the City may authorize other cost-recovery or cost-sharing methods, in conformance with Section 5-3.4.010D.
- E. **Existing Watercourse.** Where a watercourse, drainage way, channel, or stream traverses a proposed development there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety. See also, Chapter 5-2.10 Flood Plain Overlay Zone.

**5-3.4.050 Utilities****A. Underground Utilities.**

1. Generally. All new 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. The City may require screening and buffering of above ground facilities to protect the public health, safety or welfare through Site Development Review.
2. Subdivisions and Master Planned Developments. The following additional standards apply to all new subdivisions, including those within Master Planned Developments, 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 5-3.1);
  - 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.** An exception to the undergrounding requirement may be granted where existing physical constraints, such as steep topography, natural resource constraints (e.g. geologic conditions, rivers and streams), or existing development conditions make underground placement impractical.

**5-3.4.060 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 Public Works Director.
- B. **Recordation.** As determined by the Public Works Director, 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 5-4.2, Site Design Review, and Chapter 5-4.3, Land Divisions.

**5-3.4.070 Construction Plan Approval**

- 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 the plans 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. The permit fee shall be set by City Council.
- B. **Performance Guarantee.** The City may require the developer or subdivider to provide bonding or other performance guarantees, to the City's satisfaction, to ensure completion of required public improvements pursuant to Section 5-3.4.090.

**5-3.4.080 Installation**

- A. **Conformance Required.** Improvements installed by the developer either as a requirement of these regulations or at his/her own option, shall conform to the requirements of this Chapter, approved construction plans, and to improvement standards and specifications adopted by the City.
- B. **Adopted Installation Standards.** The City of John Day may adopt design standards, criteria and specifications for public improvements as well as private utility installation within the public right-of-way; until such standards are adopted, project designs shall conform to the recommendations of the Public Works Director.
- C. **Commencement.** Work in a public right-of-way shall not begin until all applicable agency permits have been approved and issued.
- 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 5-4.6, 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 2 set(s) of "as-built" plans, in conformance with the Public Works Director's specifications, for permanent filing with the City. The Public Works Director may require the developer or subdivider to provide a warranty bond or other assurance pursuant to Section 5-3.4.090

**5-3.4.090 Performance Guarantee and Warranty Bond**

- A. **Performance Guarantee Required.** The City at its discretion may approve a final plat or building permit when it determines that at least 75 percent of the public improvements required for the land division or phase thereof are complete and the applicant has an acceptable assurance for the balance of said improvements. The applicant shall provide a bond issued by a surety authorized to do business in the State of Oregon, irrevocable letter of credit from a surety or financial institution acceptable to the City, cash, or other form of security acceptable to the City.
- 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, plus reasonable inflationary costs (110% of estimated improvement costs, as prepared by a qualified civil engineer).
- 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.** A written agreement between the City and developer shall be recorded with the final plat. The agreement shall not be valid until it is signed and dated by both the applicant and City Planning Official. The agreement shall contain, at a minimum, 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 first securing written authorization from the City.
- G. **Warranty Bond.** A warranty bond good for two (2) years is required on all public improvements and landscaping when installed in the public right-of-way. The warranty bond shall equal fifteen percent (15%) of the total cost of improvements and begin upon acceptance of said improvements by the City.



## Chapter 5-3.5 - Signs

### Sections:

**5-3.5.010 General Sign Standards in All Zoning Districts**

**5-3.5.020 Sign Standards in the Commercial and Industrial Zoning Districts**

### **5-3.5.010 General Sign Standards in All Zoning Districts**

Signs are permitted in accordance with the following standards:

- A. One nameplate for each dwelling unit, home occupation, or business, as applicable. In residential zones the nameplate shall not be more than one and one-half (1 ½) square feet in area and shall not be specifically illuminated.
- B. One temporary sign advertising the sale, lease or rental of the property on which it is located. In residential zones, the sign shall not be more than six (6) square feet in area and shall not be specifically illuminated.
- C. One temporary sign advertising the sale of a tract of land or subdivision or of lots in a subdivision. The sign shall not be more than thirty two (32) square feet in area, and shall be at least ten (10) feet from a street property line and at least ten (10) feet from all abutting properties.
- D. One sign identifying a subdivision, commercial or industrial development, or PUD located at the main entrance thereto. The sign shall be subject to review by the Planning Commission during the site design review or subdivision review process. The Planning Commission may limit the size, height, or area of the sign, or require the use of specific building materials (e.g., wood, stone, or other natural appearing materials), lighting, setbacks, or other conditions of approval to ensure compatibility with the surrounding neighborhood.
- E. No sign shall encroach into the clear vision area at a street or driveway intersection.
- F. Where a sign is subject to this Chapter and the provisions of Oregon Revised Statutes Chapter 377 – Highway Beautification; Motorist Information Signs, the most restrictive regulation shall apply.

### **5-3.5.020 Sign Standards in the Commercial and Industrial Zoning Districts**

The following sign standards shall apply to all property in Commercial and Industrial districts:

- A. No sign shall exceed twenty five percent (25%) of the area of the wall to which it is attached, except historic signs lawfully installed and predating the effective date of this Code (November 24, 2005) may continue, provided they do not interfere with traffic operations or create a hazard to public health or safety.
- B. No sign shall be located within or protrude into or over a street or other roadway, except where awning or canopy signs, or similar building-mounted signs, have been approved by the Planning Commission. In such cases, a minimum clearance shall be maintained in accordance with applicable codes.
- C. No sign shall be located where it shines, reflects, or glares directly onto a lot in an abutting residential zone or onto a street right-of-way.
- D. Freestanding signs (e.g., pole signs, monument signs, and similar non-building-mounted signs) erected after November 24, 2005 shall not exceed a height of eight (8) feet; such signs shall be setback a minimum of three (3) feet) from property lines.
- E. No building-mounted signs shall project above the highest roof elevation of the building to which it is mounted.

<b>ARTICLE 5-4 - ADMINISTRATION OF LAND USE AND DEVELOPMENT</b>	<b>3</b>
<b>Chapter 5-4.1 - Types of Review Procedures</b>	<b>4</b>
5-4.1.010 Purpose and Applicability of Review Procedures	4
5-4.1.020 Type I Procedure (Administrative)	6
5-4.1.030 Type II Procedure (Administrative)	7
5-4.1.040 Type III Procedure (Quasi-Judicial)	12
5-4.1.050 Type IV Procedure (Legislative)	20
5-4.1.060 General Provisions: 120-day Rule; ... Planning Official's Duties, ... Appeals	26
5-4.1.070 Special Procedures	32
5-4.1.080 Neighborhood Meetings	33
5-4.1.090 Traffic Impact Analysis	34
<b>Chapter 5-4.2 - Land Use Review and Site Design Review</b>	<b>35</b>
5-4.2.010 Purpose	35
5-4.2.020 Applicability	36
5-4.2.030 Land Use Review Procedure and Approval Criteria	37
5-4.2.040 Site Design Review - Application Review Procedure	38
5-4.2.050 Site Design Review - Application Submission Requirements	38
5-4.2.060 Site Design Review - Approval Criteria; Adjustments	42
5-4.2.070 Assurances	43
5-4.2.080 Compliance With Permit Approval; Modifications; Permit Expiration	43
<b>Chapter 5-4.3 - Land Divisions and Property Line Adjustments</b>	<b>46</b>
5-4.3.010 Purpose	46
5-4.3.020 General Requirements	47
5-4.3.030 Pre-planning for Large Sites	49
5-4.3.040 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes	50
5-4.3.050 Preliminary Plat Approval Process	52
5-4.3.060 Preliminary Plat Submission Requirements	53
5-4.3.070 Approval Criteria: Preliminary Plat	56
5-4.3.080 Land Division-Related Variances	58
5-4.3.090 Final Plat Submission Requirements and Approval Criteria	58
5-4.3.100 Public Improvements Required	59
5-4.3.110 Assurances	59
5-4.3.120 Filing and Recording	60
5-4.3.130 Re-platting and Vacation of Plats	60
5-4.3.140 Property Line Adjustments	61
<b>Chapter 5-4.4 - Conditional Use Permits</b>	<b>63</b>
5-4.4.010 Conditional Use Permits - Purpose	63
5-4.4.020 Conditional Use Permits - Approvals Process	63
5-4.4.030 Conditional Use Permits - Application Submission Requirements	63
5-4.4.040 Conditional Use Permits - Criteria, Standards and Conditions of Approval	64
<b>Chapter 5-4.5 - Master Planned Developments</b>	<b>66</b>
5-4.5.010 Master Planned Development - Purpose	66
5-4.5.020 Master Planned Development - Applicability	67
5-4.5.030 Master Planned Development - Review and Approvals Process	67
5-4.5.040 Master Planned Development - Modifications to Standards	68
5-4.5.050 Master Planned Development - Overlay Zone and Concept Plan Submission	68
5-4.5.060 Master Planned Development - Overlay Zone and Concept Plan Criteria	69
5-4.5.070 Master Planned Development - Administrative Procedures	70

#### 5-4.1 – Types of Applications and Review Procedures

5-4.5.080	Master Planned Development - Detailed Development Plan Submission	71
5-4.5.090	Master Planned Development - Detailed Development Plan Criteria	71
5-4.5.100	Master Planned Development - Other Approvals	72
<b>Chapter 5-4.6 - Modifications to Approved Plans and Conditions of Approval</b>		<b>73</b>
5-4.6.010	Modifications - Purpose	73
5-4.6.020	Modifications - Applicability	73
5-4.6.030	Major Modifications	73
5-4.6.040	Minor Modifications	74
<b>Chapter 5-4.7 - Land Use District Map and Text Amendments</b>		<b>76</b>
5-4.7.010	Amendments - Purpose	76
5-4.7.020	Legislative Amendments	76
5-4.7.030	Quasi-Judicial Amendments	76
5-4.7.040	Conditions of Approval for Quasi-Judicial Amendments	77
5-4.7.050	Record of Amendments	77
5-4.7.060	Transportation Planning Rule Compliance	77
<b>Chapter 5-4.8 - Code Interpretations</b>		<b>80</b>
5-4.8.010	Interpretations - Purpose	80
5-4.8.020	Code Interpretation Procedure	80
<b>Chapter 5-4.9 - Miscellaneous Permits</b>		<b>81</b>
5-4.9.010	Temporary Use Permits	81
5-4.9.020	Home Occupation Permits	84
<b>Chapter 5-4.10 - Annexations</b>		<b>86</b>
5-4.10.010	Purpose	86
5-4.10.020	Procedure	86
5-4.10.030	Application	86
5-4.10.040	Initiation by Council	87
5-4.10.050	Approval Criteria	87
5-4.10.035	Boundaries	87
5-4.10.070	Statutory Procedure	88
5-4.10.080	Mapping	88

## **Article 5-4 - Administration of Land Use and Development**

### Chapters:

- 5-4.1. Types of Review Procedures
- 5-4.2. Land Use Review and Site Design Review
- 5-4.3. Land Divisions and Property Line Adjustments
- 5-4.4. Conditional Use Permits
- 5-4.5. Master Planned Developments
- 5-4.6. Modifications to Approved Plans and Conditions of Approval
- 5-4.7. Land Use District Map and Text Amendments
- 5-4.8. Code Interpretations
- 5-4.9. Miscellaneous Permits - Temporary Uses, Home Occupations
- 5-4.10 Annexations

## Chapter 5-4.1 - Types of Review Procedures

### Sections:

5-4.1.010	Purpose and Applicability of Review Procedures
5-4.1.020	Type I Procedure
5-4.1.030	Type II Procedure
5-4.1.040	Type III Procedure
5-4.1.050	Type IV Procedure
5-4.1.060	General Provisions Applicable to All Reviews
5-4.1.070	Special Procedures - Expedited Land Divisions,
5-4.1.080	Neighborhood Meetings
5-4.1.090	Traffic Impact Analysis

### 5-4.1.010 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 5-4.1.010 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 as described in subsections 1-4 below. Table 5-4.1.010 lists the City's land use and development approvals and their required review procedure(s).
1. **Type I Procedure (Administrative).** Type I decisions are made by the City Planning Official, or someone he or she officially designates, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., clear and objective standards);
  2. **Type II Procedure (Administrative).** Type II decisions are made by the City Planning Official with public notice and an opportunity for appeal;
  3. **Type III Procedure (Quasi-Judicial).** Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council.
  4. **Type IV Procedure (Legislative).** Type IV procedures apply to legislative matters. Legislative matters involve the creation or revision, or large-scale implementation of public policy (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council.

