



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

(503) 373-0050

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Web Address: <http://www.lcd.state.or.us>



NOTICE OF ADOPTED AMENDMENT

March 9, 2011

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

FROM: Angela Houck, Plan Amendment Program Specialist

SUBJECT: City of Halsey Plan Amendment
DLCD File Number 003-10

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.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, March 22, 2011

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

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

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

Cc: Eric Adams, City of Halsey
Gloria Gardiner, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative
Chris Shirley, FEMA Specialist

<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

☐ In person ☐ electronic ☐ mailed

DEPT OF

MAR 02 2011

LAND CONSERVATION AND DEVELOPMENT

DATE

MP

For Office Use Only

Jurisdiction: **City of Halsey**Local file number: **2011-386**Date of Adoption: **1/12/11**Date Mailed: **2/24/11**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 8/18/10☐ 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".

The City of Halsey has initiated a legislative amendment to its development code to expand the list of uses allowed in the Commercial District, and to adopt new floodplain development regulations consistent with FEMA requirements. A companion amendment to the Comprehensive Plan Map is proposed to adopt a floodplain overlay, which is already described in the text of the Comprehensive Plan as a land use element.

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from: **N/A**to: **Floodplain Overlay**Zone Map Changed from: **N/A**to: **N/A**Location: **Commercial District and, for the Floodplain Overlay, land currently within the Urban Fringe**Acres Involved: **78.9**Specify Density: Previous: **N**New: **N/A**

Applicable statewide planning goals:

1 **2** **3** **4** **5** **6** **7** **8** **9** 10 11 12 13 14 15 16 17 18 19

☐ ☒ ☐ ☐ ☒ ☒ ☒ ☐ ☒ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐

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. 003-10 (18474) [16542]

DLCD file No. _____

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

Local Contact: **Eric Adams**

Phone: **(541) 971-2456** Extension:

Address: **913 NE 13th Avenue**

Fax Number: - -

City: **Albany**

Zip: **97321**

E-mail Address: **plannext@gmail.com**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light **green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

CITY OF HALSEY
ORDINANCE # 2011-386

AN ORDINANCE AMENDING THE HALSEY DEVELOPMENT CODE TO REVISE THE
COMMERCIAL USES ALLOWED IN THE COMMERCIAL ZONE.

Whereas, the Chapter 2.2 of the Development Code contains a list of uses (Table 2.2.110.A) that are permitted in the Commercial Zone; and

Whereas, the types of commercial uses currently listed in Table 2.2.110.A are generalized and allow for broad application to many uses that may be found to be the same or similar to each use listed; and

Whereas, the Development Code allows for the determination through procedures contained in Chapter 4.7 – Interpretations of whether a use not currently contained in Table 2.2.110.A is similar to a use that is included in the table; and

Whereas, the process of requesting an Interpretation and issuing a decision on such a request requires the City Planner to craft a written response regardless of how similar or dissimilar a use not listed in Table 2.2.110.A may be in comparison to a use that is included in the table; and

Whereas, the City of Halsey seeks to simplify the process of determining whether some commercial uses not currently listed in Table 2.2.110.A are allowed to occur within the Commercial Zone; and

Whereas, the Land Use Element of the Comprehensive Plan contains goals and policies encouraging the provision of “suitable and desirable areas for all types of commercial development necessary to fulfill the business needs of area residents and highway travelers”; and

Whereas, the Land Use Element of the Comprehensive Plan contains goals and policies encouraging the provision of a more diverse commercial center containing “those commercial enterprises, goods, and services which are not presently locally available to area residents”; and

Whereas, Oregon State law requires that the Development Code be consistent with the Comprehensive Plan; and

Whereas, the Planning Commission voted on December 29, 2009, to initiate a review of the list of commercial uses allowed in the Commercial Zone to determine whether it was appropriate to improve the specificity of the list of commercial uses in Table 2.2.110.A; and

Whereas, the Council received a recommendation from the Halsey Planning Commission to approve amendments to Chapter 2.2 of the Development Code that ensure consistency with policies and goals of the Land Use Element of the Comprehensive Plan related to commercial development; and

Whereas, the City Council held a duly-advertised public hearing concerning the proposed text amendment to the Halsey Development Code on December 14, 2010, and interested persons and the general public were given an opportunity to be heard; and

Whereas, the Council has reviewed the public testimony and the recommendations of the Planning Commission, and staff; and

Whereas, findings of fact have been prepared by staff, which findings consist of the formal findings attached hereto as Exhibit 'I'; and

Whereas, said findings are by reference incorporated herein and are hereby adopted by the City Council; and

Whereas, the City Council finds that the burden of proof has been met; and

Whereas, the City Council finds that the proposed amendments are consistent with the Statewide Planning Goals, and the Comprehensive Plan; and

Whereas, the City Council finds that the public necessity, convenience, and general welfare require such amendment;

NOW, THEREFORE,

THE CITY OF HALSEY ORDAINS AS FOLLOWS:

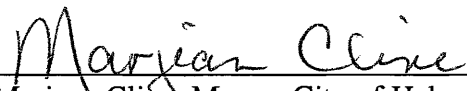
Section 1. The Development Code of the City of Halsey is hereby amended as contained in the attached Exhibit 'I', Attachment 'A.'

Section 2. This ordinance takes effect 30 days after its passage.

Passed by the Halsey City Council this 12th day of January, 2011


Approval by the Mayor this 12th day of January, 2011

Effective this 12th day of January, 2011



Marjean Cline, Mayor, City of Halsey

ATTEST:



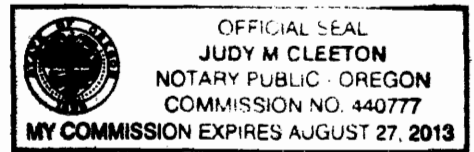
Judy Cleeton, City Administrator

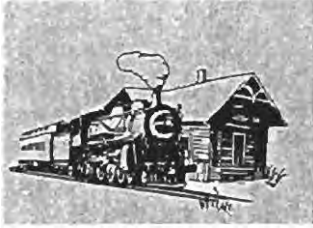
State of Oregon
County of Linn

This instrument was acknowledged before me on January 12th, 2011 by the above named
Marjean Cline, Mayor of Halsey.

Judy M. Cleeton
Notary Public for Oregon

My Commission expires: August 27, 2013





City of Halsey

City Council
Findings of Fact
Ordinance 2011-386
January 13, 2011

CASE: **HALSEY DEVELOPMENT CODE CHAPTER 2.2 COMMERCIAL USE
AMENDMENTS**
CDA10-1

REQUESTS: **Legislative Amendment to Halsey Development Code Chapter 2.2 to increase
the specificity of commercial uses allowed in the Commercial District;**

APPLICANT: City of Halsey

LOCATION: Properties within the Commercial District

BACKGROUND

On December 29, 2009, the Planning Commission voted to initiate amendments to the Commercial District that would increase the specificity of permitted commercial uses. At a subsequent meeting on March 29, 2010, the Planning Commission was presented with a comparison of commercial uses allowed in other Willamette Valley cities with comparable populations, such as Junction City, Harrisburg, Jefferson, and Brownsville, to determine which commercial uses would be appropriate to include with the existing list uses in Chapter 2.2 of the Halsey Development Code (HDC). The proposed amendments are consistent with the direction provided by the Planning Commission at the March 29, 2010, meeting. They are not intended to expand the types of uses currently allowed, but, rather, add greater clarity for potential business owners and City Staff.

Consistent with past practice, amended text in each of the draft chapters is depicted in one of two ways, (Attachment A). New text is shown with a double underline (e.g., Automobile Rental Services), while previously adopted text proposed for deletion is shown as struck through (e.g., ~~theaters, clubs, and amusement uses~~).

Legislative Process for Amending the Development Code

Applicable HDC Criteria:

4.6.2 Legislative Amendments.

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1, Section 5.

4.1.6 Type IV Procedure

F. **Decision-Making Considerations.** The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
3. Any applicable intergovernmental agreements; and
4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.6 shall be required for Comprehensive Plan Amendments, Zone Changes and Development Code Amendments.

The Type IV procedure outlined in Chapter 4.1, Section 6 requires that Legislative amendments to the HDC be considered through two separate hearings, one before the Planning Commission and one before the City Council. After the close of its public hearing, the Planning Commission made a recommendation to the City Council to approve the proposed text amendments with modifications. Consistent with that recommendation, the City Council decided to approve the proposed text amendments based on the following findings of fact presented below.

Findings of Fact

Applicable Comprehensive Plan Policies

Land Use Element – Land Use Classifications:

4. **Commercial** – To provide suitable and desirable areas for all types of commercial development necessary to fulfill the business needs of area residents and highway travelers. Also, to accommodate single and multiple family housing.

Land Use Element – Commercial Land Use:

3. That in order to provide a more diverse commercial center, Halsey should encourage the establishment of those commercial enterprises, goods and services which are not presently locally available to area residents (such as; a barber shop, beauty parlor, clothing stores, hardware store, another market and other retail stores).

Findings of Fact

1. The current list of commercial uses allowed in the Commercial District does not provide sufficient clarity for prospective business owners or City Staff to objectively determine whether commercial uses not listed in HDC Table 2.2.110.A are allowed.
2. The proposed amendments increase the specificity of the existing list of uses to the extent that many of the commercial uses that might occur within the City of Halsey are included. However, in the event that a use is not captured by the proposed amendments, HDC Section 2.2.110.B will continue to allow for discretionary decisions to allow such commercial uses.

3. Special Standards for certain commercial uses, existing and proposed, will continue to apply to those uses. As directed by the Planning Commission, a new set of Special Standards has been proposed for the 'Auction Sales' use to address visual compatibility concerns related to goods that might be sold at these businesses.
4. Given that the proposed amendments improve the level of specificity achieved by the current list of commercial uses, and that the proposed uses are assigned to one of the existing general commercial uses noted in Table 2.2.110.A, each of the proposed commercial uses is also compatible with the residential and industrial uses outright permitted in the Commercial District.
5. The Comprehensive Plan Policies cited above encourage a diverse mixture of commercial uses in the Commercial District to fulfill the needs of residents of the City of Halsey, as well as those who might be traveling through the city. Based on the findings of fact presented above, the proposed amendments to Chapter 2.2 are consistent with these policies.

Chapter 2.2 — Commercial (C) District

Sections:

2.2.100 Purpose

2.2.110 Permitted Land Uses

2.2.120 Building Setbacks

2.2.130 Lot Coverage

2.2.140 Block Layout and Building Orientation

2.2.150 Building Height

2.2.160 Architectural Guidelines and Standards

2.2.170 Pedestrian Amenities

2.2.180 Special Standards for Certain Uses

2.2.100 Purpose

A city goal is to revitalize and improve Halsey's central business district as the heart of the community. The Commercial District covers both sides of Highway 99E (West 2nd Street), the east side of West 3rd Street, and the west side of West 1st Street. In addition, special standards apply to the new Main Street District, a special sub-district within the Commercial District, located along Highway 99E and West First Streets between D and H Streets. This "Main Street" area is where most of Halsey's historic storefronts are located. The Commercial District as a whole is intended to support new and existing businesses, encouraging revitalization through elements of design and appropriate mixed use development. This chapter provides standards for the orderly improvement of the Commercial District based on the following objectives:

- Use land and urban services efficiently;
- Increase activity downtown by allowing pedestrian-oriented mixed uses, housing options, and business opportunities;
- Provide both formal and informal community gathering places;
- Fill gaps in the historical storefront character;
- Encourage strong connections to neighborhoods;
- Provide visitor accommodations and amenities;
- Utilize design standards to maintain and enhance the City's historic architecture.

2.2.110 Permitted Land Uses

- A. **Permitted Uses.** The land uses listed in Table 2.2.110.A are permitted in the Commercial District, subject to the provisions of this Chapter. Only land uses which are specifically listed in Table 2.2.110.A, and land uses which are approved as "similar" to those in Table 2.2.110, may be permitted. The land uses identified with a "CU" in Table 2.2.110.A require Conditional Use Permit approval prior to development or a change in use, in accordance with Chapter 4.4.
- B. **Determination of Similar Land Use.** Similar use determinations shall be made in conformance with the procedures in Chapter 4.7 - Interpretations.