**Table 5-4.1.010**  
**Summary of Approvals by Type of Review Procedure**

<b>Approvals*</b>	<b>Review Procedures</b>	<b>Applicable Regulations</b>
Access Permit (public street)	Type I	Chapters 3.1, 5-4.2, 5-4.3; Engineering Design Standards
Annexation	Type IV	Chapter 5-4.10
Code Interpretation	Type II	Chapter 5-4.8
Code Text Amendment	Type IV	Chapter 5-4.7
Comprehensive Plan Amendment	Type IV	Chapter 5-4.7 & Comprehensive Plan
Conditional Use Permit	Type III	Chapter 5-4.4
Home Occupation Permit Type I	Type I	Chapter 5-4.9; See also, Section 5-2.2.020
Home Occupation Permit Type III	Type III	Chapter 5-4.9; See also, Section 5-2.2.020
Master Planned Development	Type III	Chapter 5-4.5
Modification to Approval	Type II/III (minor or major)	Chapter 5-4.6
Land Use District Map Change		
Quasi-Judicial (does not require a plan amendment)	Type III	Chapter 5-4.7
Legislative (plan amendment)	Type IV	Chapter 5-4.7
Property Line Adjustments, including Lot Consolidations	Type I	Chapter 5-4.3
Legal Lot Determination	Type I	Chapter 5.3
Non-Conforming Use or Development Confirmation	Type I	Chapter 5.2
Partition or Replat of 2-3 lots	Type II	Chapter 5-4.3
Land Use Review	Type I/II	Chapter 5-4.2
Site Design Review	Type II	Applicant or Planning Official may refer application to Planning Commission hearing
Site Design Review w/ Adjustment to Standard(s)	Type III	
Subdivision or Replat of >3 lots		Chapter 5-4.3
Preliminary Plat	Type III	
Final Plat	Type I	
Temporary Use Permit (includes Temporary Medical Hardship Dwelling)	Type II/III	Chapter 5-4.9, Chapter 5-2.2
Variance		
Class A	Type II	Chapter 5.1
Class B	Type III	Chapter 5.1

\* The applicant may be required to obtain building permits and other approvals (e.g., Signs, Public Improvement Plans, Plumbing, Electrical, Structural, Floodplain Development, etc) through the Building Official, and/or approvals from other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or action taken by the City under this Code.

**5-4.1.020 Type I Procedure (Administrative)**

**A. Application Requirements.**

1. Application Forms. Type I applications shall be made on forms provided by the City Planning Official.
2. Application Requirements. Type I applications shall:
  - a. Include the information requested on the application form;
  - b. Address the criteria in sufficient detail for review and action; and
  - c. Be filed with the required fee.

**B. Administrative Decision Requirements.** The City Planning Official's decision shall be based on the applicable approval criteria, including applicable requirements of any road authority. Based on the criteria and the facts contained in the application, the City Planning Official shall approve or deny the requested permit or action. A written record of the decision (e.g., letter or permit stamped as approved) shall be provided to the applicant and kept on file at City Hall. Where the City Planning Official determines that he or she is unable to process the application through a Type I review (e.g., the approval criteria require the exercise of discretion), he or she may require the applicant to submit a new application for Type II review.

**C. Final Decision.** A Type I decision is the final decision of the City. It cannot be appealed to City officials. If the decision is contested by the applicant or other aggrieved party, it is not appealable as a land use decision but may be referred to the City Council as a separate Code Interpretation request, as provided under Chapter 5-4.8; in which case all required forms and fees shall be filed in accordance with Chapter 5-4.8.

**D. Effective Date.** A Type I decision is final on the date it is made.



**5-4.1.030 Type II Procedure (Administrative)**

A. **Pre-application Conference.** A pre-application conference is required for Type II reviews. Pre-application conference requirements and procedures are in Section 5-4.1.060.

**B. Application Requirements.**

1. Application Forms. Type II applications shall be made on forms provided by the City Planning Official.
2. Submittal Information. The application shall:
  - a. Include the information requested on the application form;
  - b. Be filed with one copy of a 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 5-4.2 (Land Use Review), 5-4.3 (Land Divisions), 5-4.6 (Modifications), 5-4.8 (Code Interpretations), and 5-4.9 (Miscellaneous Permits); and
  - c. Be accompanied by the required fee.
  - d. Be accompanied by a list of property owners of record within one hundred (100) feet of the subject site (by tax map and lot number) and mailing labels for the same.

**C. Notice of Application for Type II Administrative Decision.**

1. Before making a Type II Administrative Decision, the City Planning Official shall mail notice to:
  - a. All owners of record of real property within a minimum of 100 feet of the subject site;
  - b. Any person who submits a written request to receive a notice; and
  - c. 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. The failure of another

#### 5-4.1 – Types of Applications and Review Procedures – Type II (Administrative)

agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.

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. Upon reviewing written comments submitted during the public notice period, the City Planning Official shall proceed to prepare a notice of decision; or shall refer the application to the Planning Commission, who shall review the application in a public meeting act as the decision making body. Such public meeting shall be duly noticed and the public shall be given an opportunity to comment, though the meeting need not follow the public hearing procedure for Type III reviews.
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;
  - b. List the relevant approval criteria by name and number of code sections; this information may be summarized by Code chapter, provided the notice has sufficient detail to help the public identify and locate applicable code criteria;
  - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed. If the Planning Commission in a public meeting will review the application, the notice shall state the date, time and location of the meeting;
  - d. Include the name and telephone number of a contact person regarding the Administrative 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 if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
  - h. State that all evidence relied upon by the City Planning Official or Planning Commission, as applicable, 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 Planning Official or Planning Commission, as applicable, 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;
- j. Contain the following notice: “Notice to mortgagee, lien holder, vendor, or seller: The City of John Day Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser or person in fee title to the property.”

**D. Administrative Decision Requirements.** The City Planning Official shall prepare the 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 Planning Official shall issue the decision to approve, approve with conditions, or deny the requested permit or action. As an alternative to denying a Type II application, the City Planning Official, on request of the applicant, may refer the application to the Planning Commission for review in a public hearing, in which case the public shall be notified of the hearing, the 120-day review clock prescribed by ORS 227.178 shall restart, and the review shall proceed following the Type III procedures in Section 5-4.1.040.

**E. Notice of Decision.**

1. Within five (5) days after the City Planning Official signs the Type II 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 submitted a written request to receive notice, or provided 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 Planning Official 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, including a map of the property in relation to the surrounding area, where applicable;
- 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 the date the City mails it. A Type II administrative decision is effective on the day after the appeal period expires. The appeal period runs fourteen (14) days from the date the decision is mailed. Upon appeal, the decision becomes effective when the City takes final action on the appeal.

G. **Appeal.** A Type II administrative decision may be appealed to the Planning Commission as follows:

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 decision;
- c. Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

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 Planning Official within fourteen (14) days of the date the Notice of Decision was mailed.

#### 5-4.1 – Types of Applications and Review Procedures – Type II (Administrative)

- c. *Content of notice of appeal.* The Notice of Appeal be accompanied by the required filing fee and shall contain:
  - (1) An identification of the decision being appealed, including the date of the decision;
  - (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; and
  - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.
- 3. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be a hearing *de novo* before the Planning Commission. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the Type II administrative review, but may include other relevant evidence and arguments. The Planning Commission may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.
- 4. Appeal procedures. Sections 5-4.1.040.C - E, governing notice, hearing procedures and decision process for Type III decisions shall apply to all Type II Administrative Appeals.
- 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 within the time provided in 5-4.1.040.G.2.b.

**5-4.1.040 Type III Procedure (Quasi-Judicial)**

A. **Pre-application Conference.** A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 5-4.1.060.

**B. Application Requirements.**

1. Application forms. Type III applications shall be made on forms provided by the City Planning Official; 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. When a Type III application is required, it shall:
  - a. Include the information requested on the application form;
  - b. Be filed with one copy of a 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 5-4.2 (Land Use Review and Site Design Review), 5-4.3 (Land Divisions), 5-4.6 (Modifications), 5-4.8 (Code Interpretations), and 5-4.9 (Miscellaneous Permits); and
  - c. Be accompanied by the required fee.
  - d. Be accompanied by a list of property owners of record within one hundred (100) feet of the subject site (by tax map and lot number) and mailing labels for the same.

**C. Notice of Hearing.**

1. Mailed notice. The City shall mail the notice of the Type III action. The records of the Grant County Assessor's Office are the official records for determining ownership. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Planning Official in the following manner:
  - a. At least 20 days before the hearing date, notice shall be mailed 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) Any neighborhood or community organization recognized by the City Council and whose boundaries include the subject property;
  - (5) Any person who submits a written request to receive notice;
  - (6) For appeals, the appellant and all persons who provided testimony in the original decision; and
  - (7) 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 Planning Official 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 fourteen (14) business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's 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 and 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 the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
- f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
- g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies 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 John Day Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser or person in fee title to the property."

**D. Conduct of the Public Hearing.**

- 1. At the commencement of the hearing, the chair or convener of the Planning Commission, or his or her designee, 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. A statement that, at the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present



#### 5-4.1 – Types of Applications and Review Procedures – Type III (Quasi-Judicial)

additional relevant evidence or testimony that is within the scope of the hearing, and that, if the Planning Commission grants the request, it will schedule a date to continue the hearing as provided in paragraph 2 of this subsection, or leave the record open for additional written evidence or testimony as provided 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 days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven 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 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 or testimony;
  - b. An extension of the hearing or record granted pursuant to Section 5-4.1.040.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;
4. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;
5. 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;

6. The review authority shall retain custody of the record until the City issues a final decision.
7. 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 as reasonably possible. Where questions related to conflict of interest or *ex parte* contact are concerned, public hearings shall be conducted pursuant to State law.
8. Presenting and receiving evidence.
  - a. The Planning Commission 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 by this Section;
  - c. Members of the Planning Commission 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. Decisions on Type III applications, and any action taken on an appeal of a Type II Administrative decision, shall be based on standards and criteria in this Code. The decision on such application or appeal shall relate to the applicable Code standards and criteria.
2. Findings and conclusions. 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, which 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 III decision or action on a Type II Administrative Appeal shall be signed by the chair of the Planning Commission and filed by the City Planning Official within ten (10) business days after the decision or action is made.

5. Notice of Decision. Written notice of a Type III decision, or action on an appeal of Type II Administrative Appeal, shall be mailed to the applicant and to all participants of record within ten (10) business days after the decision is made. Failure of any person to receive mailed notice shall not invalidate the decision or action, provided that a good faith attempt was made to mail the notice.
  6. Final Decision and Effective Date. A Type III decision, or action on a Type II Administrative Appeal, is final for purposes of appeal to the City Council on the date it is mailed by the City. The decision is effective on the day after the appeal period for the decision expires.
- F. **Appeal to City Council**. Appeals from the Planning Commission on Type II Administrative Appeals and Type III decisions are heard by City Council as follows:
1. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision or Type III Decision from the Planning Commission to the City Council:
    - a. The applicant or owner of the subject property;
    - b. Any other person who participated in the proceeding by submitting oral or 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 Appeal or Type III Decision by filing a Notice of Appeal according to the following procedures.
    - b. *Time for filing*. A Notice of Appeal of a Type II Administrative Appeal or Type III Decision shall be filed with the City Planning Official within ten (10) business days after the notice of decision is mailed.
    - c. *Content of notice of appeal*. The Notice of Appeal shall be accompanied by the required filing fee, and shall contain:
      - (1) An identification of the decision being appealed, including the date of the decision;
      - (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.

3. Scope of review. An appeal of a Type II Administrative Appeal or a Type III Decision shall be limited to *de novo* review on the record of the decision being appealed.
4. Review on the Record.
  - a. For the purpose of *de novo* review on the record under Section 5-3., above, the record shall include the following:
    - (1) A factual report prepared by the Planning Official;
    - (2) All exhibits, materials, pleadings, memoranda, stipulations, oral and written testimony and motions submitted to and received or considered by the Planning Commission in reaching the decision under review;
    - (3) The final order and findings of fact adopted by the Planning Commission;
    - (4) The Notice of Appeal filed by the appellant; and
    - (5) The minutes of the Planning Commission's public hearings on the matter, including a transcript of the hearings if requested by or presented to the City Council.
  - b. All parties to the hearing before the Planning Commission shall receive notice of the proposed hearing on *de novo* review on the record, indicating the date, time and place of the review, and of the right to present argument to the City Council as provided in subsection c., below.
  - c. The City Council shall make its decision based upon the record after first granting the right to present argument, but not to introduce additional evidence, to the parties to the hearing before the Planning Commission.
  - d. In considering the appeal, the City Council need only consider those matters specifically raised by the appellant. The City Council may consider other matters if it so desires.
  - e. The appellant shall have the burden of proof and persuasion on appeal.
5. The Decision Process.
  - a. Basis for decision. Decisions on appeal to the City Council shall be based on standards and criteria in this Code. The decision on such appeal shall relate to the applicable Code standards and criteria.

**5-4.1 – Types of Applications and Review Procedures – Type III (Quasi-Judicial)**

- b. Findings and conclusions. 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.
  - c. Form of decision. The City Council shall issue a final written order containing the findings and conclusions required in subparagraph b., which either approves, denies, or approves with specific conditions.
  - d. Decision-making time limits. A final order on any appeal to the City Council shall be signed by the Mayor or President of the City Council and filed by the City Planning Official within ten (10) business days after the decision is made.
  - e. Notice of Decision. Written notice of a decision on an appeal to the City Council shall be mailed to the applicant and to all participants of record within ten (10) business days after the decision is made. Failure of any person to receive mailed notice shall not invalidate the decision or action, provided that a good faith attempt was made to mail the notice.
  - f. Final Decision and Effective Date. A decision of the City Council is final on the date it is mailed by the City. The decision is effective on the day after the appeal period for the decision expires.
6. Further Appeal to LUBA. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 - 197.860.

**5-4.1.050 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 John Day. The requirements and procedures for a pre-application conference are described in Section 5-4.1.060.C.

B. **Timing of Requests.** The City may establish a schedule for when it will accept legislative code amendment or plan amendment requests. The City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.

**C. Application Requirements.**

1. Application forms. Type IV applications shall be made on forms provided by the City Planning Official.
2. Submittal Information. The application shall contain:
  - a. The information requested on the application form;
  - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
  - c. The required fee; and
  - d. One copy of a letter or narrative statement 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 (2) hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.
2. Notification requirements. Notice of public hearings for the request shall be given by the City Planning Official in the following manner:
  - a. At least twenty (20) days, but not more than forty (40) days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any Land Use District Change, a notice shall be prepared in conformance with ORS 227.175 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 ten (10) days before the scheduled Planning Commission public hearing date, and fourteen (14) days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.
- c. The City Planning Official 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. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least forty-five (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.
- e. Notifications for annexation shall follow the provisions of this Chapter.
3. Content of notices. 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 Planning Official'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 5-4.1.050.E); and
  - e. Each mailed notice required by Section 5-4.1.050.D shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of John Day Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
4. 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 which will be made is a recommendation to the City Council or the final decision of the Council;
- b. The City Planning Official'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 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
3. The property and affected area is presently provided with adequate public facilities and services, including transportation, sewer and water systems, to support the use, or such facilities and services are provided for in adopted City plans and can 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 fourteen (14) business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City Planning Official.
- 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 Planning Official before the Council public hearing on the proposal. The City Planning Official 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 sixty (60) days of its first public hearing on the proposed change, the City Planning Official shall:
  - 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 make a decision. The Commission shall take no further action.
- 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 the Department of Land Conservation and Development, within five (5) business days after the City Council decision is filed with the City

Planning Official. The City shall also provide notice to all persons as required by other applicable laws.

**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 verbatim, but the meeting minutes shall be filed in hardcopy form with the City Recorder. The 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 Planning Official 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.

**5-4.1.060 General Provisions: 120-day Rule; Time Computation; Pre-application Conferences; Acceptance and Review; Planning Official'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 - 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 which is not a Saturday or legal holiday.
- C. **Pre-application Conferences.**
1. Participants. When a pre-application conference is required, the applicant shall meet with the City Planning Official and other City or agency representatives as appropriate;
  2. Information provided. At such conference, the City Planning Official shall:
    - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
    - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
    - c. Provide available technical data and assistance 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 Planning Official or his/her designee to provide any of the information required by this Section 5-4.1.060.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 on the day the application is deemed complete.

**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 Planning Official;
- (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.

- 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 Planning Official.

- b. When proceedings are consolidated:

- (1) The notice shall identify each application to be decided;
- (2) The decision on a 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 the City receives an application, the City Planning Official 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 form;
    - (2) The required fee;
    - (3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.
  - b. Completeness.
    - (1) Review and notification. After the application is accepted, the City Planning Official shall review the application for completeness. If the application is incomplete, the Planning Official shall notify the applicant in writing of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant 180 days to submit the missing information, or fourteen (14) days to submit a refusal statement;
    - (2) Application deemed complete for review. In accordance with the application submittal requirements of this Chapter, the City Planning Official, upon receiving all information required to process an application, shall deem the application complete. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City Planning Official in Section 5-4.1.060.D.3.b(1), above. For the refusal to be valid, the refusal shall be made in writing and received by the City Planning Official no later than fourteen (14) days after the date on the City Planning Official's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on 31st day after the City Planning Official first accepted the application.
    - (3) Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted.
    - (4) Coordinated Review. The Planning Official shall submit the application to the Public Works Director, road authority, and County, State, and federal review agencies, as applicable, for their review and comment.

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 Planning Official at least seven (7) days before the notice of action or hearing is mailed, if possible. Documents or other evidence received by the Planning Official after that date shall be transmitted to the hearings body but may or may not be addressed by the staff report and therefore may cause a delay in the hearing body's review;
  - 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 5-4.1.060.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 and criteria in effect at the time the new application is accepted.

**E. City Planning Official's Duties.** The City Planning Official shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City's comprehensive plan, and implementing ordinance provisions;
2. Accept all development applications that comply with Section 5-4.1.060;
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 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 Planning Official 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), the City Planning Official 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 5-4.1.030.C (Type II), 5-4.1.040.C (Type III), or 5-4.1.050.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 which 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 Planning Official to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.
2. The City Planning Official 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 fourteen (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 appeal period, as specified for Type II or Type III actions, as applicable, 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 5-4.6. All other changes to decisions that are not modifications under Chapter 5-4.6 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 twelve (12) months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the City Planning Official.

**H. Appeal Process.** Refer to Section 5-4.1.030(G) for appeal of Type II decision and Section 5-4.1.040(G) for appeal of Type III decision.

**5-4.1.070 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.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or 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 City of John Day 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.

B. *[Reserved]*

**5-4.1.080 Neighborhood Meetings**

- A. **Purpose and Applicability** Applicants for master planned development, subdivision, or site design review on projects involving parcels or lots larger than one (1) acre are required to contact neighboring property owners and offer to hold a meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the City, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.
- B. **Notice.** Notice of the meeting must be given in writing and delivered in person or by certified mail, return receipt requested, to all of the property owners whose property is located within 100 feet of the site, at their addresses of record at the Grant County Assessor's office, at least 14 days before the meeting and at least 21 days before submitting the application to the City. The notice must state the time, place and purpose of the meeting, including a description of the proposed development.
- C. **Meeting place, date and time.** The meeting must be held within the City limits at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.
- D. **Conduct of meeting.** At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the applicant's agent, must make a sound, video or digital recording or keep written minutes of the meeting that give a true reflection of the matters discussed at the meeting and the views of the participants. The applicant must also make a list of names of persons attending the meeting.
- E. **Filing requirements.** Proof of having held the meeting, even if no affected property owners attend, is required and must be submitted to the City with a land use application for the application to be deemed complete. Copies of the following information must accompany the land use application: a copy of the notice mailed, certified mail return receipts and all addresses for which notice was mailed (e.g., copy of mailing labels), a certificate of personal service as to those persons who were provided notice by personal service (including the date of service and the name of the person who provided service), a record or minutes of the meeting with a list of attendees, and copies of the meeting notice and all other written materials provided prior to or distributed at the meeting.

**5-4.1.090 Traffic Impact Analysis**

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 Analysis 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 Analysis; and who is qualified to prepare the analysis.

**A. When a Traffic Impact Analysis is Required.** The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. The current version of the Institute of Transportation Engineers *Trip Generation Manual* shall be used as a source for estimating development-generated traffic. A TIA shall be required when a land use application involves one or more of the following actions:

1. A change in zoning or a 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. An increase in site traffic generation by 300 Average Daily Trips (ADT) or more;
4. An increase in peak hour traffic volume of a particular turning movement to and from an arterial street, including State highways, by 20 percent or more;
5. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day;
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;
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 Analysis Preparation.** A professional engineer in accordance with the requirements of the road authority shall prepare a Traffic Impact Analysis. If the road authority is the Oregon Department of Transportation (ODOT), the applicant shall consult ODOT's regional development review planner and OAR 734-051-180.

## **Chapter 5-4.2 - Land Use Review and Site Design Review**

### **Sections:**

<b>5-4.2.010</b>	<b>Purpose</b>
<b>5-4.2.020</b>	<b>Applicability</b>
<b>5-4.2.030</b>	<b>Land Use Review Procedure and Approval Criteria</b>
<b>5-4.2.040</b>	<b>Site Design Review - Application Review Procedure</b>
<b>5-4.2.050</b>	<b>Site Design Review - Application Submission Requirements</b>
<b>5-4.2.060</b>	<b>Site Design Review Approval Criteria; Adjustments</b>
<b>5-4.2.070</b>	<b>Assurances</b>
<b>5-4.2.080</b>	<b>Compliance With Permit Approval; Modifications; Permit Expiration</b>

### **5-4.2.010 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.

**5-4.2.020 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 – Exemptions from Site Design Review.** Land Use Review is conducted by the City Planning Official without a public hearing (Type I or II). (See Chapter 5-4.1 for review procedure.) It is intended to ensure compliance with land use regulations when a project proposal does not require a conditional use permit, land division, or site design review approval. Land Use Review ensures compliance with the standards of the land use district, such as lot area, building setbacks and orientation, lot coverage, maximum building height, special use standards, and other provisions of Article 5-2. Land Use Review is required for the types of proposals listed below. Proposals exceeding the thresholds below require Site Design Review, per Section 5-4.2.030.

1. Change in occupancy from one type of land use to a different land use resulting in no increase in vehicular traffic;
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 addition of up to 500 square feet;
7. Home occupation, except where Site Design Review is required under Chapter 5-4.9;
8. Temporary uses, except where Site Design Review is required under Chapter 5-4.9;
9. Accessory structures and accessory parking;
10. Development and land uses that are already approved as part of a Site Design Review or Conditional Use Permit application, provided modifications to such plans may be subject to Chapter 5-4.6;
11. Public improvements required by City standards or as stipulated by a condition of land use approval (e.g., transportation facilities and improvements, parks, trails, utilities, and similar improvements), as determined by the City Planning Official.

- B. **Site Design Review.** Site Design Review is a discretionary review conducted by the Planning Official (Type II Review) or by the Planning Commission in a public meeting (Type II Review) or a public hearing (Type III Review). Site Design Review applies to all development in the City, except developments specifically listed under “A” above (Land Use Review). Site Design Review ensures compliance with the land use and development standards in Article 5-2, the design standards and public improvement requirements in Article 5-3, and other applicable regulations.

**5-4.2.030 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 Planning Official. The City shall conduct Land Use Reviews using either a Type I or Type II procedure, as described in Sections 5-4.1.020 and 5-4.1.030. A Type I procedure shall be used when the Planning Official 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 Planning Official 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 5-2);
- 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 5-2); and
- C. When development is proposed, the applicable sections of Article 5-3, Design Standards apply.

Note: Land Use Reviews do not address a project’s compliance with applicable building, fire and life safety regulations. Subsequent review by City officials may be required to determine compliance with applicable regulations.