Table 2.2.110.A
Land Uses and Building Types Permitted in the Commercial District

<p>1. Residential*:</p> <ul style="list-style-type: none"> a. Single-family housing, restricted to the east side of West Third Street (CU) b. Single-family attached town home, restricted to the east side of West Third Street (CU) c. Two- and three-family housing, restricted to the east side of West Third Street (CU), and the upper floors or rear portions of mixed use buildings d. Multi-family housing e. Residential care homes and facilities f. Family daycare (12 or fewer children) g. All single-family residential dwellings built on commercially zoned property before June 30, 2004 are permitted outright in accordance with the Nonconforming Use provisions of HDC 5.2.1. Expansions, accessory buildings, and other residential uses are allowed in accordance with the standards of the Residential District. (7/04) h. Any legally permitted single family residential dwellings converted to a permitted commercial, office or industrial use after June 30, 2004 may revert to residential use with an approved Conditional Use Permit in accordance with the Nonconforming Use provisions of HDC 5.2.1. (7/04) <p>2. Home occupations</p> <p>3. Bed & breakfast Inns</p> <p>4. Public and Institutional*:</p> <ul style="list-style-type: none"> a. Churches and places of worship b. Clubs, lodges, union halls, similar uses c. Government offices and facilities (administration, public safety, transportation, utilities, and similar uses) d. Libraries, museums, community centers, concert halls and similar uses 	<ul style="list-style-type: none"> e. Public parking lots and garages (not allowed in Main Street Sub-District) f. Private utilities g. Public parks and recreational facilities h. Schools (public and private) i. Special district facilities j. Telecommunications facilities (see Chapter 3.5.2 - not allowed in Main Street Sub-District) k. Uses similar to those listed above subject to CU requirements, as applicable <p>5. Accessory Uses and Structures*</p> <p>6. Commercial:</p> <ul style="list-style-type: none"> a. Auto-oriented uses and facilities, drive through facilities* (not allowed in Main Street Sub-District) <ul style="list-style-type: none"> (1) <u>Automobile rental services* (CU)</u> (2) <u>Car washes*</u> b. Dining and Entertainment (e.g., theaters, clubs, amusement uses) <ul style="list-style-type: none"> (1) <u>Auditoriums and movie theaters</u> (2) <u>Bowling alleys</u> (3) <u>Cocktail lounges, pubs, and taverns</u> (4) <u>Delicatessens</u> (5) <u>Restaurants</u> c. <u>Hotels and motels</u> d. Medical and dental offices, clinics and laboratories <ul style="list-style-type: none"> (1) <u>Dental clinics</u> (2) <u>Medical clinics</u> (3) <u>Dental and medical laboratories</u> (4) <u>Hospitals</u> (5) <u>Pharmacies</u> (6) <u>Veterinary offices (boarding of healthy animals not permitted)</u> e. Mixed use development (housing & other permitted use)* f. Office uses (i.e., these not otherwise listed) <ul style="list-style-type: none"> (1) <u>Accountants offices</u> (2) <u>Architecture firms</u> (3) <u>Data processing firms</u> (4) <u>Engineering firms</u> (5) <u>Financial planning and investment firms</u> <p><u>(Continued)</u></p> <ul style="list-style-type: none"> (6) <u>Law offices</u> (7) <u>Newspaper offices</u>
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	<ul style="list-style-type: none"> <u>(8) Radio and television broadcasting offices</u> <u>(9) Real estate offices</u> g. <u>Personal and professional services (e.g., child care center, catering/food services, restaurants, laundromats and dry cleaners, barber shops and salons, banks and financial institutions, and similar uses)</u> <ul style="list-style-type: none"> <u>(1) Agricultural testing services</u> <u>(2) Banks, savings and loans, credit unions, and title companies*</u> <u>(3) Barber and beauty shops</u> <u>(4) Building maintenance services</u> <u>(5) Catering services</u> <u>(6) Child care services</u> <u>(7) Clothing alteration services</u> <u>(8) Dry cleaners, coin operated and/or attendant operated laundries (except dry cleaning plants)</u> <u>(9) Film processing services</u> <u>(10) Florists</u> <u>(11) Health and fitness services</u> <u>(12) Laundromats</u> <u>(13) Mortuaries</u> <u>(14) Photocopying, printing, and publishing services</u> <u>(15) Property security services</u> <u>(16) Taxidermists</u> <u>(17) Vocational schools</u> <u>(18) Warehousing and storage (enclosed storage only)</u> h. <u>Repair services (must be enclosed within building)</u> <ul style="list-style-type: none"> <u>(1) Electronics repair</u> <u>(2) Locksmith services</u> <u>(3) Motor vehicle repair*</u> <u>(4) Upholstery services</u> i. <u>Retail trade and services, except motor vehicle salesauto-oriented uses</u> <ul style="list-style-type: none"> <u>(1) Auction sales; livestock sales prohibited (not allowed in Main Street Sub-district)*</u> <u>(2) Automobile parts and accessory store</u> <u>(3) Bakeries (51% of goods sold at retail)</u> <u>(4) Bicycle repair and sales</u> <u>(5) Book stores</u> <u>(6) Construction supply sales</u> <u>(7) Camera (photography) supply sales</u> <p><u>(Continued)</u></p> <ul style="list-style-type: none"> <u>(8) Clothing stores</u> <u>(9) Confectionery stores</u> <u>(10) Department stores</u> <u>(11) Electrical and electronics sales</u>
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	<p> <u>(12) Feed, seed, and tack stores</u> <u>(13) Flooring and carpeting sales</u> <u>(14) Gift, hobby, and art supply sales</u> <u>(15) Grocery stores</u> <u>(16) Jewelry stores</u> <u>(17) Liquor stores (packaged)</u> <u>(18) Music and musical instrument sales</u> <u>(19) Office supply and equipment sales</u> <u>(20) Pet supply and sales</u> <u>(21) Secondhand stores and pawn shops</u> <u>(22) Shoe stores</u> <u>(23) Sporting goods sales</u> <u>(24) Video rental and sales</u> <u>(25) Wholesale businesses (except manufacturing uses)</u> </p> <p>j. Recreational Vehicle Park (CU)*</p> <p>k. Uses similar to those listed above (subject to CU requirements <u>and Section 2.2.180</u>, as applicable)</p> <p>7. Industrial*: Light manufacture (e.g., small-scale crafts, electronic equipment, bakery, furniture, and similar goods when in conjunction with retail. Not allowed in Main Street Sub-District)</p>
<p>(*) subject to the standards in Section 2.2.180, "Special Standards for Certain Uses." Home occupations and temporary uses are subject to standards in Section 4.8.</p>	

2.2.120 Building Setbacks

In the Commercial District, buildings are placed close to the street where possible (especially in the Main Street Sub-District) to create a vibrant pedestrian environment, slow traffic, and provide a storefront character to the street. The setback standards are flexible to encourage public spaces between sidewalks and building entrances (e.g., extra-wide sidewalks, plazas, squares, outdoor dining areas, and pocket parks). The standards also encourage the formation of solid blocks of commercial and mixed use buildings for a walkable Commercial District.

Building setbacks are measured from the edge of the foundation to the respective property line. Setbacks for porches are measured from the edge of the deck or porch to the property line. The setback standards apply to primary structures and accessory structures. The standards may be modified only by approval of a Variance, in accordance with Chapter 5.1.

A. Front Yard Setbacks.

1. Minimum Setback. There is no minimum front yard setback required.
2. Maximum Setback. The maximum allowable front yard setback is 10 feet in the Main Street Sub-District, and 20 feet in the rest of the Commercial District. At least 50 percent of the front building elevation must meet the maximum setback standard. On parcels with more than one building, this standard applies to the largest building. The setback standard may be increased when a usable public space with pedestrian amenities (e.g., extra-wide sidewalk, plaza, pocket park, outdoor dining area or town square with seating) is provided between the building and front property line. (See also, Pedestrian Amenities Standards in Section 2.2.170, and Architectural Standards in Section 2.2.160 for related building entrance standards.)

B. Rear Yard Setbacks.

1. Minimum Setback. The minimum rear yard setback for all structures shall be 0 feet where parcels abut rights-of-way, the Commercial District or the Industrial District, and 20 feet where the parcel abuts the Residential district.
2. Through-Lots. For buildings on through-lots (lots with front and rear frontage onto a street), the front yard setbacks in "A" shall apply.

C. Side Yard Setbacks. There is no minimum side yard setback required, except that buildings shall conform to the vision clearance standards in Chapter 3.1 and the applicable fire and building codes for attached structures, fire walls, and related requirements.

D. Setback Exceptions. Eaves, chimneys, bay windows, overhangs, cornices, awnings, canopies, porches, decks, pergolas, and similar architectural features may encroach into setbacks, subject to compliance with applicable standards of the Uniform Building Code and Uniform Fire Code. Walls and fences may be placed on the property line, subject to requirements in Chapter 3.2 - Landscaping and Fences and Walls.

2.2.130 Lot Coverage

- A. Lot Coverage. There is no maximum lot coverage requirement, except that compliance with other sections of this code may preclude full (100 percent) lot coverage for some land uses.

2.2.140 Block Layout and Building Orientation

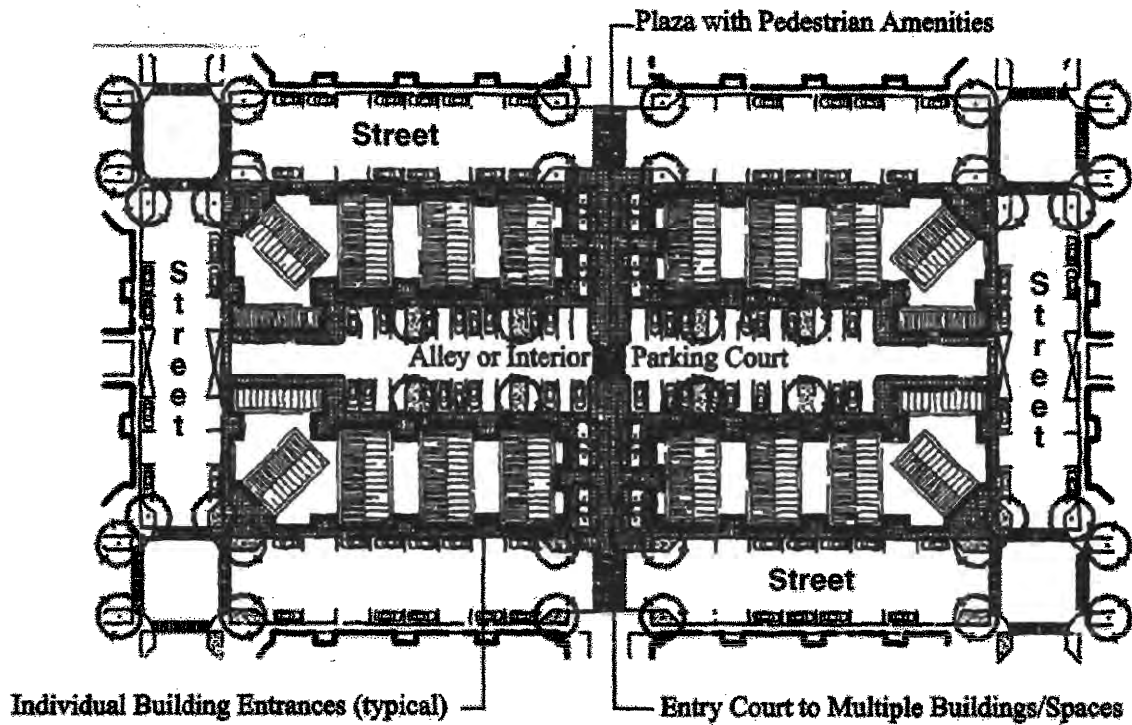
This section is intended to promote the walkable, storefront character of the Commercial District by forming short blocks and orienting buildings close to street. Placing buildings close to the street also slows traffic down and provides more “eyes on the street,” increasing the safety of public spaces. The standards, as listed on the following page and illustrated above, compliment the front yard setback standards in Section 2.2.120.

- A. Applicability. This Section applies to all types of development subject to Site Design Review.

Compliance with all of the provisions of subsections B through D, below, shall be required.