**5-4.2.040 Site Design Review - Application Review Procedure**

Site Design Review shall be conducted using a Type II procedure, consistent with Chapter 5-4.1, except that proposals exceeding the thresholds below shall be reviewed using a Type III procedure:

- A. The proposed use's estimated vehicle trip generation exceeds 100 average daily trips, based on the latest edition of the Institute of Transportation Engineers (ITE) Manual. (This is the equivalent of approximately 10 dwelling units or a 1,000 square foot bank with drive-thru window.); or the use exceeds 5,000 square feet of gross leasable floor area; or the project involves more than one (1) acre total site area.
- B. The proposal involves a conditional use.
- C. The proposal involves an adjustment to a development standard, as provided under subsection 5-4.2.060(B).
- D. The City Planning Official determines that, due to the nature of the proposal, a public hearing is the most effective way to solicit public input in reviewing the application.
- E. The proposal involves expansion of a non-conforming use.

**5-4.2.050 Site Design Review - Application Submission Requirements**

Both Type II and Type III Site Design Review applications shall conform to the application requirements and approval criteria in Sections 5-4.2.050 through 5-4.2.060. For information on Type II and Type III procedures, please refer to Chapter 5-4.1. All of the following information is required for Site Design Review application submittal, except where the Planning Official determines that some information is not pertinent and therefore is not required.

- A. **General Submission Requirements.** An application for Site Design Review shall contain all of the information required for a Type II or Type III review, as applicable, under Sections 5-4.1.030-040, 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. The City shall advise as to the scope of the study during the required pre-application conference (Section 5-4.1.060C). The study shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians, 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;
  - 2. **Traffic Impact Analysis,** if required by the City or other road authority. Traffic Impact



Analysis shall conform to the standards and procedures in Section 5-4.1.090; and

3. In situations where this Code requires the dedication of real 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.

**B. Site Design Review Information.** In addition to the general submission requirements for a Type III review (Section 5-4.1.040) an applicant for Site Design Review shall provide the following additional information, as deemed applicable by the City Planning Official. The Planning Official may deem applicable any information that he or she needs to review the request and prepare a complete staff report and recommendation to the approval body:

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, except where the Public Works Director determines that larger intervals will be adequate for steeper slopes;
  - c. Identification of slopes greater than fifteen (15) percent, with slope categories identified in 5 percent increments (e.g., 0%-5%, >5%-10%, >10%-15%, >15%-20%, and so on.);
  - 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, as applicable, the base flood elevation identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated 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;
  - 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;
  - o. Locations, sizes, and types of signs;
3. Architectural drawings. Architectural drawings showing one or all of the following shall be required for new commercial, commercial/residential, industrial and multifamily buildings, and major remodels of the same:
- a. Building elevations (as determined by the City Planning Official) with building height and width dimensions;
  - b. Building materials, colors and type;
  - 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 one-half (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 Section 5-3.4.040.
5. Landscape plan. Where a landscape plan is required, it 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 if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule;
  - f. Other information as deemed appropriate by the City Planning Official. An arborist's report may be required for sites with mature trees that are protected under Chapter 5-3.2. 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 5-4.2.060 Approval Criteria.
8. Traffic Impact Analysis, when required, shall be prepared in accordance with the road authority's requirements. See Section 5-4.1.090, and Section 5-3.4.010 for relevant standards.
9. Other information determined by the City Planning Official. 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.

#### 5-4.2.060 Site Design Review - Approval Criteria; Adjustments

- A. **Approval Criteria.** An application for Site Design Review shall be approved if the proposal meets all of the following criteria. The City decision making body may, in approving the application may impose reasonable conditions of approval, consistent with the applicable criteria:
  1. The application is complete, as determined in accordance with Chapter 5-4.1 - Types of Applications and Section 5-4.2.050, above.
  2. The application complies with all of the applicable provisions of the underlying Land Use District (Article 5-2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards;
  3. 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;
  4. The proposal complies with all of the Design Standards in Article 5-3:
    - a. Chapter 5-3.1 - Access and Circulation;
    - b. Chapter 5-3.2 - Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
    - c. Chapter 5-3.3 - Parking and Loading, for automobiles and bicycles;
    - d. Chapter 5-3.4 - Public Facilities and Franchise Utilities;
    - e. Chapter 5-3.5 - Signs;

f. Chapter 5-3.6 - Other Standards.

5. Adverse impacts to adjacent properties, such as light, glare, noise, odor, vibration, smoke, dust, or visual impact are avoided; or where impacts cannot be avoided, they are minimized.
6. Existing conditions of approval required as part of a prior land use decision, if any, are be met.

Compliance with other City codes and requirements, though not applicable land use criteria, may be required prior to issuance of building permits.

B. **Adjustments.** Where this Code specifically authorizes an Adjustment to a Code standard through Site Design Review (Type III), the Planning Commission may approve such Adjustment only upon finding it equally or better meets the purpose and intent of the Code provision that is to be Adjusted; the Planning Commission shall consider the purpose and intent of all relevant Code chapters and sections. In addition, the Planning Commission shall find the Adjustment, as compared to the standard Code requirement, does not create incompatibilities between existing and proposed development relative land use, traffic patterns, noise, light, glare, odor, emissions, vibration, building design, streetscape appearance and functionality, or similar types of impacts.

**5-4.2.070 Assurances**

Public improvement required as part of a Site Design Review approval shall be subject to the performance guarantee and warranty bond provisions of Section 5-3.4.090, as applicable.

**5-4.2.080 Compliance 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 5-4.2.070. 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 5-4.6, shall be processed as a Type I or Type II procedure and require only Land Use Review. Major modifications, as defined in Chapter 5-4.6, shall be processed as a Type III procedure and shall require Site

Design Review. For information on Type I, Type II and Type III procedures, please refer to Chapter 5-4.1. For Modifications approval criteria, please refer to Chapter 5-4.6.

B. **Approval Period.** Development Review and Site Design Review approvals shall be effective for a period of one (1) 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 Official, upon written request by the applicant, may 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.

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 City Council approval. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of

#### 5-4.2 – Land Use and Site Design Review

required public improvements, in accordance with Section 5-4.3.110. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the Public Works Director;

- 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. A request to phase a project may be approved after Site Design Review approval as a modification to the approved plan, pursuant Chapter 5-4.6.

## **Chapter 5-4.3 - Land Divisions and Property Line Adjustments**

### **Sections:**

<b>5-4.3.010</b>	<b>Purpose</b>
<b>5-4.3.020</b>	<b>General Requirements</b>
<b>5-4.3.030</b>	<b>Pre-planning for Large Sites</b>
<b>5-4.3.040</b>	<b>Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes</b>
<b>5-4.3.050</b>	<b>Approval Process</b>
<b>5-4.3.060</b>	<b>Preliminary Plat Submission Requirements</b>
<b>5-4.3.070</b>	<b>Approval Criteria: Preliminary Plat</b>
<b>5-4.3.080</b>	<b>Land Division-Related Variances</b>
<b>5-4.3.090</b>	<b>Final Plat Submission Requirements and Approval Criteria</b>
<b>5-4.3.100</b>	<b>Public Improvements</b>
<b>5-4.3.110</b>	<b>Assurances</b>
<b>5-4.3.120</b>	<b>Filing and Recording</b>
<b>5-4.3.130</b>	<b>Re-platting and Vacation of Plats</b>
<b>5-4.3.140</b>	<b>Property Line Adjustments</b>

### **5-4.3.010 Purpose**

The purpose of this chapter is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments as follows:
  - 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 City's 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

G. Encourage the conservation of energy resources.

**5-4.3.020 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.
- B. **Compliance With Oregon Revised Statutes (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 density and minimum lot size standards of Article 5-2;
  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, pursuant to Section 2.2.030, or through approval of a Master Planned Development under Chapter 5-4.5.
- E. **Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 5-4.9.010, Temporary Uses, and subject to the requirements for mobile homes and recreational vehicles in Chapter 5-2.5, as applicable.

- F. **Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway and, where possible, allow building outside of the flood fringe. Development in a 100-year flood plain shall comply with the National Flood Insurance Program, State building code requirements, including elevating structures above the base flood elevation, and the City of John day Flood Plain Overlay. The applicant shall be responsible for obtaining floodplain development permit from the NFIP and local jurisdiction.
- G. **Determination of Base Flood Elevation.** Where a development site consists of five (5) or more acres or 50 or more lots, and is located in or near areas prone to inundation for which the base flood elevation has not been mapped, the applicant shall have the base flood elevation it shall be prepared by a qualified professional as part of the land division application.
- 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.
- J. **Floodplain, 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 as may be required for stormwater management.

**5-4.3.030 Pre-planning for Large Sites**

- A. **Purpose.** Section 5-4.3.030 requires the pre-planning of large sites in conjunction with annexation requests, and applications for large subdivisions including master plan developments; the purpose of which is to plan the development of pedestrian-oriented neighborhoods with a mix of housing opportunities, open space, and services at an appropriate neighborhood scale. The intent is to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation, particularly as large parcels of land are committed to urban development.
- B. **Applicability.** This Section applies to land use applications and annexations affecting more than 40 acres of land under the same contiguous ownership. For the purposes of this Section, the same contiguous ownership means a majority share of ownership is controlled by the same individual, or group of individuals, corporations, or other entities.
- C. **Area plan required.** Prior to submittal of an annexation petition or land division application for an area subject to Section 5-4.3.030, a conceptual master plan shall be submitted to the City Planning Official with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, parks, open spaces, and land uses for the subject site and all lands under contiguous ownership. The plan shall demonstrate how future development, including any proposed phasing, can meet the guidelines under subsection D, below.
- D. **Land use and design standards.** The conceptual plan required under subsection C 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 uses, if any, and recreational uses by walking and bicycling;
  - 3. Land uses are mixed to the extent allowed by this Code;
  - 4. Where a variety of housing is required by this Code, different housing types and a range of lot sizes are located in close proximity to one another;
  - 4. Streets are interconnected to the extent practicable; blocks are walkable in scale (e.g., 200-600 feet in length), except where topography, existing development, or other physical features require longer blocks, which case pedestrian access ways connect through long blocks;
  - 5. Civic buildings, monuments and/or 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 Development Code; and
7. The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.

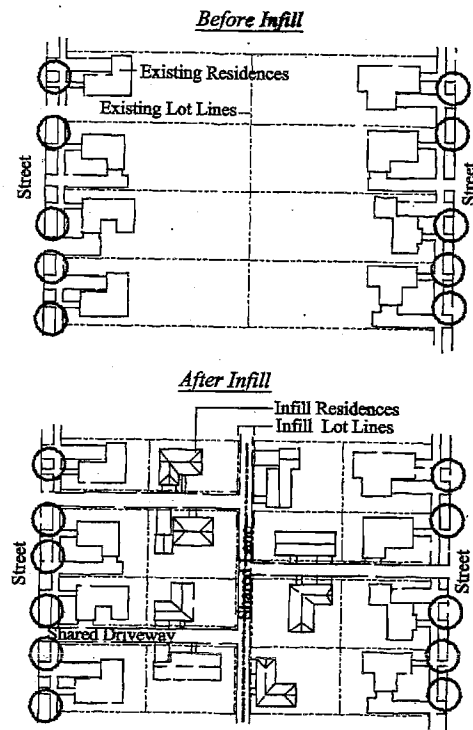
E. **Implementation.** The City will review the conceptual master plan required by this Section and provide input to the applicant during the pre-application meeting for the land use application or annexation petition, as applicable. The City may also refer the plan to outside agencies with jurisdiction (e.g., roadway authority) for their input. The master plan is not binding but the applicant is encouraged to refine the plan based on the City input before submitting a land use application or annexation petition for the subject property. The applicant is also required to contact adjacent property owners and solicit their input prior to submitting a land use application, pursuant to Section 5-4.1.080.

#### **5-4.3.040 Flexible Lot Size; Flag Lots; Lots Accessed by Mid-Block Lanes**

A. **Flexible Lot Size.** To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees and other natural and built features, the approval body may grant a ten (10) percent modification to the lot area and/or lot dimension (width/depth) standards in Section 5-2.2.030, 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 plans (e.g., single story and two-story) 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 20,000 square feet.

B. **Mid-block lanes.** Lots may be developed without frontage onto a public street when mid-block lanes, as generally illustrated in Figure 5-4.3.040B, provide access to lots. Mid-block lanes 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. Such lanes shall meet the standards for alleys, per Chapter 5-3.4.010 and the standards under subsections C-F, below.