(Continued)

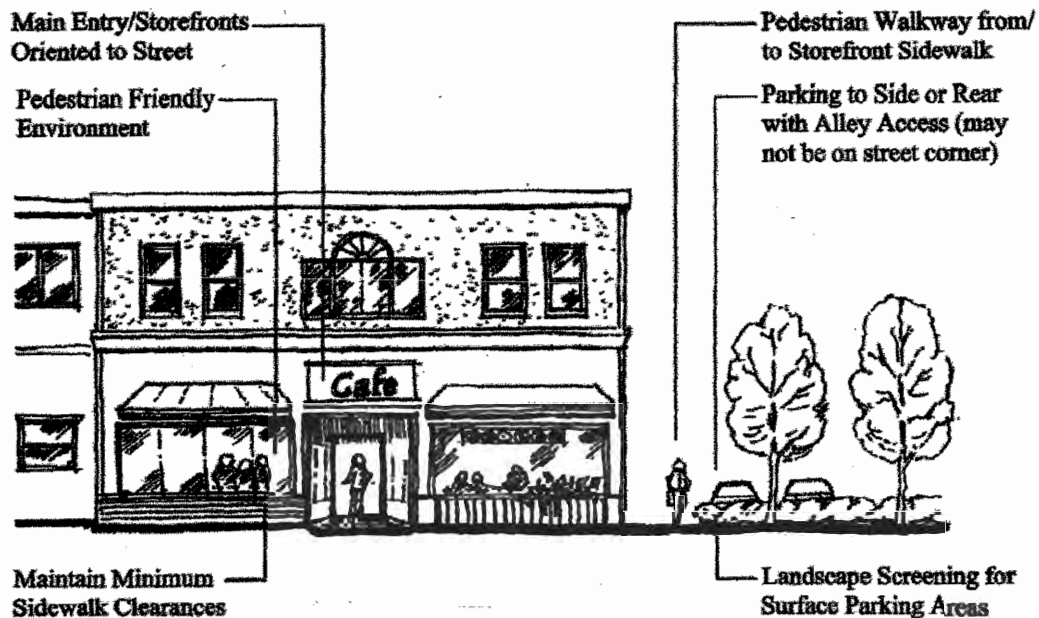
Figure 2.2.140B Block Layout (Typical)



- B. Block Layout Standard. New development subject to Site Design Review shall be configured to provide an alley or interior parking court, as shown above. Blocks (areas bound by public street right-of-way) shall have a length not exceeding 200 feet, and a depth not exceeding 200 feet. Pedestrian pathways shall be provided from the street right-of-way to interior parking courts between buildings, as necessary to ensure reasonably safe, direct, and convenient access to building entrances and off-street parking.

(Continued)

Figure 2.2.140C – Building Orientation (Typical)



C. Building Orientation Standard. All of the developments listed in Section A shall be oriented to a street. The building orientation standard is met when all of the following criteria are met:

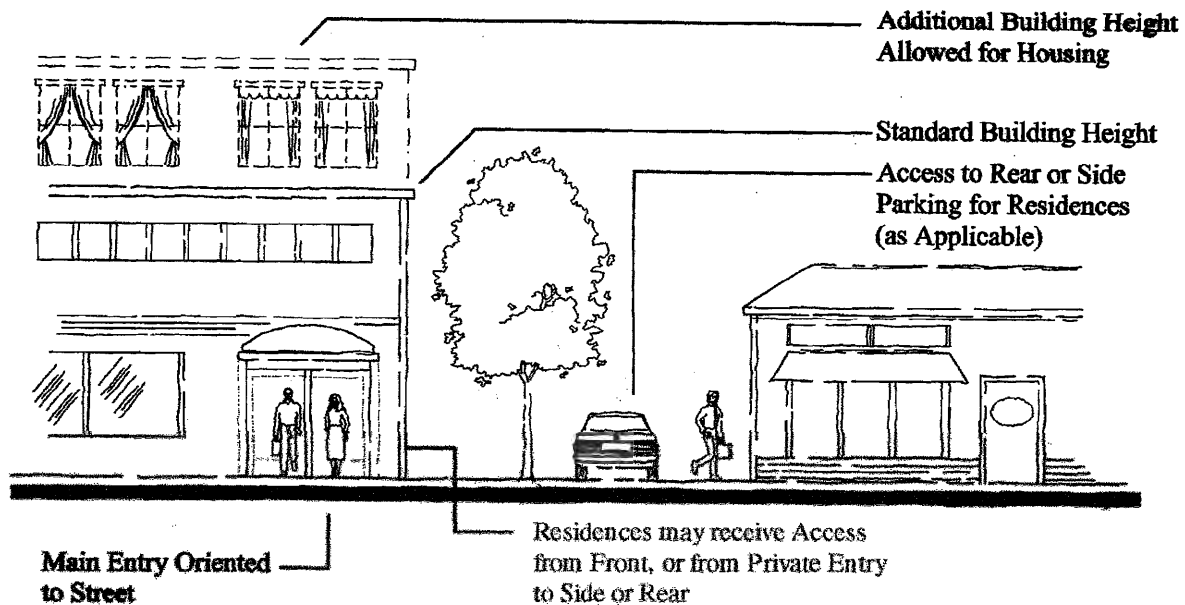
1. The minimum and maximum setback standards in Section 2.2.120 are met;
2. Buildings have their primary entrance(s) oriented to (facing) the street. Building entrances may include entrances to individual units, lobby entrances, entrances oriented to pedestrian plazas, or breezeway/courtyard entrances (i.e., to a cluster of units or commercial spaces). A building may have a secondary entrance facing a side yard when a direct pedestrian walkway not exceeding 20 feet in length is provided between the building entrance and the street right-of-way.
3. Off-street parking, driveways or other vehicular circulation shall not be placed between a building and the street, which is used to comply with subsection 'b', above. On corner lots, buildings and their entrances shall be oriented to the street corner, as shown above; parking, driveways and other vehicle areas shall be prohibited between buildings and street corners.

D. Variances. The standards of this Section shall not be changed through a Class A Variance. The standard may be varied to address topographic or other physical constraints, in accordance with the provisions for Class B or C variances in Chapter 5.

2.2.150 Building Height

All buildings in the Commercial District shall comply with the following building height standards. The standards are intended to allow for development of appropriately-scaled buildings with a storefront character:

Figure 2.2.150 – Building Height Diagram (Credit for Housing)



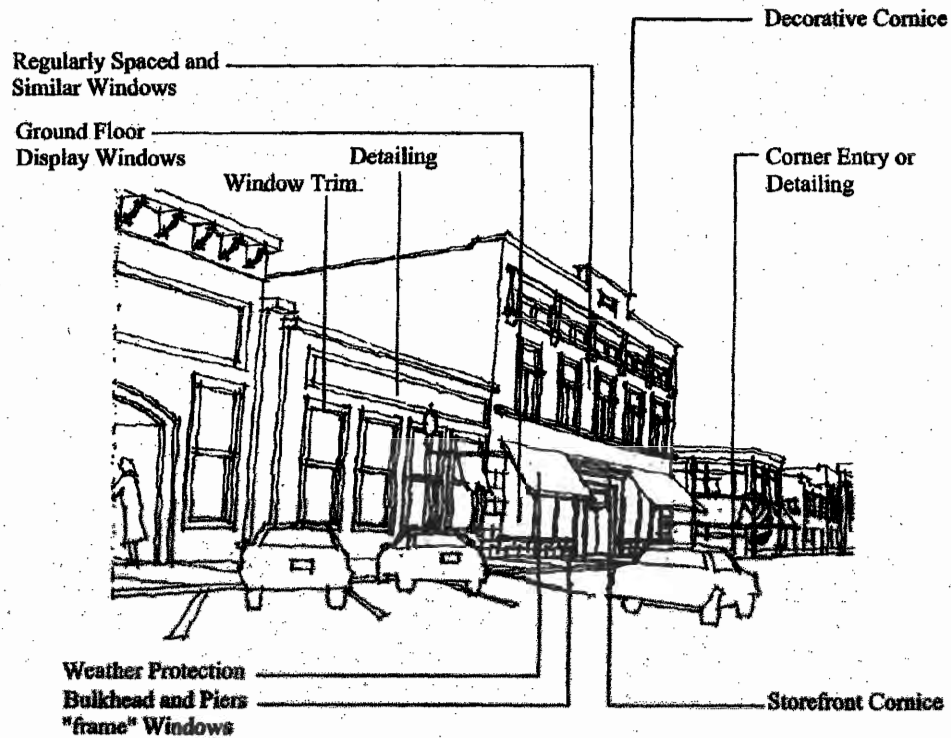
- A. Maximum Height. Buildings shall be no more than 3 stories or 35 feet in height, whichever is greater. The maximum height may be increased by 10 feet when housing is provided above the ground floor (“vertical mixed use”), as shown above. The building height increase for housing shall apply only to that portion of the building that contains housing.

2.2.160 Architectural Guidelines and Standards

- A. Purpose and Applicability. The architectural guidelines standards are intended to provide detailed, human-scale design, while affording flexibility to use a variety of building styles. This section applies to all buildings in the Commercial District.
- B. Guidelines and Standards. Each of the following standards shall be met. An architectural feature used to comply with one standard may be used to comply with another standard.

(Continued)

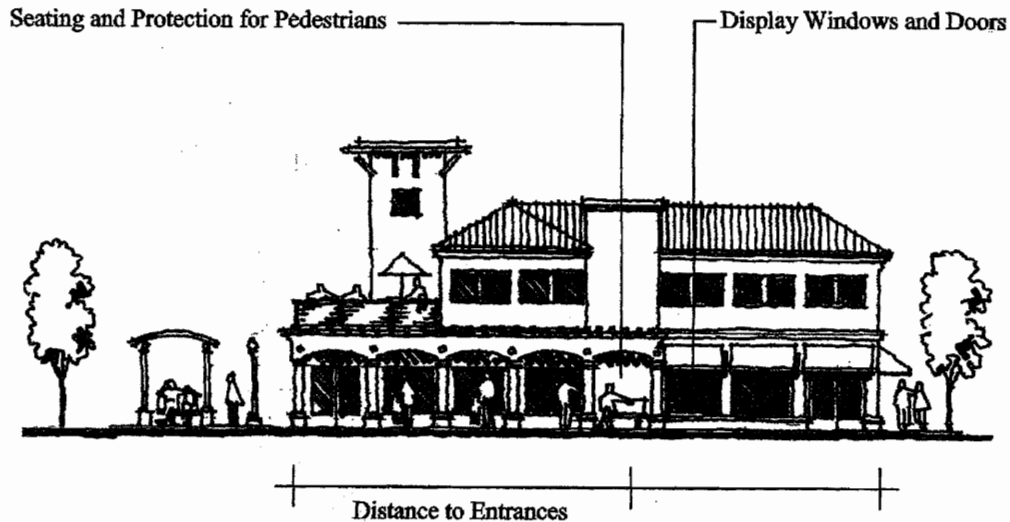
Figure 2.2.160B(1) - Commercial Building Design Elements (Typical)



1. **Detailed Storefront Design.** All buildings shall contribute to the storefront character and visual relatedness of Commercial buildings. This criterion is met by providing all of the architectural features listed in a-d, below, along the front building elevation (i.e., facing the street), as applicable. The example shown above is meant to illustrate required building design elements, and should not be interpreted as a required architectural style.
 - a. Corner buildings shall either have corner entrances, or beveled corners with detailing to reduce the angular appearance of the building at the street corner.
 - b. Regularly spaced and similar-shaped windows with window hoods or trim (all building stories).
 - c. Large display windows on the ground-floor (non-residential uses only). Display windows shall be framed by bulkheads, piers and a storefront cornice (e.g., separates ground-floor from second story, as shown above). No glazing is allowed on ground floor windows.
 - d. Decorative cornice at top of building (flat roof); or eaves provided with pitched roof.