Figure 5-4.3.040B - Mid-block



- 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 Uniform Fire Code (UFC) standards are met for more units. When UFC 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 shall be 12 feet; the maximum width is twenty (20) feet, except as required by the Uniform Fire Code.
- E. **Easement and improvement of drive lane.** The property owner shall record a 20-foot 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 Uniform Fire Code, but shall not exceed 150 feet for a shared side drive, and 400 feet for a shared rear lane.
- 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 5-4.3.040.B).

### 5-4.3.050 Preliminary Plat Approval Process

- A. **Review of Preliminary Plat.** Review of a preliminary plat with two (2) or three (3) lots (partition), or a replat involving two (2) or three (3) lots, and not exceeding one (1) acre shall be processed using a Type II procedure, under Section 5-4.1.030. Preliminary plats involving four (4) or more lots (subdivision), replats involving four (4) or more lots, and partitions larger than one (1) acre shall be processed using a Type III procedure under Section 5-4.1.040. All preliminary plats shall be reviewed using approval criteria in Section 5-4.3.070. An application for subdivision may be reviewed concurrently with an application for a Master Planned Development under Chapter 5-4.5.
- B. **Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed using a Type I procedure under Section 5-4.1.030, using the approval criteria in Section 5-4.3.090, except where the Planning Official requires that a Type II or Type III procedure is required due to changes the applicant proposes to the preliminary plat.
- C. **Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within the 2-year period. The Planning Commission may approve phased projects, including master planned developments, with overall time tables of more than two (2) years between preliminary and final plat approvals.
- D. **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 5-4.6 - Modifications. The City Planning Official may, 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 5-4.6;
  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.

**E. 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 shall require City Council 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 5-4.3.110. 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.

**5-4.3.060 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 5-4.1.030, except as may be waived by the Planning Official. For all subdivisions (four or more lots) the application shall contain all of the information required for a Type III procedure under Section 5-4.1.040, 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. The City shall advise as to the scope of the study during the required pre-application conference (Section 5-4.1.060C). 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 Impact Analysis, if required by the road authority.** Traffic Impact Studies shall

conform to the standards and procedures in Section 5-4.1.090; and

3. In situations where this Code requires the dedication of real 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 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 Grant County (please 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 2-foot vertical interval, except where the Public Works Director determines that larger intervals are adequate; i.e., for steep slopes. Such ground elevations shall be related to some established



#### 5-4.3 – Land Divisions and Property Line Adjustments

benchmark or other datum approved by the County Surveyor; the Director may waive this standard 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 areas identified as subject to a flood hazard as identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated by the City, County, or State as having a potential for geologic hazards;
- g. Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection;
- 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 5-3.2;
- k. North arrow and scale;
- l. Name and address of project designer, if applicable; and
- m. Other information, as deemed necessary by the City Planning Official for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

#### 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;

#### 5-4.3 – Land Divisions and Property Line Adjustments

- 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 5-3 (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.
- 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;
- 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 for development of more than 2 lots or ½ acre, whichever is less. Written evidence of initiation of a Federal Emergency Management Agency (FEMA) flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain. FEMA approval of the amendment shall be a condition of City land use approval.
- 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, rivers, streams or other regulated water bodies.

#### 5-4.3.070 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:

#### 5-4.3 – Land Divisions and Property Line Adjustments

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 5-2 (Land Use Districts) and Article 5-3 (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 5-5;
  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. 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;
  7. Evidence that improvements or conditions required by the City, road authority, Grant County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and
  8. If any part of the site is located within an Overlay Zone, or previously approved Master Planned Development, it shall conform to the applicable regulations and/or conditions.
- B. 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 General Development Standards of the applicable land use district (Article 5-2), and the standards of Section 5-3.1.020.J Street Connectivity and Formation of Blocks.
  2. Setbacks shall be as required by the applicable land use district (Article 5-2).
  3. Each lot shall conform to the standards of Chapter 5-3.1 - Access and Circulation.
  4. Landscape or other screening may be required to maintain privacy for abutting uses. See Article 5-2 Land Use Districts and Chapter 5-3.2 Landscaping and Screening.
  5. In conformance with the Uniform 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. See Chapter 5-3.1 Access and

Circulation.

6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement for 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.

C. **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 5-3.4 Public Facilities.

**5-4.3.080 Land Division-Related Variances**

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.

**5-4.3.090 Final Plat Submission Requirements and Approval Criteria**

- A. **Submission Requirements.** Final plats require review and approved by the City prior to recording with Grant County. The applicant shall submit the final plat within two (2) years of the approval of the preliminary plat as provided by Section 5-4.3.070. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the City Planning Official.
- B. **Approval Process and Criteria.** By means of a Type I procedure, the City Planning Official and Public Works Director, or the Planning Commission, shall review the final plat and shall approve or deny it based on findings regarding compliance with 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 Public Works Director or appropriate service provider (e.g., road authority). Alternatively, the developer has provided a performance guarantee in accordance with Section 5-4.3.110;

#### **5-4.3 – Land Divisions and Property Line Adjustments**

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;
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 5-3.4 - Public Facilities, and the bond requirements of Section 5-4.3.110. 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 Public Works Director;
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 approved by the Grant County Surveyor for purposes of identifying its location.

#### **5-4.3.100 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 5-4.3.110.

#### **5-4.3.110 Assurances**

Public improvement required as part of a Land Division approval shall be subject to the performance guarantee and warranty bond provisions of Section 5-3.4.090, as applicable.

**5-4.3.120 Filing and Recording**

- A. **Filing Plat with County.** Within sixty (60) days of the City approval of the final plat, the applicant shall submit the final plat to Grant 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 five (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.

**5-4.3.130 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 5-4.1 - 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 ORS Chapter 5-271.
- 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 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. Such requirements shall be coordinated with the applicable road authority.

#### 5-4.3.140 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 5-4.1.020. 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; location of sensitive lands (*e.g.*, flood hazard, geological hazard, airport approach areas) existing fences and walls; and any other information deemed necessary by the City Planning Official for ensuring compliance with City codes.
- B. **Approval Process.**
  1. Decision-making process. Property line adjustments shall be reviewed by means of a Type I procedure, as governed by Section 5-4.1.020, using approval criteria contained in Section 5-4.3.140.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 (1) 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 5-4.3.140.B(2);

- b. The property line adjustment has been improperly recorded with Grant 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 Planning Official 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 5-2) including lot area, dimensions, setbacks, and coverage, and no resulting lot is wholly comprised of a flood way area or jurisdictional wetland;
- 3. Access and Road authority Standards. All lots and parcels conform to the standards or requirements of Chapter 5-3.1 - 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 Grant 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 fifteen (15) days of recording and prior to the issuance of any building permits on the re-configured lots.

E. **Extension.** The City shall, upon written request by the applicant and payment of the required fee, grant 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.



## Chapter 5-4.4 - Conditional Use Permits

### Sections:

- 5-4.4.010 Conditional Use Permits - Purpose**
- 5-4.4.020 Conditional Use Permits - Approvals Process**
- 5-4.4.030 Conditional Use Permits - Application Submission Requirements**
- 5-4.4.040 Conditional Use Permits - Criteria, Standards and Conditions of Approval**
- 5-4.4.050 Conditional Use Permits - Supplemental Development Standards**

#### **5-4.4.010 Conditional Use Permits - 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 5-2 - Land Use Districts. The purpose of Chapter 5-4.4 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.

#### **5-4.4.020 Conditional Use Permits - Approvals Process**

- A. Initial Application.** An application for a new conditional use shall be processed as a Type III procedure, per Section 5-4.1.040. The application shall meet submission requirements in Section 5-4.4.030, and the approval criteria contained in Section 5-4.4.040.
- B. Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 5-4.6.

#### **5-4.4.030 Conditional Use Permits - Application Submission Requirements**

In addition to the submission requirements required in Chapter 5-4.1, an application for conditional use approval shall include the following information, as the Planning Officials deems applicable. For a description of each item, please refer to Section 5-4.2.050 Site Design Review Application Submission Requirements:

1. Existing site conditions
2. Site plan
3. Preliminary grading plan
4. A landscape plan
5. Architectural drawings of all structures
6. Drawings of all proposed signs
7. A copy of all existing and proposed restrictions or covenants

8. Narrative report or letter documenting compliance with all applicable approval criteria in Section 5-4.4.040
9. Other information the Planning Official deems necessary to facilitate review of the proposal under the approval criteria of Section 5-4.4.040

#### **5-4.4.040 Conditional Use Permits - 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 or are to be improved to serve the proposal, consistent with City standards.
4. A conditional use permit shall not allow a use that is prohibited or not expressly allowed under Article 5-2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.

**B. Site Design Standards.** The Site Design Review approval criteria (Section 5-4.2.060) shall be met. The Planning Official may waive the application requirements for Site Design Review upon determining that the Conditional Use Permit application provides sufficient information to evaluate the proposal.

**C. Conditions of Approval.** The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;

4. Limiting the building or structure height, size, lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking and loading areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans, or requiring the recording of a local improvement district non-remonstrance agreement for the same. Dedication of land and construction shall conform to the provisions of Chapter 5-3.1, and Section 5-3.1.030 in particular;
14. Establish a time table for periodic review and renewal, or expiration, of the conditional use to ensure compliance with conditions of approval; such review may be subject to approval by the Planning Official or Planning Commission through a Type II Administrative Review or Type III Quasi-Judicial process at the discretion of the decision making body.

## **Chapter 5-4.5 - Master Planned Developments**

### **Sections:**

- 5-4.5.010 Master Planned Development - Purpose**
- 5-4.5.020 Master Planned Development - Applicability**
- 5-4.5.030 Master Planned Development - Review and Approvals Process**
- 5-4.5.040 Master Planned Development – Modifications to Standards**
- 5-4.5.050 Master Planned Development - Overlay Zone and Concept Plan Submission**
- 5-4.5.060 Master Planned Development - Overlay Zone and Concept Plan Criteria**
- 5-4.5.070 Master Planned Development - Administrative Procedures**
- 5-4.5.080 Master Planned Development - Detailed Development Plan Submission Requirements**
- 5-4.5.090 Master Planned Development - Detailed Development Plan Criteria**
- 5-4.5.100 Master Planned Development - Other Approvals**

### **5-4.5.010 Master Planned Development - Purpose**

The purposes of this Section are to:

- A. Implement the Comprehensive Plan and applicable land use district(s) by providing a means for master planning large development sites;
- 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.

**5-4.5.020 Master Planned Development - Applicability**

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, or the City may require a development be processed as such when a project cannot otherwise meet the applicable Development Code requirements due to existing topography or natural features.

**5-4.5.030 Master Planned Development - 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 5-4.1.040, the submission requirements in Section 5-4.5.050, and the approval criteria in Section 5-4.5.060. (The overlay zone approval is a quasi-judicial decision requiring findings under Chapter 5-4.5 only; it is not a legislative decision under Chapter 5-4.7.)
2. The detailed development plan shall be reviewed using the Type I procedure in Section 5-4.1.040, 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 I procedure, as governed by Section 5-4.2.040.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows that in Section 5-4.5.030.A, above. Notification and hearings may be combined.

**5-4.5.040 Master Planned Development - Modifications to Standards**

The Planning Commission may approve modifications or adjustments to the standards in Article 5-2 and/or Article 5-3 through the master plan approval without the need for variances upon finding that all of the following criteria are met:

- A. **Comprehensive Plan.** The modification or adjustment is consistent with the policies of the Comprehensive Plan, and equally or better meets the intent of the Development Code section(s) to be modified, as compared to a project that strictly conforms to code standards.
- B. **Public Benefit.** The modification or adjustment shall result in an overall net benefit to the public through greater variety of housing, greater affordability in housing, more open space or more usable open space, greater protection of natural features, greater protection of scenic views or vistas, avoidance of natural hazards (*e.g.*, geological hazards, streams, or other drainageways), exemplary architecture, improved transportation connectivity, improved pedestrian facilities, and/or similar benefits in new development. In evaluating this criterion, the Planning Commission shall consider whether the proposal on balance exceeds the City's minimum requirements.
- C. **Public improvement standards and engineering design criteria** shall not be modified without variance to such standards approved by the Public Works Director. The City may grant such variances concurrently with the master planned development;
- D. **Residential densities** shall not exceed the density allowed under the applicable land use district in Article 5-2. Where the land use district allows a density bonus subject to Section 5-2.2.090, the total number of dwelling units shall not exceed the maximum density allowed by the district; and
- E. **Industrial and commercial uses, if not otherwise allowed in a Residential District,** shall not be allowed in a Residential District master plan.