(Continued)

Figure 2.2.160B(2) Design of Large-Scale Buildings and Developments (Typical)

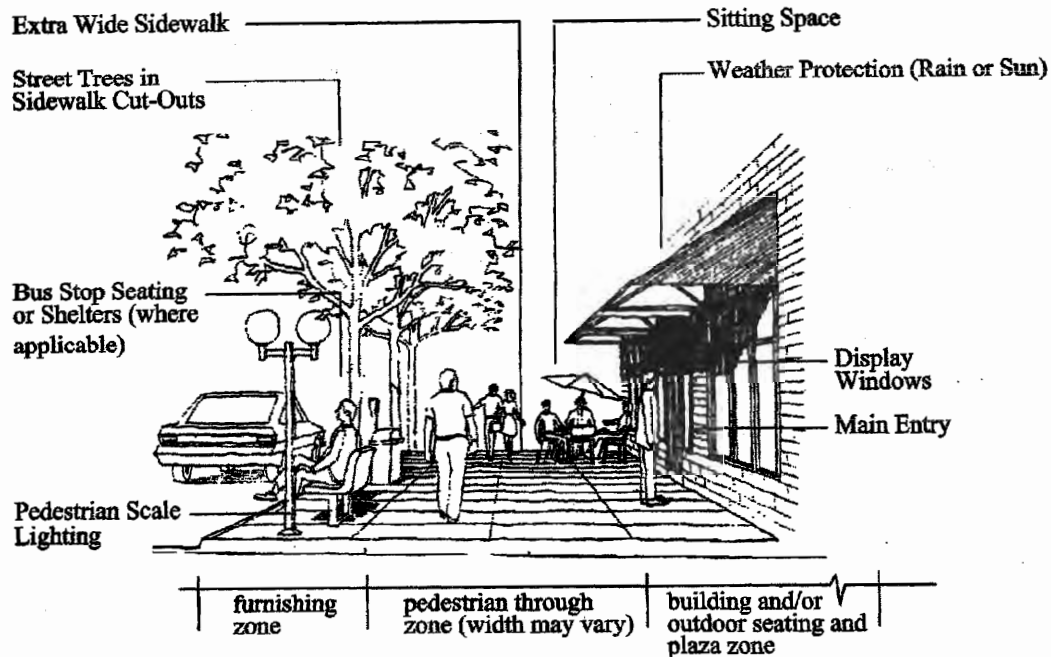


2. Design of Large-Scale Buildings and Developments. The standards in subsection “c”, below, shall apply to “Large-Scale Buildings and Developments”, as defined in a-b:
 - a. Buildings with greater than 20,000 square feet of enclosed ground-floor space (i.e., “large-scale”). Multi-tenant buildings shall be counted as the sum of all tenant spaces within the same building shell; and
 - b. Multiple-building developments with a combined ground-floor space (enclosed) greater than 40,000 square feet (e.g., shopping centers, public/institutional campuses, and similar developments).
 - c. All large-scale buildings and developments, as defined in a-b, shall provide human-scale design by conforming to all of the following criteria:
 - (1) Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes, as shown above. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, or up-lighting); and similar features. The example shown above is meant to illustrate examples of these building design elements, and should not be interpreted as a required architectural style.
 - (2) Every building elevation adjacent to a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance; except that buildings elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way, in conformance with Chapter 3.1 - Access and Circulation.

2.2.170 Pedestrian Amenities

- A. Purpose and Applicability. This section is intended to complement the building orientation standards in Section 2.2.140, and the street standards in Chapter 3.1, by providing comfortable and inviting pedestrian spaces within the Commercial District. Pedestrian amenities serve as informal gathering places for socializing, resting, and enjoyment of the City's central business district, and contribute to the visual identity of the district. This section applies to all buildings in the Commercial District.

Figure 2.2.170 - Pedestrian Amenities (Typical)



- B. Guidelines and Standards. Every development shall provide one or more of the "pedestrian amenities" listed in 1-4, below, and illustrated above. The example shown above is meant to illustrate examples of pedestrian amenities. Other types of amenities and designs may be used. Pedestrian amenities may be provided within a public right-of-way when approved by the applicable jurisdiction.
1. A plaza, courtyard, square or extra-wide sidewalk next to the building entrance (minimum width of 20 feet);
 2. Sitting space (i.e., dining area, benches or ledges between the building entrance and sidewalk (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, which incorporates seating (e.g., fountain, sculpture, etc.).

2.2.180 Special Standards for Certain Uses

This section supplements the standards contained Sections 2.2.100 through 2.2.170. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Commercial District:

- A.** Residential Uses
- B.** Public and Institutional Uses
- C.** Accessory Uses and Structures
- D.** Auction Sales
- D.E.** Automobile-Oriented Uses and Facilities
- E.F.** Recreational Vehicle Parks
- F.G.** Sidewalk Outdoor Storage and Displays
- G.H.** Light Manufacture

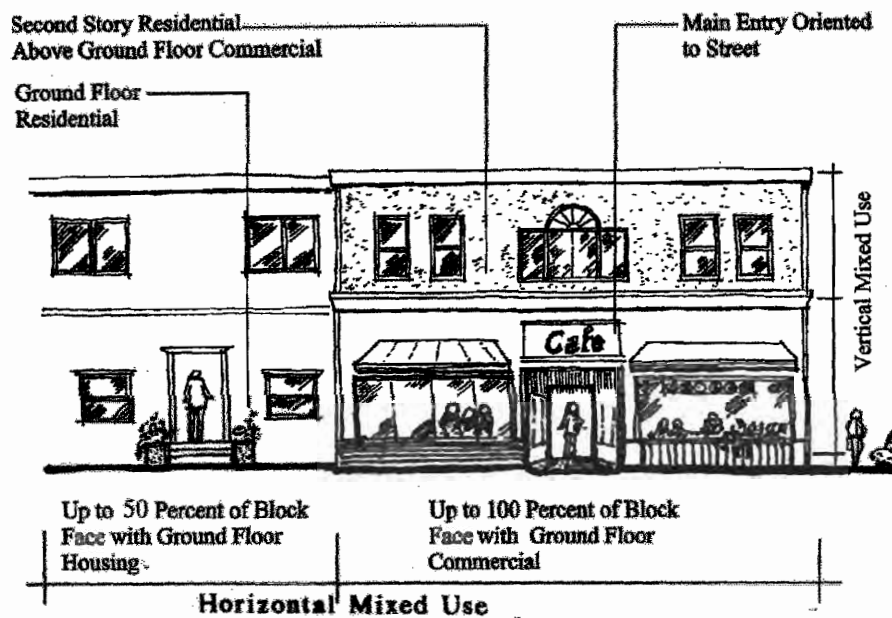
(Continued)

2.2.180 Special Standards for Certain Uses (Continued)

A. Residential Uses.

Higher density residential uses, such as multi-family buildings and attached town homes, are permitted to encourage variety in types of housing, proximity to employment, shopping and services, and activity downtown. All residential developments shall comply with the standards in 1-6, below, except new homes permitted as conditional uses on the east side of West Third Street, which shall comply with the standards of the Residential Zone. The standards below are intended to require mixed use development; conserve the community's supply of commercial land for commercial uses; provide for designs which are compatible with a storefront character; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses which existed prior to the effective date of this code are exempt from this Section.

Figure 2.2.180A - Mixed Use in the Commercial District



1. Mixed Use Development Required. Residential uses shall be permitted only when part of a mixed use development (residential with commercial or public/institutional use). Both "vertical" mixed use (housing above the ground floor), and "horizontal" mixed use (housing on the ground floor) developments are allowed, subject to the standards in 2-6.
2. Limitation on street-level housing. No more than 50 percent of a single ground floor main street frontage may be occupied by residential uses. This standard is intended to reserve storefront space for commercial uses and public/institutional uses; it does not limit residential uses above the street level on upper stories, or behind street-level storefronts. (11/07)

(Continued)

2.2.180 Special Standards for Certain Uses (Continued)

A. Residential Uses (continued)

3. Density. There is no minimum or maximum residential density standard. Density shall be controlled by the applicable lot coverage, and building height standards.
4. Parking, Garages, and Driveways. All off-street vehicle parking shall be oriented to alleys or located in parking areas behind or to the side of the building; except that side-yards facing a street (i.e., corner yards) shall not be used for surface parking.
5. Creation of Alleys. When a subdivision (e.g., four or more town home lots) is proposed, a public or private alley shall be created for the purpose of vehicle access. Alleys are not required when existing development patterns or topography makes construction of an alley impracticable. As part of a subdivision, the City may require dedication of right-of-way or easements, and construction of pathways between town home lots (e.g., between building breaks) to provide pedestrian connections through a development site, in conformance with Chapter 3.1- Access and Circulation.
6. Common Areas. All common areas (e.g., walkways, drives, courtyards, private alleys, parking courts, etc.) and building exteriors shall be maintained by a homeowners association or other legal entity. Copies of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

B. Public and Institutional Uses.

Public and institutional uses (as listed in Table 2.2.110.A) are allowed in the Commercial District, except that automobile-oriented uses shall comply with the standards in "E", below. Typical automobile oriented uses in this category include public works yards, equipment storage and repair, school bus companies, and similar facilities that store, repair or service automobiles, trucks, buses, heavy equipment and construction materials.

2.2.180 Special Standards for Certain Uses (Continued)

- a. ~~Vehicle repair, sales, rental, storage, service.~~ Businesses that repair, sell, rent, store, or service automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, and similar vehicles and equipment are permitted subject to the landscape and screening standards in Chapter 3.2.
- b. ~~Drive up, drive in, and drive through facilities.~~ Drive up, drive in, and drive through facilities (e.g., associated with restaurants, banks, car washes, and similar uses) are permitted only when accessory to a primary commercial "walk-in" use (except for Espresso Stands as allowed per 2.2.180.C.6), and shall conform to all of the following standards: (11/07)
1. The facility receives access from an alley or driveway, and not a street;
 2. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, drop-boxes, and 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 corner);
 3. The facility is subordinate to a primary permitted use (except for Espresso Stands as allowed per 2.2.180.C.6). "Subordinate" means all components of the facility, in total, occupy less street frontage than the primary commercial or public/institutional building; and (11/07)
 4. No more than one drive-up, drive-in, or drive-through facility shall be permitted on one block, or for a distance of 200 linear feet along the same street frontage, whichever is less.
 5. In connection with drive-through establishments, there shall be a specially designed area for vehicle stacking located on private property between the public right-of-way and the pick-up window or service area. The specially designed area shall provide adequate stacking for expected demand. The City Engineer or Planner shall determine the provided stacking area is adequate. This area shall not interfere with safe and efficient circulation on the development site or abutting public right-of-way. (11/07)

FF. Recreational Vehicle Parks.

RV Parks are allowed in the Commercial Zone as a Conditional Use, subject to the following standards. In addition, they must comply with Oregon Administrative Rules Chapter 918, Division 650, and all other applicable state building or specialty codes.

1. The space provided for each RV must be a minimum of 700 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than RV and landscaped areas.
2. Roadways must be a minimum of 30 feet in width if parking is permitted on the margin of the roadway, or 24 feet in width if parking is not permitted on the edge of the roadway. Roadways must be paved with asphalt, concrete or similar impervious surface and designed to permit easy access to each RV space. *(continued)*

2.2.180 Special Standards for Certain Uses (Continued)

3. A space provided for an RV must be paved with asphalt, concrete or similar material and be designed to provide runoff of surface water in compliance with the standards in Chapter 3.4. 15% of each space shall consist of landscaped area. Trees shall be planted at a minimum ratio of one per two spaces, to be planted within the interior of the park.
4. All RV spaces must be provided with public water and electrical service. Electrical generator use is prohibited except in instances of power outages.
5. Provision of dump station for holding tanks in the RV Park, to be built to Health Department standards and which shall not adversely affect the City's sewerage system.
6. Trash receptacles for the disposal of solid waste materials must be provided in ~ convenient locations for the use of guests of the park and be of sufficient quantity and capacity so that there is no uncovered accumulation of trash at any time.
7. Up to 25% of the RV spaces available in the park may be designated for long-term occupancy leases of up to 12 months. No other RV may remain in the park for more than 45 days in each calendar quarter. The City Recorder or designee shall be afforded the right to drive through the property, and review all registration documents.
8. An on-site manager must occupy one space within the park.
9. The total number of parking spaces in the park, exclusive of parking specifically provided for the use of the manager or employees of the park, must be equal to one space per RV space. Parking spaces must be paved with asphalt, concrete or similar materials.
10. When required by the State, the park must provide toilets, lavatories, and showers for each sex in the following ratios: for each 20 recreational vehicle spaces or any fraction thereof; one toilet, one urinal, one lavatory, and one shower for men; and one toilet, one lavatory, and one shower for women. The showers must afford privacy and the showers must be provided with private dressing rooms. Facilities for each sex must be located in separate buildings, or if in the same building, must be separated by a soundproof wall.
11. Building spaces required by subsection (10) of this section must be lighted at all times; ventilated; provided with heating facilities which maintain a room temperature of no lower than 65 degrees F and provided with adequate floor drains to permit easy cleaning. The facilities must have a floor of waterproof material, and sanitary ceiling, floor and wall surfaces.
12. All perimeters of the park shall be fenced or screened as determined by the planning commission. All street frontages shall provide a suitable fence three and one-half to four feet in height to restrict the passage of children or animals. Fences adjacent to streets shall be setback ten (10) feet from the property line and the intervening area between the property line or sidewalk shall be landscaped. Such landscaping shall provide a solid understory of flowers, shrubs, and ground cover and at least one tree each 50 lineal feet, which will provide a canopy of at least three hundred square feet upon maturity.
13. The applicant shall submit a landscaping plan to be reviewed by the Planning Commission and City Council. *(Continued)*

2.2.180 Special Standards for Certain Uses (Continued)

14. The park must be maintained in a neat appearance at all times. Except for vehicles, there shall be no outside storage of materials or equipment belonging to the park or to any guest of the park.
15. No fire pits are allowed.
16. A telephone shall be available to provide emergency services, as a minimum requirement.

GF. Sidewalk Displays.

Sidewalk display of merchandise and vendors is allowed and encouraged, but shall not include such large items as automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, building materials, and similar vehicles and equipment. A minimum clearance of 5 feet shall be maintained.

HG. Light Manufacture.

Light manufacture uses are allowed in the Commercial District. "Light manufacture" means production or manufacturing of small-scale goods, such as crafts, electronic equipment, bakery products, printing and binderies, furniture, and similar goods. Light manufacture uses shall conform to all of the following standards which are intended to protect the pedestrian-friendly, storefront character of Commercial:

1. Retail or Service Use Required. Light manufacture is allowed only when it is in conjunction with a permitted retail or service use and does not exceed 50 percent of the gross floor area.
2. Location. The light manufacture use shall be enclosed within a building, or shall be located within a rear yard not adjacent to a street.

CITY OF HALSEY
ORDINANCE # 2011-387

AN ORDINANCE AMENDING THE HALSEY DEVELOPMENT CODE TO ADOPT
FLOODPLAIN DEVELOPMENT REGULATIONS.

Whereas, the Land Use Element of the Comprehensive Plan contains goals and policies that require the Development Code to regulate areas of the floodplain so that urban development is restricted or prohibited due to potential health and safety hazards; and

Whereas, the Land Use Element of the Comprehensive Plan contains goals and policies that require the Development Code to give special attention to the floodway in order to avoid development that is likely to impede the flow of flood waters; and

Whereas, the Land Use Element of the Comprehensive Plan requires the Development Code to contain flood hazards provisions against which annexation proposals must be reviewed for adequate safeguards; and

Whereas, the City of Halsey participates in the National Flood Insurance Program; and

Whereas, in order to remain eligible for participation in the National Flood Insurance Program, the City of Halsey must adopt certain minimum floodplain development regulations crafted by the federal government; and

Whereas, those floodplain development standards must be adopted as part of the Development Code in order to be applicable to development and land use applications affecting land within the City Limits; and

Whereas, Oregon State law requires that the Development Code be consistent with the Comprehensive Plan; and

Whereas, the Council received a recommendation from the Halsey Planning Commission to approve amendments to the Development Code that ensure consistency with policies and goals of the Land Use Element of the Comprehensive Plan related to regulation of the floodplain; and

Whereas, the City Council held a duly-advertised public hearing concerning the proposed text amendment to the Halsey Development Code on December 14, 2010, and interested persons and the general public were given an opportunity to be heard; and

Whereas, the Council has reviewed the public testimony and the recommendations of the Planning Commission, and staff; and

Whereas, findings of fact have been prepared by staff, which findings consist of the formal findings attached hereto as Exhibit 'I'; and

Whereas, said findings are by reference incorporated herein and are hereby adopted by the City Council; and

Whereas, the City Council finds that the burden of proof has been met; and

Whereas, the City Council finds that the proposed amendments are consistent with the Statewide Planning Goals, and the Comprehensive Plan; and

Whereas, the City Council finds that the public necessity, convenience, and general welfare require such amendment;

NOW, THEREFORE,

THE CITY OF HALSEY ORDAINS AS FOLLOWS:

Section 1. The Development Code of the City of Halsey is hereby amended as contained in the attached Exhibit 'I', Attachment 'A.'

Section 2. This ordinance takes effect 30 days after its passage.

Passed by the Halsey City Council this 12th day of January, 2011

Approval by the Mayor this 12th day of January, 2011

Effective this 12th day of January, 2011

Marjean Cline
Marjean Cline, Mayor, City of Halsey

ATTEST:

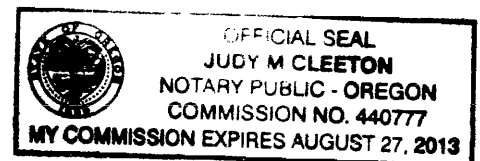
Judy Cleeton
Judy Cleeton, City Administrator

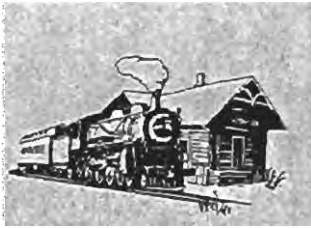
State of Oregon
County of Linn

This instrument was acknowledged before me on January 12th, 2011 by the above named Marjean Cline, Mayor of Halsey.

Judy M. Cleeton
Notary Public for Oregon

My Commission expires: August 27, 2013





City Council
Findings of Fact
Ordinance 2011-387
January 13, 2011

City of Halsey

CASE: 100-YEAR FLOODPLAIN OVERLAY AND COMMERCIAL USE
AMENDMENTS
CDA10-1

REQUESTS: Legislative Amendment to the Halsey Development Code to address updated
Federal Emergency Management Administration (FEMA) floodplain maps and
regulations.

APPLICANT: City of Halsey

LOCATION: Properties within the Urban Growth Boundary containing portions of the 100-year
Floodplain, as identified by the Federal Emergency Management Agency.

BACKGROUND

The City of Halsey participates in the National Flood Insurance Program (NFIP), which is administered, in part, by the Federal Emergency Management Agency (FEMA). Communities that participate in NFIP are eligible for obtaining flood insurance on properties that have been identified by FEMA as containing portions of the 100-year Floodplain. Depending on the strength and breadth of regulatory standards implemented by each local jurisdiction that participates in NFIP, properties owners can receive significant discounts on flood insurance policies. Currently, none of the properties located inside of the Halsey City Limits is encumbered by the 100-year Floodplain. However, there are three properties located inside of the Urban Fringe, that land situated between the Urban Growth Boundary and the City Limits, which have been identified by FEMA as containing portions of the 100-year Floodplain. While the City of Halsey is not required to implement 100-year Floodplain development standards until these properties are annexed to the City, adopting such standards prior to annexation ensures that the necessary regulations are in place to assess an annexation proposal and subsequent development. On March 29, 2010, the Planning Commission voted to initiate amendments to the HDC that would result in the adoption of 100-year Floodplain development standards. This decision was consistent with a recommendation from City Staff that doing so at this time would take advantage of an on-going statewide process to update 100-year Floodplain regulations for many local jurisdictions.

In 2005, FEMA began a nationwide project to update the country's federal Flood Insurance Rate Maps (FIRM) and Flood Insurance Studies (FIS). This project has taken a number of years and only recently did FEMA begin the update for the Linn County FIS. As part of this map modernization process, FEMA digitized the existing paper FIRM maps associated with the Linn County FIS. No new floodplain studies were done. The digitization of the FIRM was based on local topographic maps and,

as a result, some of the new 100-year Floodplain boundaries are different and more accurate than the boundaries shown on the current paper maps. This process was completed for many other counties in Oregon and facilitated by the Department of Land Conservation and Development, which serves as the State Floodplain Coordinator. For those jurisdictions for which updated FIS and FIRM were prepared, FEMA has mandated that DLCD complete a review of the existing 100-year Floodplain development standards to determine if there are any shortcomings when compared to the minimum federal requirements. Again, the City of Halsey is not required to go through this process due to the location of 100-year Floodplain areas in relation to the current City Limits, but there are advantages for doing so, as mentioned above.

As part of the map modernization process, a Model Floodplain Development Ordinance was developed by DLCD in coordination with FEMA and the state Building Codes Division so that state-specific land use and building code provisions are integrated with the minimum federal floodplain regulations. The most important of these is the creation of an independent Floodplain Development Permit program that will track development within the 100-year Floodplain. City Staff have used the Model Ordinance as the basis for the proposed amendments, including the creation of a Floodplain Development Permit, with the goal of achieving an optimal level of regulation that improves the community's flood insurance policy discounts.

Working from the existing regulatory framework, the bulk of the proposed amendments to the HDC occur within the new Chapter 3.6 – Floodplain Standards. Changes to Chapter 1.3 – Definitions, Chapter 4.1 – Types of Applications and Review Procedures, and Chapter 4.2 – Development Review and Site Design Review, Chapter 4.6 – Zone Changes and Development Code Amendments, and Chapter 5.1 – Variances were also necessary to comply with the federal regulations and maintain consistency across these coordinated chapters. In general, Chapter 3.6 has been created in satisfaction of the federal requirement to issue permits for many of the development activities that occur within the 100-year Floodplain. This chapter contains most of the standards applicable to development within the 100-year floodplain, while Chapter 4.2 describes the process for obtaining the necessary permits.

Consistent with past practice, amended text in each of the draft chapters is depicted in one of two ways, (Attachment 'A'). New text is shown with a double underline (Floodplain Development Permit), while previously adopted text proposed for deletion is shown as struck through (~~1-0 ft. floodway~~).

Legislative Process for Amending the Development Code

Applicable HDC Criteria:

4.6.2 Legislative Amendments.

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1, Section 5.

4.1.6 Type IV Procedure

- F. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:**

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
3. Any applicable intergovernmental agreements; and
4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.6 shall be required for Comprehensive Plan Amendments, Zone Changes and Development Code Amendments.

The Type IV procedure outlined in Chapter 4.1, Section 6 requires that Legislative amendments to the HDC be considered through two separate hearings, one before the Planning Commission and one before the City Council. After the close of its public hearing, the Planning Commission made a recommendation to the City Council to approve the proposed text amendments with modifications. Consistent with that recommendation, the City Council decided to approve the proposed text amendments based on the following findings of fact presented below.

Findings of Fact

Applicable Comprehensive Plan Policies

Land Use Element – Land Use Classifications:

6. Floodplain – To indicate areas which are subject to recurring flooding and where urban development should be restricted or prohibited due to potential health and safety hazards. The floodplain designation is established as an overlay zone which is supplemental to the existing agricultural, residential, commercial or industrial designation.

Land Use Element – Development Limitations:

3. The City of Halsey will seek to maintain and improve the quality of air, land, and water resources in the area. Halsey will cooperate with county, state, and federal agencies which regulate environmental quality and shall comply with applicable regulations and standards established by these agencies when the city is issuing any permits. This policy is intended to cover discharges and emissions which may impair air, water, or land quality or exceed the established standards for noise or other emissions.

Land Use Element – Natural Hazards:

1. That low density and open space uses that are least subject to loss of life or property damage such as open storage, forestry, agriculture and recreation should be allowed in floodplains, especially the floodway portion. The floodway portion shall be given special attention in order to avoid development that is likely to impede the flow of flood waters, through the use of standards located in the zoning ordinance.
4. Development proposals in areas considered to pose hazards, such as flooding, poor drainage, ponding and high water table, and soils that affect building suitability, shall be reviewed by the City to ensure that environmental problems or hazards to life and property will not result from development.

1. Chapter 1.3 – Definitions

Findings of Fact

1. The proposed amendments to Chapter 1.3 incorporate definitions of terms used in the 100-year Floodplain development provisions discussed below (Attachment A). They are essential for the proper implementation of these standards.
2. Many of the proposed terms and their definitions are mandatory in order to comply with the minimum requirements of the federal floodplain regulations.
3. Incorporating the proposed terms and their definitions with Chapter 1.3 is consistent with the Comprehensive Plan Policies cited above because they aid in the implementation of standards that are intended to regulate environmental quality and minimize risk to life and property within the 100-year Floodplain.