**5-4.5.050 Master Planned Development - Overlay Zone and Concept Plan Submission**

- A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required for a Type III procedure, as governed by Section 5-4.1.040. In addition, the applicant shall submit 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 5-4.5.060.
5. Special studies prepared by qualified professionals may be required by the City Planning Official, 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 5-4.2.050 - 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. Sign concept plan (e.g., locations, general size, style and materials of signs);
7. Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

**5-4.5.060 Master Planned Development - Overlay Zone and Concept Plan 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 satisfied when denying an application:

- A. **Comprehensive Plan.** The master plan conforms to the Comprehensive Plan;
- B. **Land Division Chapter.** All of the requirements for land divisions, including requirements for pre-planning large sites under Section 5-4.3.030, are met, except as may be modified under Section 5-4.5.040 (Chapter 5-4.3);
- C. **Article 5-2 and Article 5-3 Standards.** All of the land use, development, and design standards contained in Articles 2 and 3 are met, except as may be modified under Section 5-4.5.040.
- D. **Open Space.** Master plans shall contain a minimum of twenty-five (25) 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 common areas that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the open space area shall be shown on the final plan and recorded with the final plat or separate instrument, per Section 5-3.4.020A; and the open space shall be conveyed in accordance with one of the following methods:
  - 1. 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 Planning Official 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;
  - 2. 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 instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.
- E. **Adjustments and Modifications to Standards.** Where adjustment(s) or modification(s) to standards are requested, such adjustment(s) or modification(s) must be found to conform to the criteria in section 5-4.5.040.

#### **5-4.5.070 Master Planned Development - Administrative Procedures**

- A. **Filing and Expiration.** After the City has approved a Master Planned Development (MPD), the project site shall carry the MPD designation and be subject to the provisions of this Chapter, the MPD approved plan, and any conditions of approval. Where a MPD approval expires, as provided under subsection 5-4.5.070(B), the MPD overlay shall no longer apply.



- 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 prepare and file with the City a detailed development plan or final plat, in conformance with Section 5-4.5.080 through 5-4.5.090. Where a detailed development plan or final plat is not filed within three (3) years, the concept plan shall become void.
- 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.

**5-4.5.080 Master Planned Development - 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.

**5-4.5.090 Master Planned Development - Detailed Development Plan Criteria**

City approval of the detailed development plan shall be based upon a finding that the final plan conforms to the concept plan and required conditions of approval. Minor changes to the approved concept plan may be approved with the detailed plan when the approval body finds that the change is consistent with the criteria in A-H, below. Changes exceeding those in subsections A-H, below, must be reviewed as major modifications under Chapter 5-4.6.

- A. Increased residential densities** (overall or reallocated between development phases) by no more than ten (10) percent over that which is approved, provided such increase conforms to the Comprehensive Plan and underlying Land Use District;
- B. Increase in lot coverage or impervious surface** (overall or reallocated between development phases) by no more than ten (10) percent over that which is approved;
- C. Reduction in open space or landscaping** by no more than ten (10) percent over that which is approved;

- D. **Increase in overall automobile parking spaces** by ten (10) percent over that which is approved;
- E. **Land use.** No change in land use shall be permitted without a major modification to the Master Plan Development (Concept Plan) approval;
- F. **An increase in lot coverage within a designated open space area or an area subject to a potential hazard** requires a major modification to the concept plan;
- G. **Major changes in the location or configuration of proposed lots, blocks, buildings, streets, parking lots, utility easements, landscaping or other site improvements shall require a Major Modification pursuant to Chapter 5-4.6.** "Major" in this subsection means by more than twenty (20) percent for setbacks, or more than twenty (20) feet in the alignment or placement of the features listed herein; and
- H. **Other substantial modifications** not allowed as Minor Modifications in A-G, above, shall require approval of a major modification, in conformance with Chapter 5-4.6.

#### **5-4.5.100 Master Planned Development - Other 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 5-4.2 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 5-4.3 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 a previously approved master planned development (detailed development plan) may be reviewed using a Type I procedure, rather than the conventional Type II procedure. This shall be the applicant's option, provided the City Planning Official may elevate a Type I application to a Type II review.

## **Chapter 5-4.6 - Modifications to Approved Plans and Conditions of Approval**

### **Sections:**

- 5-4.6.010      Modifications - Purpose**
- 5-4.6.020      Modifications - Applicability**
- 5-4.6.030      Major Modifications**
- 5-4.6.040      Minor Modifications**

### **5-4.6.010      Modifications - 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.

### **5-4.6.020      Modifications - Applicability**

This Chapter applies when an applicant proposes to modify an approved application or condition of approval approved through a Type II or Type III procedure. This Chapter does not apply to ministerial (Type I) decisions or legislative (Type IV) decisions.

### **5-4.6.030      Major Modifications**

- A. Major Modification Defined.** The City Planning Official 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 ten (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 ten (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 fifteen (15) percent where previously specified;

#### 4.6 – Modifications to Approved Plans and Conditions of Approval

6. A reduction of more than ten (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 Planning Official 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 Planning Official determining that the proposed modification is a major modification, the applicant shall submit an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The Planning Official 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 5-4.1.
4. The decision making body shall approve, deny, or approve with conditions an application for major modification based on written findings on the criteria.

#### 5-4.6.040 Minor Modifications

**A. Minor Modification.** A minor modification is a change that can be approved administratively and does not meet any of the thresholds for a major modification listed in Section 5-4.6.030.A.

**B. Minor Modification Review Procedure.** The Planning Official using a Type I or a Type II review procedure, under Section 5-4.1.020 or 5-4.1.030, shall review an application for approval of a minor modification. The Planning Official 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

#### 4.6 – Modifications to Approved Plans and Conditions of Approval

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 Planning Official may require other relevant information, as necessary, to evaluate the request.
- D. **Minor Modification Approval Criteria.** The Planning Official 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 5-4.6.030.A, above.

## Chapter 5-4.7 - Land Use District Map and Text Amendments

### Sections:

5-4.7.010	Amendments - Purpose
5-4.7.020	Legislative Amendments
5-4.7.030	Quasi-Judicial Amendments
5-4.7.040	Conditions of Approval on Quasi-Judicial Amendments
5-4.7.050	Record of Amendments
5-4.7.060	Transportation Planning Rule Compliance

### 5-4.7.010 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.

### 5-4.7.020 Legislative Amendments

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Section 5-4.1.050 and shall conform to the Transportation Planning Rule provisions in Section 5-4.7.060, as applicable.

### 5-4.7.030 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 and application of master planned development overlay zones to individual properties shall follow the Type III procedure, as governed by Section 5-4.1.040, using standards of approval in Section 5-4.7.030.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 map or zoning map regarding the property which is the subject of the application; and
5. The amendment conforms to the Transportation Planning Rule provisions under Section 5-4.7.060.

#### **5-4.7.040 Conditions of Approval for Quasi-Judicial Amendments**

A quasi-judicial decision may be for denial, approval, or approval with conditions; conditions shall be based on applicable regulations and factual evidence in the record. A legislative amendment may only be approved or denied.

#### **5-4.7.050 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. This shall be located in Article 6.

#### **5-4.7.060 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 (Transportation Planning Rule - TPR) and the Traffic Impact Analysis provisions of Section 5-4.1.090. "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 Transportation System Plan; or
2. Change the standards implementing a functional classification system; or
3. As measured at the end of the planning period identified in the Transportation System Plan or the adopted plan of any other applicable roadway authority, 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 road authority's adopted plan; 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 adopted plan.
6. Where the City lacks specific transportation policies or standards, the City Council shall be consulted, as provided under Section 5-4.1.050 (Type IV Legislative Review).

**B. Amendments That Affect Transportation Facilities.** Except as provided in subsection C, amendments to the Comprehensive Plan and land use regulations which 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 Transportation System Plan. 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 Comprehensive Plan 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 Transportation System Plan, 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;
  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, mitigates 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 5-4.8 - Code Interpretations

### Sections:

#### 5-4.8.010 Interpretations - Purpose

#### 5-4.8.020 Code Interpretation Procedure

#### 5-4.8.010 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.

#### 5-4.8.020 Code Interpretation Procedure

- A. **Requests.** A request for a code interpretation shall be made in writing to the Planning Official.
- B. **Decision to Issue Interpretation.** The Planning Official shall have the authority to interpret the code, or refer the request to the Planning Commission for its interpretation. The Planning Official shall advise the person making the inquiry in writing within fourteen (14) days after the request is made, on whether or not 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 fourteen (14) days of the request. The decision shall become effective fourteen (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 5-4.1.030. Alternatively, the Planning Official may initiate a code interpretation (i.e., without an application being filed by a property owner) and ask the Planning Commission to ratify the decision, in which case the City shall provide notice of the decision to affected property owner(s), pursuant to Section 5-4.1.040.
- 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 a Code Interpretation decision. The appeal must be filed within fourteen (14) days after the interpretation was mailed or delivered to the applicant. Initiating an appeal requires filing a notice of appeal with the City Planning Official pursuant to Section 5-4.1.040.
- G. **Interpretations On File.** The City shall keep on file a record of all code interpretations.

## Chapter 5-4.9 - Miscellaneous Permits

### Sections:

- 5-4.9.010      Temporary Use Permits  
5-4.9.020      Home Occupation Permits

### 5-4.9.010      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. [Note: For Temporary Medical Hardship Dwellings, please refer to Section 5-2.2.100K. 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 thirty (30) days. Using the Type II procedure under Section 5-4.1.040, 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, which is needed by the property owner to meet their minimum parking requirement under Chapter 5-3.3 - Vehicle and Bicycle Parking;
4. The use provides adequate vision clearance, as required by Section 5-3.1.020, 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 5-3.1.020 - 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 5-4.1.020, 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 or recreational vehicle per Chapter 5-2.5, 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 land use approval. Using a Type II procedure, as governed by Section 5-4.1.040, 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 5-3.1.020 - Vehicular Access; and

#### 5-4.9 – Miscellaneous Permits – Temporary Use Permits

4. There is adequate parking for the customers or users of the temporary use as required by Chapter 5-3.3 - 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 which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used does not exceed 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; and
11. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.

**5-4.9.020 Home Occupation Permits****A. Purpose.**

The purpose of this Section is to provide standards and procedures for small commercial ventures in Residential Districts that do not otherwise meet the criteria for Home Occupations permitted by right in Section 2.1.100E. Section 5-4.9.020 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 do not meet all of the criteria for Home Occupations permitted by right in Section 5-2.2.020E shall be processed using a Type III procedure, as governed by Chapter 5-4.1.040, using the approval criteria in subsection 5-2, below. In addition to the application requirements contained in Section 5-4.1.040.B, the applicant shall provide:
  - a. A written narrative or letter:
    - (1) describing the proposed home occupation;
    - (2) demonstrating compliance with those standards in Subsection 2.1.100E that can be met, and explaining why the other standards in Subsection 5-2.1.100E cannot be met, and
    - (3) demonstrating compliance with the criteria in Subsection 5-2 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

- (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 2.1100E.

## Chapter 5-4.10 - Annexations

### Sections:

5-4.10.010	Purpose
5-4.10.020	Procedure
5-4.10.030	Application
5-4.10.040	Initiation by Council
5-4.10.050	Approval Criteria
5-4.10.060	Boundaries
5-4.10.070	Statutory Procedure
5-4.10.080	Mapping

#### 5-4.10.010 Purpose

The purpose of this chapter is to provide for the orderly transition and rezoning of land from the Urban Growth Boundary into the City Limits and to ensure the requirements of boundary changes, the provision of public facilities, and land use compatibility have been adequately addressed.

#### 5-4.10.020 Procedure

All annexations shall be processed in the same manner as a Type IV procedure, with the exception that the requirements of state law regarding annexations shall be met.

#### 5-4.10.030 Application

Except for annexations initiated by the council pursuant to section 5-4.10.040, application for annexation shall include the following information:

- A. Consent to annexation, which is non-revocable for a period of one year from its date.
- B. Agreement to deposit an amount sufficient to retire any outstanding indebtedness of special districts defined in ORS 222.510.
- C. Boundary description and map prepared by a registered land surveyor that conforms to ORS 308.225. Such description and map shall be prepared. The boundaries shall be surveyed and monumented as required by statute subsequent to Council approval of the proposed annexation.
- D. Written findings addressing the criteria in 5-4.10.050.



- E. Application by the property owner for a zone change and Comprehensive Plan amendment.
- G. The required fee set by resolution of the City Council.

#### **5-4.10.040 Initiation by Council**

The Council on its own motion may initiate an annexation. The approval criteria in section 5-4.10.050 shall apply. Provided, however, that in the case of annexation where current or probable public health hazard due to lack of full City sanitary sewer or water services or the lot or lots proposed for annexation are an "island" completely surrounded by lands within the city limits, the only standards that apply shall be 5-4.10.050(A)

#### **5-4.10.050 Approval Criteria**

An annexation may be approved if the proposed request for annexation conforms, or can be made to conform through the imposition of conditions, with the following approval criteria:

- A. The land is within the City's Urban Growth Boundary.
- B. The proposed zoning for the annexed area is consistent with the Comprehensive Plan, and a project, if proposed concurrently with the annexation, is an allowed use within the proposed zoning.
- C. The land is currently contiguous with the present City Limits.
- D. Adequate City facilities can and will be provided to and through the subject property, including water, sanitary sewer, and storm drainage.
- E. The annexation is consistent with the annexation policies contained in the Comprehensive Plan.

#### **5-4.10.035 Boundaries**

When an annexation is initiated by a private individual, the Planning Official may include other parcels of property in the proposed annexation to make a boundary extension more logical and to avoid parcels of land which are not incorporated but are partially or wholly surrounded by the City of John Day. The Planning Official, in a report to the Planning Commission and Council, shall justify the inclusion of any parcels other than the parcel for which the petition is filed. The purpose of this section is to permit the Planning

Commission and Council to make annexations extending the City's boundaries more logical and orderly.

**5-4.10.070 Statutory Procedure**

The applicant for the annexation shall also declare which procedure, under ORS Chapter 5-222, the applicant proposes that the City Council use, and supply evidence that the approval through this procedure is likely.

**5-4.10.080 Mapping**

Within 2 months of adoption of the ordinance approving an annexation, the City shall cause the annexation to be included on the official zoning map of the City, and shall provide to Grant County and the State of Oregon copies of the official map and ordinance effecting the annexation.

<b>ARTICLE 5-5 - EXCEPTIONS TO CODE STANDARDS</b>	<b>2</b>
<b>Chapter 5-5.1 - Variances</b>	<b>3</b>
5-5.1.010 Variances - Purpose	3
5-5.1.020 Variances - Applicability	3
5-5.1.030 Class A Variances	4
5-5.1.040 Class B Variances	5
5-5.1.050 Variance Application and Appeals	7
<b>Chapter 5-5.2 - Non-Conforming Uses and Developments</b>	<b>8</b>
5-5.2.010 Non-Conforming Uses and Developments Purpose	8
5-5.2.020 Nonconforming Uses	8
5-5.2.030 Non-conforming Development	9
<b>Chapter 5-5.3 - Lots of Record; Legal Lot Determination</b>	<b>10</b>
5-1.3.010 Purpose and Intent	10
5-1.3.020 Criteria	10
5-1.3.030 Legal Lot Determination Procedure	10

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

### Chapters:

5-5.1 Variances

5-5.2 Non-Conforming Uses and Development

5-5.3 Lots of Record; Legal Lot Determination

## Chapter 5-5.1 - Variances

### Sections:

- 5-5.1.010 Variances - Purpose**
- 5-5.1.020 Variances - Applicability**
- 5-5.1.030 Class A Variances**
- 5-5.1.040 Class B Variances**
- 5-5.1.050 Variance Application and Appeals**

### **5-5.1.010 Variances - Purpose**

Chapter 5-5.1 provides standards and procedures for variances, which are modifications to 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 the complexities of land development require flexibility. Chapter 5-5.1 provides that flexibility while maintaining the purpose 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 provide flexibility while ensuring that the resulting development is consistent with Code's intent.

### **5-5.1.020 Variances - Applicability**

- A. Exceptions and Adjustments versus Variances.** A code standard or approval criterion ("code section") may be modified without approval of a variance if the applicable Code expressly allows exceptions or adjustments. If the Code does not expressly provide for an exception or modification, then a variance is required and the provisions of Chapter 5-5.1 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. Variances to City of John Day Engineering Design Standards are reviewed by the City Engineer and are not subject to this Code. Approvals under this Code that are contingent upon variance approvals by the City Engineer or other agencies may be conditioned accordingly.
- C. Types of Variances.** As provided in Section 5-5.1.030, there are two types of variances: Class A and Class B. Class A involve variances involve limited discretion and therefore are

reviewed administratively by means of a Type II procedure (Section 5-4.1.030). Class B variances require a public hearing under a Type III procedure (Section 5-4.1.040) because they involve more discretion. Where the Code contains built-in flexibility, for example, through provisions that allow lot size averaging in new subdivisions, density bonuses, building height bonuses, or flexible setbacks, under Articles 2 and 3, a variance is not required. Permissible uses shall not be modified through a variance but may be adjusted as part of a Master Planned Development under Chapter 5-4.5.

#### 5-5.1.030 Class A Variances

A. **Applicability.** The following variances are reviewed using a Type II procedure, pursuant to Section 5-4.1.030 and based on 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 land use district.
3. Lot coverage. Up to 10 percent increase of the maximum lot coverage required in the land use district.
4. Landscape area. Up to 10 percent reduction in landscape area (e.g., overall area, required buffer areas, interior parking lot landscape area, quantity of trees or other vegetation, and similar landscape code provisions).
5. Fence Height. Up to a 1-foot increase in fence height may be approved where the additional 1-foot is for decorative purposes and is comprised of partially see-through material, such as lattice, wrought-iron, or similar detailing.

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 to provide for greater compatibility between proposed structures and the built or natural environment.
2. 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.
3. An application for a Class A variances is limited to one (1) lot per application.
4. No more than three (3) Class A variances may be approved for one lot or parcel in a continuous 12 month period.

**5-5.1.040 Class B Variances**

A. **Applicability.** Class B variances are allowed for requests that do not otherwise meet the criteria under subsection 5-5.1.030 (Class A Variance), pursuant to the limitations under subsections 1-3, below, and the approval criteria in Sections 5-5.1.040C through 5-5.1.040G. Class B variances shall be reviewed using a Type III procedure under Chapter 5-4.1.040.

1. The Class B variance standards apply to individual platted and recorded lots; properties determined to be Legal Lots of Record under Chapter 5-5.3 are also eligible for Class B variances.
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 may be approved under the Master Planned Development procedure of Chapter 5-4.5.
3. A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use district (Article 2).

B. **Approval Criteria.** A Class B Variance may be approved only upon finding it meets all of the following criteria:

1. The variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses.
2. The variance is the minimum necessary to address the special or unique physical circumstances referenced in subsection 5-5.1.040B(1).
3. The variance conforms to the provisions of subsections 5-5.1.040C through 5-5.1.040G, as applicable.
4. The variance does not conflict with other applicable City policies or other applicable regulations.
5. The variance will result in no foreseeable harm to adjacent property owners or the public.

C. **Variance to Vehicular Access and Circulation Standards (Chapter 5-3.1).** Where vehicular access and circulation cannot reasonably be 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 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 vision clearance requirements of Chapter 5-3.1 will be met.
7. Variances for street access deviations shall be subject to review and approval by the roadway authority.
8. Variances for access deviations on a road right-of-way shall be subject to review and approval by applicable road authority.

**D. Variance to Street Tree Requirements (Chapter 5-3.2).** The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 5-3.2 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 standard tree planting requirement would cause a vision clearance problem; or
3. There is not adequate space in which to plant the standard street tree; 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.
4. Street tree approval or modification of standards within a right-of-way requires approval by the road authority.

**E. Variance to Parking and Loading Standards (Chapter 5-3.3).**

1. Variances to the parking standards in Chapter 5-3.3, including the number of required parking spaces (based on standard ratios or parking demand analysis), parking location, or dimensions of parking spaces may be approved upon finding that all of the following criteria are met:
  - a. The individual characteristics of the proposed use at its proposed location necessitate the variance, and the proposed use is allowed in the subject zone;
  - b. The circumstances requiring the variance cannot reasonably be avoided through provision of on-street parking or shared parking with adjacent or nearby uses; and
  - c. The variance does conflict with any other City, State or Federal law or regulation.



2. The City may reduce the number of required bicycle parking spaces per Section 5-3.3.020 if the proposed use by its nature is reasonably anticipated to generate a lesser demand 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 in areas subject to Geological Hazards, Floodplains, Significant Trees, Wetlands, or Other Natural Features (Article 2 – 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 (Section 5-3.4.010).** The City may grant a variance to the standards of Section 5-3.4.010 when the variance is not in conflict with the Transportation System Plan and is determined to be in the public interest.
- H. **Other Variances.** Variances to other standards, those not expressly provided for in subsections C-G, may be approved pursuant to the criteria for Class B variances.

#### 5-5.1.050 Variance Application and Appeals

- A. **Application.** The variance application shall conform to the requirements for Type II or II applications (Sections 5-4.1.030 or 5-4.1.040), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for the variance request, alternatives considered, how the stated variance criteria are satisfied, and why the subject standard cannot be met without the variance.
- B. **Appeals.** Appeals of variance decisions shall be processed in accordance with the appeal provisions of Chapter 5-4.1.
- C. **Expiration.** A variance approval shall expire if not acted upon by the property owner within one (1) year of the City approving the variance. Where the owner has applied for a building permit or final plat, or has made site improvements consistent with an approved development plan (e.g., site design review or preliminary subdivision plan), the City Planning Official may extend the variance approval accordingly.

## Chapter 5-5.2 - Non-Conforming Uses and Developments

### Sections:

**5-5.2.010 Non-Conforming Uses and Developments - Purpose**

**5-5.2.020 Non-conforming Uses**

**5-5.2.030 Non-conforming Development**

### **5-5.2.010 Non-Conforming Uses and Developments 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.

### **5-5.2.020 Nonconforming Uses**

Where at the time of adoption of this Code a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

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

4. On the date a request for final reading of water 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.

**5-5.2.030 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;
- B. **Destruction.** Except as expressly allowed by Section 5-2.3.020 (Single Family Dwelling in Downtown District), should such nonconforming development or nonconforming portion of development be destroyed by any means to an extent more than fifty (50) percent of its current value as assessed by the Grant County Assessor, it shall be reconstructed only in conformity with this Code;
- 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 5-5.3 - Lots of Record; Legal Lot Determination**

### **Sections:**

#### **5-5.3.010 Lots of Record - Purpose**

#### **5-5.3.020 Lots of Record - Applicability**

#### **5-5.3.030 Lots of Record - Procedure**

#### **5-1.3.010 Purpose and Intent**

The purpose of Chapter 5-5.3 is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations). The owner of lot of record shall not be denied development of one single family dwelling per lot of record, provided applicable building codes are met; the City may accept a legal lot determination as sufficient evidence of a hardship for purposes of approving a variance under Chapter 5-5.1

#### **5-1.3.020 Criteria**

A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 to 92.190:

- A. The plot of land was lawfully created through a subdivision or partition plat in Grant County prior to annexation to the City of John Day;
- B. The plot of land was created through a deed or land sales contract recorded with Grant County before the City or County, as applicable, adopted planning, zoning, subdivision or partition regulations; or
- C. The plot of land was created through a deed or land sales contract recorded with Grant County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision or partition regulations in effect at the time it was created.

#### **5-1.3.030 Legal Lot Determination Procedure**

Requests to validate a lot of record shall follow the procedures in ORS 92.010 to 92.190.

<b>ARTICLE 6 - DEFINITIONS AND RULES OF MEASUREMENT</b>	<b>2</b>
<b>Chapter 5-6.1 - Definitions</b>	<b>3</b>
5-6.1.010 Purpose	3
5-6.1.020 Applicability	3
5-6.1.030 Definitions	3
<b>Chapter 5-6.2 - Rules of Measurement</b>	<b>41</b>
5-6.2.010 Purpose	41
5-6.2.020 General Provisions	41
5-6.2.030 Slope	42
5-6.2.040 Grade	43
5-6.2.050 Floor area Ratio	45
5-6.2.060 Lot Coverage	45
5-6.2.070 Lot Standards and Setbacks	45
5-6.2.080 Building Height	46
5-6.2.090 Corner Clearance	47
5-6.2.100 Clear Vision Area	47

## **Article 6 - Definitions and Rules of Measurement**

### Chapters:

5-6.1 Definitions

5-6.2 Rules of Measurement

## Chapter 5-6.1 - Definitions

### Sections:

5-6.1.010	Purpose
5-6.1.020	Applicability
5-6.1.030	Definitions

#### 5-6.1.010 Purpose

The purpose of Chapter 5-6.1 is to define terms that are used frequently in the City of John Day Development 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.