2. Chapter 3.6 – Floodplain Standards

Findings of Fact

1. In order to satisfy the minimum requirements of the federal floodplain regulations and the Model Floodplain Development Ordinance, the City of Halsey must adopt the procedural, administrative, and development provisions proposed through Chapter 3.6 (Attachment A).
2. The provisions proposed through Chapter 3.6 establish the regulatory intent behind the overall 100-year Floodplain management program and provide guidance when it is necessary to make interpretations of the various provisions.
3. By establishing a Floodplain Development Permit, Chapter 3.6 works in tandem with Chapter 4.2 to serve as the regulatory link between the Comprehensive Plan and the 100-year Floodplain development standards contained in Section 3.6.3.
4. When combined with the development standards contained in Section 3.6.3, the procedural and administrative provisions in Section 3.6.0, 3.6.1, and 3.6.2 constitute a regulatory framework that complies with the Comprehensive Plan Policies cited above by ensuring that owners of property within the 100-year Floodplain are allowed a reasonable degree of development; that development will occur in a manner that minimizes risk to life, property, and environmental quality; and that the provisions regulating development satisfy the requirements of the state and federal agencies charged with managing the 100-year Floodplain.
5. To the extent that some provisions proposed as part of Chapter 3.6 exceed the minimum federal floodplain regulations, these provisions are also consistent with the Comprehensive Plan Policies cited above. By adopting these stricter standards, the City

of Halsey is able to achieve better protection of environmental resources, as well as life and property within the 100-year Floodplain.

3. Chapter 4.1 – Types of Applications and Review Procedures

Findings of Fact

1. Many of the proposed 100-year Floodplain development standards are discretionary and require the exercise of policy or legal judgment. Such decisions are considered to be “limited land use decisions” by Oregon state law.
2. The existing regulatory framework for the Type II application procedure satisfies the requirements for processing “limited land use decisions”, as stipulated by Oregon state law.
3. Given that the intent of processing such permits is to ensure development does not cause adverse environmental impacts or hazards to life and property, amending Chapter 4.1 to specify that Floodplain Development Permits shall be processed as Type II applications is consistent with the Comprehensive Plan Policies cited above and applicable state law (Attachment A).

4. Chapter 4.2 – Development Review and Site Design Review

Findings of Fact

1. Floodplain Development Permits must be processed consistent with state law provisions for limited land use decisions. Sections 4.2.4, 4.2.5, and 4.2.6 of Chapter 4.2 currently contain a procedural review framework that satisfies state law requirements for limited land use decisions.
2. The amendments proposed to Chapter 4.2 introduce the application requirements and review criteria specific to Floodplain Development Permits. These provisions are taken directly from the Model Floodplain Development Ordinance and comply with or exceed the minimum federal floodplain regulations (Attachment A).
3. Amending Chapter 4.2 as proposed is consistent with the Comprehensive Plan Policies cited above because the amendments incorporate the procedural requirements for Floodplain Development Permits. The review and issuance of Floodplain Development Permits is a mandatory requirement of the federal floodplain regulations. These provisions must be adopted in order for the City of Halsey to remain eligible as a participating NFIP community.
4. The Floodplain Development Permit review process serves as the regulatory connection between the 100-year Floodplain Overlay proposed for adoption on the Comprehensive Plan Map and the floodplain development standards proposed in Chapter 3.6. Without the Floodplain Development Permit process, the overlay, which is required by policies of

the Comprehensive Plan, is meaningless. Therefore, adopting the amendments proposed to Chapter 4.2 complies with the Comprehensive Plan Policies cited above.

5. To the extent that some provisions proposed as part of the amendments to Chapter 4.2 exceed the minimum federal floodplain regulations, these provisions are also consistent with the Comprehensive Plan Policies cited above. By adopting these stricter standards, the Floodplain Development Permit process is able to achieve better protection of environmental resources, as well as life and property within the 100-year Floodplain.

5. Chapter 4.6 – Zone Changes and Development Code Amendments

Findings of Fact

1. All land within the City of Halsey Urban Growth Boundary that is designated by FEMA as containing portions of the 100-year Floodplain is currently outside of the City Limits.
2. Prior to the proposed 100-year Floodplain development provisions being applicable to land within the City Limits, the Zoning Map will need to be amended to contain its own 100-year Floodplain Overlay. Such amendment will not be necessary until the land containing portions of the 100-year Floodplain that is inside of the Urban Fringe is annexed to the City of Halsey.
3. The amendments proposed for Chapter 4.6 are consistent with the Comprehensive Plan Policies cited above because they enable the implementation of the 100-year Floodplain development standards within the City Limits (Attachment A). These standards are intended to protect life and property, regulate environmental quality, and comply with corresponding state and federal regulations concerning development within the 100-year Floodplain.

6. Chapter 5.1 – Variances

Findings of Fact

1. It is not possible to anticipate each and every development scenario when constructing land use regulations, nor is it possible to predict with certainty how regulations will apply in every development scenario. Given these limitations, it is prudent land use planning policy to provide a process for requesting variances from development standards so that applicants have the opportunity for presenting alternatives that achieve the original intent of a varied standard.
2. While the federal floodplain regulations do not require the adoption of a variance procedure, the proposed amendments are consistent with the optional federal provisions that limit variances to certain types of development. The variance criteria proposed for reviewing Class 'D' variance requests are the same as those stipulated by the federal floodplain regulations (Attachment A).

3. Including a specific variance procedure for 100-year Floodplain development standards is consistent with the Comprehensive Plan Policies cited above by providing an opportunity for reasonable forms of development that might otherwise be prohibited. The Comprehensive Plan, Model Floodplain Development Ordinance, and the federal floodplain regulations acknowledge that permitting development within the 100-year Floodplain is acceptable, provided that certain minimum thresholds for protecting life, property, and environmental quality are met. The variance process allows for an alternate means of complying with regulatory intent of those thresholds.

Chapter 1.3 — Definitions

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

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

Access management - The control of street (or highway) access for the purpose of improving the efficiency, safety and/or operation of the roadway for vehicles; may include prohibiting, closing, or limiting direct vehicle access to a roadway from abutting properties, either with physical barriers (curbs, medians, etc.) or by land dedication or easement. See also, Chapter 3.1, Section 2.

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

Accessory dwelling - See Chapter 2.1, Section 200.A.

Accessory use/Accessory structure - See Chapter 2.1, Section 200.I.

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

Administrative - A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal. See also Chapter 4.1, Section 4.

Adverse impact - Negative effect of development that can be measured (e.g., noise, air pollution, vibration, dust, 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 household income on housing expenses. For more information, refer to the Federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.

Agriculture - As used in this Code, "agriculture" is the same as "farm use." [See also, ORS 215.203(2)(a).]

Alley - See Chapter 3.4., Section 1.F.

Alteration of a Watercourse - Includes, but is not limited to, any dam, culvert, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area or capacity, which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Ambient - Something that surrounds, as in the level of light, dust or noise.

Area of Shallow Flooding - A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

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

Area of Special Flood Hazard - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Zone designations on FIRMs include the letters A or V. Also known as the Special Flood Hazard Area (SFHA).

Arterial - An arterial street. See Chapter 3.4, Section 1.F.

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

Automobile-oriented use - See Chapter 2.2, Section 180.E.

Base Flood - means the flood having a one percent chance of being equaled or exceeded in any given year (i.e., 100-year Flood).

Base Flood Elevation (BFE) - The water surface elevation during the base flood in relation to a specified datum. The Base Flood Elevation (BFE) is depicted on the FIRM to the nearest foot and in the FIS to the nearest 0.1 foot.

Basement - The portion of a structure with its floor sub grade (below ground level) on all sides.

Bed and breakfast inn - Provides accommodations (3 or more rooms) plus breakfast on a daily or weekly basis in an operator- or owner-occupied home that is primarily used for this purpose. This use is operated as a commercial enterprise, encourages direct bookings from the public, and is intended to provide a major source of income to the proprietors. This level includes inns that operate restaurants offering meals to the general public as well as to overnight guests.

Below-grade Crawlspace - An enclosed area below the Base Flood Elevation in which the interior grade is not more than two feet below the lowest adjacent exterior grade and the height, measured from the interior grade of the crawlspace to the top of the crawlspace foundation, does not exceed 4 feet at any point.

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

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

Block - A parcel of land or group of lots bounded by intersecting streets. See also, Chapter 3.1, Section 2.J.

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

Building - A building or structure subject to Building Codes.

Building Codes - The combined specialty codes adopted under ORS 446.062, 446.185, 447.020 (2), 455.020 (2), 455.496, 455.610, 455.680, 460.085, 460.360, 479.730 (1) or 480.545, but does not include regulations adopted by the State Fire Marshal pursuant to ORS chapter 476 or ORS 479.015 to 479.200 and 479.210 to 479.220.

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

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

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

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

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

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

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

Child care center, family child care - Facilities that provide care and supervision of minor children

for periods of less than 24 hours. "Family child care providers" provide care for not more than 12 children in a home. See also, ORS 657A for certification requirements.

Clear and objective - Relates to decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

Collector - Type of street. See Chapter 3.4, Section 1.F.

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

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

Conditional use - A use which requires a Conditional Use Permit. See Chapter 4.4.

Consensus - Agreement or consent among participants.

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

Cornice - The projecting horizontal element that tops a wall or flat roof. See Chapter 2.2, Section 160.

Cottage - A small house that may be used as an accessory dwelling, in conformance with Chapter 2.1, Section 200.B.

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

Critical Facility - A facility that is critical for the health and welfare of the population and is especially important following hazard events. The following is the list of critical facilities:

1. Hospitals and other medical facilities having surgery and emergency treatment areas;
2. Fire and police stations;
3. Tanks or other structures containing, housing or supporting water or fire-suppression materials or equipment required for the protection of essential or hazardous facilities or special occupancy structures;
4. Emergency vehicle shelters and garages;
5. Structures and equipment in emergency-preparedness centers;
6. Standby power generating equipment for essential facilities; and
7. Structures and equipment in government communication centers and other facilities required for emergency response.

Curb cut - A driveway opening in a curb along a street.

Dead Storage - Storage of inactive items, including automobiles, for a certain period (e.g., a mini-warehouse). (11/07)

Deciduous - Tree or shrub that sheds its leaves seasonally.

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

Density - A measurement of the number of dwelling units in relationship to a specified amount of land (e.g. 10 units per acre). As used in this Code, density does not include land devoted to street right-of-way (also known as net density).

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

Development - All improvements on a site, including buildings, other structures, parking and loading areas, landscaping, paved or graveled areas, grading, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways.
Also, a development site or area.

As applied to regulations contained in Chapters 3.6, 4.2, and 5.1, Development is any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures (including fences and walls), mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the Area of Special Flood Hazard.

Digital FIRM (DFIRM) - Digital Flood Insurance Rate Map. It depicts flood risk and zones and flood risk information. The DFIRM presents the flood risk information in a format suitable for electronic mapping applications.

Discontinued/abandoned use - See Chapter 5.2 - Non-Conforming Uses and Developments.

Discretionary - Describes a permit action or decision that involves substantial judgment or discretion.

Drip-line - Imaginary line on the ground around a tree or shrub at a distance from the trunk equivalent to the spread of the leaf canopy.

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

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

Driveway apron/approach - The edge of a driveway where it abuts a public way; usually constructed of asphalt or concrete. See Figure 3.1.2K.

Drought-tolerant/drought-resistant plants - Refer to *Sunset Western Garden Book* (latest edition). Plants that require no summer watering once established.

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

Dwelling unit - A “dwelling unit” is a living facility that includes provisions for sleeping, eating, cooking and sanitation, as required by the Uniform Building Code, for not more than one family, or a congregate residence for 10 or less persons. (UBC 205)

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

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

Encroachment - The advancement or infringement of uses, fill, excavation, buildings, permanent structures or other development into a floodway which may impede or alter the flow capacity of a floodplain.

Elevated Building - A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

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

Existing Building or Structure - A structure for which the “Start of Construction” commenced before September 29, 2010.

Family day care - See “child care facilities.”