#### 5-6.1.020 Applicability

- A. **Definitions.** The definitions in Chapter 5-6.1 apply to all actions and interpretations under the City of John Day Development Code. The meanings of some 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 John Day Municipal Code or codes incorporated therein by reference (e.g., building code) 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 5-1.3 contains descriptions of the land use categories and examples of uses allowed each the districts in Article 2.

#### 5-6.1.030 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.).

**Abutting.** Contiguous or adjoining.

**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 one or more primary use and may be located on or off the site of the use or uses to which it is accessory.

**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, workshops 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 or easement.

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

**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.

**Airport-Related Definitions.** The airport-related definitions of the *Oregon Department of Aviation's Land Use Compatibility Handbook* are hereby incorporated by reference.

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

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

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

**Applicant.** A person who applies for a land use review. An applicant can be the owner of the property, a contract purchaser, or someone who is legally authorized to represent the owner, such as a builder, developer, contract purchaser, consultant, architect, or similar individual.

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

**Attached House (Townhouse or Rowhouse).** See Residential Structure Types.

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



## B

**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 more than two rooms for rent on a daily basis to the public; and
- (b) Offers a breakfast meal as part of the cost of the room.

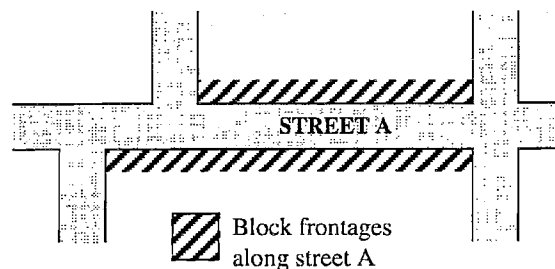
**Berm.** A small man-made rise or hill in a landscape, which is, intended to buffer or visually screen certain developments, such as parking areas.

**Bikeway.** See Transportation-Related definitions.

**Block.** All of the property bounded by streets, rights-of-way (pedestrian or vehicle ways), water features, or any combination thereof, but is not divided or separated in any way by streets or water features.

**Block Face/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.

**Block Frontage**



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

**Building.** See adopted Building Code.

**Building Official.** The person who enforces the building ordinances and regulations for the City, and other ordinances and regulations as assigned.

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

## C

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

**Capacity.** Maximum holding or service ability, as used for transportation, utilities, parks and other public facilities. See also, definition of “Occupancy” in applicable building codes.

**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; does not include temporary shelters or canopies not affixed to a permanent foundation per applicable building codes.

**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 Building Official 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.** Facilities that provide care and supervision of minor children for periods of less than 24 hours. “Family child care providers” provide care for not more than 16 children in a home. See ORS 657A.440(4) for applicable requirements.

**City.** The City of John Day, Oregon.

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

**Clearing (as in clearing and grading).** See Development-Related Definitions.

**Club.** Any organization, group, or association supported by the members thereof, the purpose of which is to render a service customarily rendered for members and their guests but shall not include any organization, group, or association, the chief activity of which is to render a service customarily carried on as a business.

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

**Commission.** The John Day Planning Commission.

**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., may be managed by a homeowners' association).

**Comprehensive Plan.** The current adopted Comprehensive Plan of the City of John Day.

**Conditional Use.** A use that requires a Conditional Use Permit. See Chapter 5-4.4.

**Condominium.** Ownership of a single unit in a multi-unit structure that includes common areas and facilities; includes both residential and commercial condominiums. See ORS 100 for applicable requirements.

**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 John Day, Oregon.

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

**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.

## D

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

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

**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 and land that will be reserved as open space 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

- **Alter/Alteration.** A change in use or occupancy or physical change to a structure or site. Alteration does not include normal maintenance and repair. (See also, Interior/Exterior Alteration.) Alterations may or may not require land use approval, but property owners

should check with the City Planning Official before commencing any alteration.

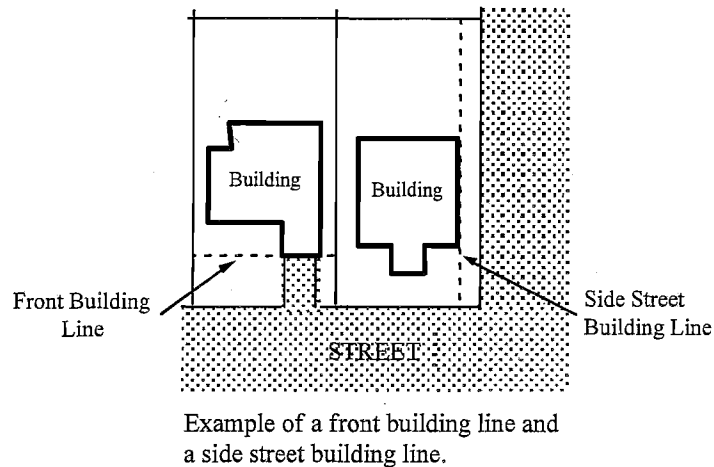
Alterations include the following:

- Changes in use or occupancy;
- 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 (architecture).** An arched or covered passageway; often along building fronts, or adjacent to courtyards.
- **Attached Structure.** Any structure that is attached to another structure by a common wall, by a roof or canopy, or by other structural connections. A garage or workshop may be attached to another structure by sharing a wall or by a breezeway, subject to applicable building codes. Structures connected by an "I" beam or similar connections are not considered attached.
- **Automobile-dependent Development.** Primary or accessory structure or facility servicing motor vehicles, or patrons in motor vehicles, such as motor vehicle repair or service (e.g., oil change), gas station, car wash, auto or truck sales or rental, 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 in the downtown.
- **Building.** A structure that has a roof and is enclosed on at least 50 percent of the area of its sides.
- **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 Footprint.** The outline of a building, as measured around its foundation, or Building Coverage, whichever is greater.
- **Building/Structure Height.** Building height for the purposes of this Code is measured as the vertical distance above a reference datum (grade plane) to the highest point of a flat roof or to the mid-point of a sloping roof. The height of a stepped or terraced building is the maximum height of any segment of the building, except that parapets, cornices and other projections are allowed pursuant to the height limitations in Article 2.

- **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, typically used in reference to required setback yards. See Figure.

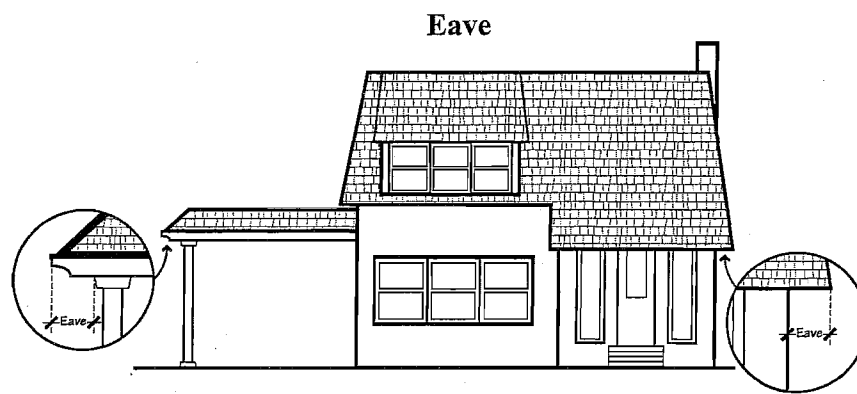
### Building Lines



- **Building Mass.** The aggregate size of a building, or the total height, width, and depth of all its parts.
- **Building Pad.** The building envelope as identified by an approved site plan.
- **Building Scale.** The dimensional relationship of a building and its component parts to other buildings.
- **Clearing (as in clearing and grading).** Any activity that removes existing vegetation or strips surface material from any portion of the site and exceeding typical yard maintenance for a single family dwelling.
- **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. See also, Alteration.
- **Development.** All improvements on a site, including alterations to land and new or remodeled 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 naturally occurring (e.g., geologic) forms landscaping land. See also Exterior Improvements.

- **Driveway.** There are two types of driveways:
  1. The area that provides vehicular access to a site from a street. Maximum driveway width for this type 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
  2. The area that provides vehicular circulation between two or more noncontiguous parking areas. This type of 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 kept clear of all obstructions.
- **Driveway Apron/Approach.** The edge of a driveway where it abuts a public right-of-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.



- **Emergency Apparatus Lane or Fire Lane.** Unobstructed area or driveway meeting Uniform Fire Code requirements; typically may not be used for parking or loading area.
- **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, except as otherwise specified by this Code.

- **Floor Area.** Except as otherwise prescribed by applicable building codes, 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.
- **Floor, Main Floor.** Building floor closest to street level and within four (4) feet of finished grade.
- **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).
- **Parking.** See Parking.
- **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 are intended to 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), pocket parks adjacent to a street or public right-of-way, and similar areas and objects. Sidewalk surfaces designed to meet the minimum sidewalk width standards 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 elevations, which face the street and other public right-of-ways. Typically, buildings cover a large portion of the site. Although parking areas may be provided, they are generally oriented behind or to the sides of buildings.
- **Roof Pitch.** The slope of a roof, usually described as ratio (e. g., 1 foot of rise per 2 feet of horizontal distance).
- **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 manage the quantity of stormwater runoff and may contain features that are designed to improve the quality of runoff. Stormwater quality facilities may include vegetated swales and sand filters, wet or dry ponds, marshes, DEQ-approved and permitted infiltration facilities, and structural storm sewer devices such as oil-water separators. Stormwater quality 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 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.** Except as provided by applicable building codes, any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, utility vaults, 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 storm water 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, which 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 year (12 months) 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. Drive-through/drive-up facilities also include facilities designed for the rapid servicing of vehicles, where the drivers may or may not remain in their vehicles, but where the drivers usually either 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. All driveways queuing and waiting areas associated with a drive-through/drive-up facility are similarly regulated as part of such facility.

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

**Driveway Apron/Approach.** See Development-Related Definitions.

**Duplex.** See Residential Structure Types.

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

## 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 Grant County.

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

**Elevation.** Height in feet and inches above a specified datum.

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

**Emergency Apparatus Lane or Fire Lane.** See Development-Related definitions and applicable Fire Code.

**Environment-Related Definitions.**

- **Designated Sensitive Lands.** Natural resources areas and landforms regulated under applicable overlay zones in Article 2.
- **Conservation Easement.** An easement that restricts development and protects identified conservation values of the land, such as wetlands, woodlands, significant trees or groves, floodplains, habitat, or similar resources.
- **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.
- **Disturbance Area.** An area that contains all temporary and permanent development, exterior improvements, 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.
- **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 perennial or intermittent water bodies, as regulated by applicable state or federal natural resource regulatory agencies.
- **Flood Plain/Hazard Area.** See Chapter 5-2.9 Flood Plain Overlay.
- **Identified Natural Features (e.g., wetlands or streams).** Natural features that are identified in the National Wetlands Inventory, and/or other references used by applicable natural resource regulatory agency, as being significant and requiring protection under Federal Clean Water Act.
- **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. See applicable overlay zones in Article 2.
- **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 designated for protection or conservation by the Comprehensive 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, which 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, which may lie below the deepwater boundary of wetlands. Water bodies include rivers, streams, creeks, sloughs, drainage ways, lakes, and ponds.
- **Wetland.** Except as otherwise determined by applicable state or federal natural resource regulatory agencies with wetland jurisdiction, 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.** The outdoor display of products, vehicles, equipment, and machinery for sale or lease. Exterior display functions as an outdoor showroom for customers to examine and compare products. The display area does not have to be visible to the street. Exterior display does not include storage of goods placed or parked outside, if the goods are not examined and compared by customers in such location. 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/or 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 exclusive of outdoor displays for sale or rent. The goods may be for sale or lease, but if so, the storage area is generally not for the purpose of inspection or comparison of goods by customers. 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 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.

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**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,

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