Federal Emergency Management Agency (FEMA) - The agency with the overall responsibility for administering the National Flood Insurance Program.

Fire apparatus lane - A clear accessway for emergency vehicles, as defined by the Uniform Fire Code.

Flag lot - A lot or parcel which has access to a road, street or easement, by means of a narrow strip of the lot or an easement. See Chapter 2.1, Section 140.

Flood or flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of inland or tidal waters; or
2. the unusual and rapid accumulation or runoff of surface waters from any source.

Flood, 100-year - Flood with a one percent chance of being equaled or exceeded in any given year. This is the flood most commonly used for regulatory purposes and is called the Base Flood. This flood event inundates the entire 100-year Floodplain. See Base Flood.

Flood Hazard Zone - Geographic areas that the Federal Emergency Management Agency has defined according to varying levels of flood risk. These Flood Hazard Zones are depicted on a community's Flood Insurance Rate Map (FIRM) or on Floodplain study maps approved by the Floodplain Administrator or designee. Each Flood Hazard Zone reflects the severity or type of flooding in the area. The following list provides a description of the Flood Hazard Zones.

1. Flood Hazard Zone 'A' - Corresponds to the 100-year Floodplains that are determined in the Flood Insurance Study by approximate methods. Because detailed hydraulic analyses are not performed for such areas, no Base Flood Elevations or depths are shown within this zone. Mandatory flood insurance purchase requirements apply.
2. Flood Hazard Zone 'AE' - Corresponds to the 100-year Floodplains that are determined in the Flood Insurance Study by detailed methods. In most instances, Base Flood Elevations derived from the detailed hydraulic analyses are shown at selected intervals within this zone. Mandatory flood insurance purchase requirements apply.
3. Flood Hazard Zone 'AH' - Corresponds to the areas of 100-year shallow flooding with a constant water-surface elevation (usually areas of ponding) where average depths are between 1 and 3 feet. The Base Flood Elevations (BFEs) derived from the detailed hydraulic analyses are shown at selected intervals within this zone. Mandatory flood insurance purchase requirements apply.
4. Flood Hazard Zone 'AO' - Corresponds to the areas of 100-year shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. The depth should be averaged along the cross section and then along the direction of flow to determine the extent of the zone. Average flood depths derived from the detailed hydraulic analyses are shown within this zone. In addition, alluvial fan flood hazards are shown as Zone AO on the FIRM. Mandatory flood insurance purchase requirements apply.
5. Flood Hazard Zone 'A99' - Corresponds to areas of the 100-year Floodplains that will be protected by a Federal flood protection system where construction has reached specified statutory milestones. No Base Flood Elevations or depths are shown within this zone. Mandatory flood insurance purchase requirements apply.

Floodplain - The area adjacent to a stream or river channel that is covered by water when the river or stream overflows its banks

Floodplain Development Permit - Federally required permit required prior to construction and other development in any Special Flood Hazard Area (100-yr. Floodplain).

Floodplain, 100-year - The land area adjacent to a river, stream, or other water body that is subject to a one percent or greater chance of flooding in any given year. It consists of land ranging from that which is subject to annual flooding to that which has a one percent or greater chance of flooding in any given year. The 100-year Floodplain consists of the Floodway and the Floodway Fringe. The 100-year Floodplain is mapped by the Federal Emergency Management Agency (FEMA) on Flood Insurance Rate Maps (FIRMs) and is the area subject to Base Flood regulations. Not every potential Area of Special Flood Hazard within the Urban Growth Boundary has been mapped by the Federal Emergency Management Agency through the Flood Insurance Study, Flood Insurance Rate Maps, and Digital Flood Insurance Rate Maps. The Floodplain Administrator is authorized through Sections 3.6.2.B.6 and 4.2.5.B.6.f to obtain the information necessary to determine the presence and extent of unmapped Areas of Special Flood Hazard as part of reviewing development proposals that effect the 100-year Floodplain. Such information shall be used by the City of Halsey to supplement the Flood Insurance Study, Flood Insurance Rate Maps, and Digital Flood Insurance Rate Maps and these areas are also subject to Base Flood regulations. See Base Flood

Flood Insurance Rate Map (FIRM) - An official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study (FIS) - The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles, floodway boundaries and water surface elevations of the base flood.

Floodway (Regulatory Floodway) - The channel of a river or other watercourse and those portions of the floodplain adjoining the channel required to discharge and store the floodwater or flood flows associated with the regulatory flood

Floodway, 1.0-ft. - A river channel or other Watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood (100-year Flood) without cumulatively increasing the Water Surface Elevation more than 1.0 ft.

Floodway Fringe - The area of the 100-year Floodplain lying outside of the Floodway. Context is the 1.0-ft. Floodway. See Floodway.

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

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

Functional classification - The classification given to streets (e.g., "local/collector/arterial") by the City's Comprehensive Plan, by adopted County plans, and Oregon Department of Transportation.

Ground cover - A low-growing plant or landscape material that is used to cover bare ground. See also, Chapter 3.2 - Landscaping.

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

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

Highest Adjacent Grade (HAG) - The highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the Elevation Certificate, FEMA Form 81-31, for HAG for more information.

Historic Structure - A structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior,
or;
4. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior, or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

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

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

Impervious surface - Development features which do not allow for water infiltration (e.g., pavement, roofs, etc.). **Incidental and subordinate to** - A use or portion of a development that is secondary to, and less apparent, than the primary use or other portion of the development.

Infill - The development of vacant or underdeveloped lands located in an area that is mainly developed, as opposed to on the outskirts of town.

Junk yard - (1) Any property or establishment on which one or more persons are engaged in breaking up, dismantling, sorting, storing, distributing, buying or selling scrap or waste materials. (2) Any establishment or place of business on which 2 or more inoperable motor vehicles or an equivalent volume of waste or refuse are maintained, stored, bought or sold. Includes wrecking yards, automobile graveyards, garbage dumps, and scrap metal and other recycling processing facilities. (11/07)

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

Land use - The main activity that occurs on a piece of land, or the structure in which the activity occurs (e.g., residential, commercial, mixed use, industrial, open space, recreation, street rights-of-way, vacant, etc.).

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

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

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

Lane, mid-block lane - A narrow, limited use roadway usually used to access a small number of dwelling units. Similar to an alley in design. See Chapter 2.1, Section 140.A.

Lateral Addition - An addition that requires a foundation to be built outside of the foundation footprint of the existing building.

Legislative - A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a comprehensive plan or development regulation). See Chapter 4, Section 1.6.

Letter of Map Change (LOMC) - An official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and Flood Insurance Studies. LOMCs are issued in the following categories:

1. **Letter of Map Amendment (LOMA)** - A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
2. **Letter of Map Revision (LOMR)** - A revision based on technical data showing that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination that a structure of parcel has been elevated by fill above the Base Flood Elevation and is excluded from the special flood hazard area.
3. **Conditional Letter of Map Revision (CLOMR)** - A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does NOT amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

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

Light manufacturing - See Table 2.3.110A.

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

Local Improvement District (LID) - A small public district formed for the purpose of carrying out local improvements (paving of streets, construction of storm sewers, development of a park, etc.). Property owners within the LID are assessed for the cost of the improvements in accordance with ORS 223.387-223.485. See also Chapter 3, Section 4.1.

Lot - A lot is a unit of land that is created by a subdivision of land (ORS 92.010(3)). See also, Chapter 4.3.

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

Lot coverage - The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

Level of service—For transportation, a standard of a street's carrying capacity, based upon prevailing roadway, traffic and traffic control conditions during a given time period. The Level of Service range, from LOS A (free flow) to LOS F (forced flow) describes operational conditions within a traffic stream. Level of Service is normally measured for the peak traffic hour, at intersections or on street segments (between intersections).

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

Lot coverage—The area of a lot covered by a building or buildings expressed as a percentage of the total lot area.

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

Lowest Floor - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a structure's lowest floor provided that the enclosed area is built and maintained in accordance with the applicable design requirements of the state Building Code.

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

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

Manufactured home - A transportable single-family dwelling conforming to the Manufactured Housing Construction and Safety Standards Code of the US Dept. of Housing and Urban Development, but is not regulated by the Oregon State Structural Specialty Code and Fire Life Safety Regulations, and is intended for permanent occupancy.

Manufactured home park - A group of manufactured homes on a single lot, as defined by ORS 446.

Mean Sea Level - For purposes of the National Flood Insurance Program, the North American Vertical Datum of 1988 or other datum, to which Base Flood Elevations shown on a community's FIRM are referenced.

Mitigation - Compensation for negative impacts which result from other actions (e.g., improvements to a street may be required to mitigate for transportation impacts resulting from development.)

Mixed-use building/development/horizontal/vertical - See Chapter 2.2, Section 180.A.

Multi-family housing - More than two dwelling units in a single building, as described in Chapter 2.1, Section 200E.

Multi-use pathway - A non-automobile transportation and recreation route (See Chapter 3.1, Section 3.A.4.)

Natural Elevation - The elevation of natural grade, or the grade in existence before September 29, 2010.

~~**Multi-family housing** - More than two dwelling units in a single building, as described in Chapter 2.1, Section 200E.~~

~~**Multi-use pathway** - A non-automobile transportation and recreation route (See Chapter 3.1, Section 3.A.4.)~~

Natural hazard - Natural areas that make development dangerous or difficult, including steep slopes, unstable soils, and areas prone to landslides or flooding.

Neighborhood - A geographic area surrounding distinguishing landmarks or bounded by barriers such as roads. Halsey has two general residential neighborhoods: the east side neighborhood, and the west side neighborhood.

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

New Construction - A structure for which the “start of construction” commenced after September 29, 2010, and includes subsequent substantial improvements to the structure.

Non-conforming use/non-conforming development - A use or development that does not conform to the standards of this code (See Chapter 5.2).

Non-native invasive plants – Refer to Oregon State University Extension Service Bulletins.

Off-street parking - All areas outside of the public right-of-way designed, used, required or intended to be used for the parking of motor vehicles. Off-street parking areas shall conform to the requirements of Chapter 3.3.

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

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

Orientation - Facing toward a particular point of reference (e.g., “A building oriented to the street”).

Outdoor commercial use - A use supporting a commercial activity which provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials or display of merchandise exceeds the total floor area of all buildings on the site. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumber yards and equipment rental businesses. Prohibited uses include junk yards and storage uses where the product is not sold on-site. (11/07)

Outdoor display and sales - A principle commercial use that requires the outdoor display of materials,

parts, inventory or goods including, but not limited to, lumber and builder supply yards, landscape materials, automobile and truck sales, recreational vehicle sales, boat sales, farm implement sales and manufactured housing sales, excluding flea markets and auctions. (11/07) *(continued)*

Outdoor display and sales *(continued)*

1. Outdoor display and sales uses must be maintained in an orderly manner with no trash, junk or debris.
2. Outdoor display and sales uses must effectively screen the side and rear of the display area from adjacent properties that are zoned to allow residential uses.
3. Outdoor display and sales areas must be outside any parking, traffic circulation, right of way or landscaping area that serves the site.

Outdoor Storage - A principle use where goods such as recreational vehicles, boats and other large items, are stored outside of a building. (11/07)

1. Outdoor storage as a principle use must be effectively screened from adjacent properties located outside the area that is appropriately zoned for such use.
2. All outdoor storage areas must maintain adequate emergency access lanes around and through the outdoor storage areas.
3. All outdoor storage use, as a principle use, may include one single family dwelling that is occupied by the owner or operator of the storage use.
4. Outdoor storage uses must be maintained in an orderly manner with no junk, trash, or debris.

Parcel - A parcel is a unit of land that is created by a partitioning of land (ORS 92.010(6)). See also, Chapter 4.3.

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

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

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

Pathway/walkway/access way - See Chapter 3.1, Section 3.A. As defined in this code, a pathway or multi-use pathway may be used to satisfy the requirements for "accessways" in the Transportation Planning Rule. (OAR 660-012-045).

Pedestrian amenity - See Chapter 2.2, Section 170.

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

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

Plat - A map of a partition or subdivision, prepared as specified in ORS 92.080, and recorded with the Linn County Surveyor's Office. All plats shall also conform to Chapter 4.3 - Land Divisions.

Plaza - A public square or extra-wide sidewalk (e.g., as on a street corner) that allows for special events, outdoor seating, sidewalk sales, and similar pedestrian activity. See Chapter 2.2, Section 170.

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

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

Property line: front, rear, interior side, street side - See Figure 2.1.130.

Public facilities - See Chapter 3.4.

Public improvements - Development of public facilities such as streets and utilities. See Chapter 3.4.

Quasi-judicial - Refers to an action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code, and usually involves a public hearing. See Chapter 4.1, Section 5.

Recreational Vehicle - A vehicle that is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towed by a light duty truck, and;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Residence - Same as "dwelling."

Residential caretaker unit - See Chapter 2.3, Section 180.B.

Residential care home/Residential care facility - See Chapter 2.1, Section 200.F.

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

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

Roof pitch - The slope of a roof, usually described as ratio (e.g., 8 inches of rise per 12 inches of horizontal distance = 8:12).

Senior housing - Housing designated and/or managed for persons over the age of 55.

Sensitive lands - Wetlands, significant trees, steep slopes, flood plains and other natural resource areas designated for protection or conservation by the Comprehensive Plan.

Sign - Any fabricated emblem or display, including its structure, consisting of any letter(s), character, design, figure, line, logo, mark, picture, plane, point, poster, stripe, stroke, trademark, reading matter or illuminating device which is constructed, attached, erected, fastened, or manufactured in any manner whatsoever to attract the public in any manner for recognized purpose to any place, subject, person, firm, corporation, public performance, article, machine or merchandise display. (11/07)

Sign, area - The entire area within a single continuous perimeter formed by lines joined at right angles which encloses the extreme limits of a sign, and which in no case passes through or between any adjacent elements of the same. However, this perimeter does not include any structural elements lying outside and below the limits of the sign that do not form an integral part. (11/07)

Sign, flashing - Flashing signs are those that intermittently change on a regular basis. Signs that flash at frequencies greater than once every five (5) seconds shall be prohibited. Strobelights are prohibited. (11/07)

Sign, rotate - Rotating signs are signs that mechanically turn. (11/07)

Special Occupancy Structure -

1. Covered structures whose primary occupancy is public assembly with a capacity greater than 300 persons;
2. Buildings with a capacity greater than 250 individuals for every public, private or parochial school through secondary level or child care centers;
3. Buildings for colleges or adult education schools with a capacity greater than 500 persons;
4. Medical facilities with 50 or more resident, incapacitated patients not included in items "1." through "3.", above;
5. Jails and detention facilities; and
6. All structures and occupancies with a capacity greater than 5,000 persons.

Start of construction - Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or 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 on the property of 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 the alteration affects the external dimensions of a building.

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

~~**Sign, flashing** – Flashing signs are those that intermittently change on a regular basis. Signs that flash at frequencies greater than once every five (5) seconds shall be prohibited. Strobelights are prohibited. (11/07)~~

~~**Sign, rotate** – Rotating signs are signs that mechanically turn. (11/07)~~

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

Street/road - A public or private way for travel by vehicles, bicycles and pedestrians. See also city standards in Chapter 3.4, Section 1.

Street access - See Chapter 3.1, Section 2.

Street connectivity - The network of streets and intersections within a specific geographic area.

Street furniture/furnishings - Benches, lighting, bicycle racks, drinking fountains, mail boxes, trash cans, kiosks, and similar pedestrian amenities located within a street right-of-way. See also, Chapter 2.2, Section 170.

Street, Main - The street that the primary (front) entrance to a building is oriented. (11/07)

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

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

Structure - A walled and roofed building, a manufactured dwelling, a modular or temporary building, or a gas or liquid storage tank that is principally above ground.

Subdivision - A division of land into four or more lots within a single calendar year. (ORS 92.010(13)).

Substantial Damage - 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 its market value before the damage occurred.

Substantial Improvement - Reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The market value of the structure should be:

1. The appraised real market value of the structure prior to the start of the initial repair or improvement, or
2. In the case of damage, the appraised real market value of the structure prior to the damage occurring. The term does not include either:

Chapter 3.6 — Floodplain Standards

Sections:

3.6.0 Purpose, Findings of Fact, and Applicability

3.6.1 General Provisions

3.6.2 Administration

3.6.3 Provisions for Flood Hazard Reduction

3.6.0 Purpose, Findings of Fact, and Applicability

A. Purpose. The purposes of this chapter are to:

1. Protect human life, health and property;
2. Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;
4. Minimize expenditure of public money for costly flood control projects;
5. Minimize the need for rescue and emergency services associated with flooding and generally undertaken at the expense of the general public;
6. Minimize unnecessary disruption of commerce, access and public service during times of flood;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard;
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
9. Manage the alteration of flood hazard areas, and stream channels to minimize the impact of development on the natural and beneficial functions of the floodplain, and;
10. Implement the City's Comprehensive Plan policies regarding development within the floodplain.

(Continued)

3.6.0 Purpose, Findings of Fact, and Applicability (continued)

B. Findings of Fact. The following findings substantiate implementation of standards presented in this Chapter.

- 1. The flood hazard areas of the City of Halsey are subject to periodic inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.**
- 2. These flood losses are caused by structures in flood hazard areas, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.**
- 3. The City of Halsey has the primary responsibility for planning, adoption and enforcement of land use regulations to accomplish proper floodplain management.**

C. Applicability. This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of the City of Halsey, as identified on the zoning map through the 100-year Floodplain Overlay and through Section 3.6.1.A. Nothing in this Ordinance is intended to allow uses or structures that are otherwise prohibited by the zoning ordinance or Building Codes.

3.6.1 General Provisions

A. Basis for Areas of Special Flood Hazard. The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for Linn County, Oregon and Incorporated Areas, dated September 29, 2010, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this ordinance. The FIS and the FIRM are on file at the office of the City Administrator at 773 West First Street, Halsey, Oregon 97348.

B. Methods of Reducing Flood Losses. In order to accomplish its purpose, this ordinance includes methods and provisions to:

- 1. Require that development that is vulnerable to floods, including structures and facilities necessary for the general health, safety and welfare of citizens, be protected against flood damage at the time of initial construction;**
- 2. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;**
- 3. Control filling, grading, dredging and other development which may increase flood damage or erosion;**

(Continued)

3.6.1 General Provisions (continued)

4. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or that may increase flood hazards to other lands;
5. Preserve and restore natural floodplains, stream channels, and natural protective barriers which carry and store flood waters, and;
6. Coordinate with and supplement provisions of Oregon Building Codes.

C. Coordination with Building Codes. Pursuant to the requirement established in ORS 455 that the City of Halsey administers and enforces the State Building Codes, the City Council of the City of Halsey does hereby acknowledge that the State Building Codes contain certain provisions that apply to the design and construction of buildings and structures located in Areas of Special Flood Hazard. Therefore, this ordinance is intended to be administered and enforced in conjunction with the state Building Codes.

D. Establishment of a Floodplain Development Permit. A Floodplain Development Permit shall be obtained prior to initiating Development activities in any Areas of Special Flood Hazard established by Section 3.6.0.C.

Any Floodplain Development Permit that requires an engineering certification or engineering analysis, calculations or modeling to process shall be considered a land use action requiring an administrative land use hearing, in accordance with Section 4.1.2.

1. Floodplain Development Permit Exemptions. The following types of Development are exempt from the Floodplain Development Permit process:

a. Construction of Fences and Walls within the Floodway Fringe. New and reconstructed fences are permitted within the Floodway Fringe and exempt from receiving Floodplain Development Permit approval, provided:

(1) An opening or a flap is provided in the areas at or below the Base Flood elevation at least once every two fence panels or 16 ft., whichever is less. The minimum dimensions of the opening or flap shall not be less than 12 in. x 12 or 8 in. x 18 in. In areas of the Floodway Fringe where Base Flood Elevation data is not available, the opening or flap shall be placed within one ft. of the existing grade along the fence alignment;

(2) Openings do not include any screening of any size or type; and

(3) When used, flaps are capable of self release and open to the full dimensions when under pressure of no greater than 20 pounds per square foot.

b. Maintenance, Repair, and/or Replacement of Existing Public Infrastructure. Existing public infrastructure may be maintained, repaired, and/or replaced without approval of a Floodplain Development Permit provided:

(Continued)

3.6.1 General Provisions (continued)

(1) the activities are limited to in-kind maintenance, repair, and/or replacement; and

(2) no increase in the Base Flood Elevation results from the specified activity.

c. Signs, markers, aids, etc. placed by a public agency to serve the public.

d. Customary dredging associated with routine channel maintenance, provided it is consistent with State and Federal laws and permits.

e. Accessory residential or noncommercial structures less than 200 square feet in area.

E. Interpretation. In the interpretation and application of this ordinance all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body, and;

3. Deemed neither to limit nor repeal any other powers granted under state statutes, including state Building Codes.

F. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Halsey or by any officer or employee thereof for flood damages that result from reliance on this ordinance or an administrative decision lawfully made hereunder.

3.6.2 Administration

A. Designation of a Floodplain Administrator. The City Engineer is hereby appointed as the Floodplain Administrator who is responsible for administering and implementing the provisions of this ordinance.

B. Duties and Responsibilities of the Administrator. Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review all development permit applications to determine whether proposed new development or Substantial Improvement will be located in Areas of Special Flood Hazard;

(Continued)

3.6.2 Administration (continued)

2. Review applications for modifications of any existing development in Areas of Special Flood Hazard for compliance with the requirements of this ordinance;
3. Interpret flood hazard area boundaries, provide available flood hazard information, and provide Base Flood Elevations, where they exist;
4. Review proposed development to assure that necessary permits have been received from governmental agencies from which approval is required by federal or state law, including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334; the Endangered Species Act of 1973, 16 U.S.C. 1531-1544; and State of Oregon Removal-Fill permits. Copies of such permits shall be maintained on file;
5. Review all development permit applications to determine if the proposed development is located in the floodway, and if so, ensure that the encroachment standards of Section 3.6.3.B are met;
6. When Base Flood Elevation data or floodway data are not available, then the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation and floodway data available from a federal, state or other authoritative source in order to administer the provisions of this ordinance;
7. When Base Flood Elevations or other engineering data are not available from an authoritative source, the Floodplain Administrator shall take into account the flood hazards, to the extent they are known, to determine whether a proposed building site or subdivision will be reasonably safe from flooding. *Note: Oregon Residential Specialty Code R324.1.3 authorizes the Building Official to require the applicant to determine a Base Flood Elevation where none exists;*
8. Where interpretation is needed of the exact location of boundaries of the Areas of Special Flood Hazard including the regulatory floodway (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation, as provided in Section 4.1.4.F.
9. Issue floodplain development permits when the provisions of this ordinance have been met, or deny the same in the event of noncompliance;
10. Coordinate with the Building Official to assure that applications for building permits comply with the requirements of this ordinance;
11. Obtain, verify and record the actual elevation in relation to the vertical datum used on the effective FIRM, or highest adjacent grade where no Base Flood Elevation is available, of the lowest floor level, including basement, of all new construction or substantially improved buildings and structures.

(Continued)

3.6.2 Administration (continued)

12. Obtain, verify and record the actual elevation, in relation to the Vertical Datum used on the effective FIRM, or highest adjacent grade where no Base Flood Elevation is available, to which any new or substantially improved buildings or structures have been flood-proofed. When flood-proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect;
13. Ensure that all records pertaining to the provisions of this Chapter are permanently maintained in the office of the city/county clerk or his/her designee and shall be open for public inspection.
14. Maintain a permanent record of all variances and report any variances to the Federal Emergency Management Agency upon request.
15. Make inspections in Areas of Special Flood Hazard to determine whether development has been undertaken without issuance of a Floodplain Development Permit, ensure that development is undertaken in accordance with a the Floodplain Development Permit and this ordinance, and verify that existing buildings and structures maintain compliance with this ordinance;
16. Coordinate with the Building Official to inspect areas where buildings and structures in flood hazard areas have been damaged, regardless of the cause of damage, and notify owners that permits may be required prior to repair, rehabilitation, demolition, relocation, or reconstruction of the building or structure; and
17. Make Substantial Improvement or Substantial Damage determinations based on criteria set forth in Section 4.2.5.B.6.j.

3.6.3 Provisions for Flood Hazard Reduction

A. Site Improvements and Subdivisions.

1. All proposed new development, Substantial Improvement, partitions, and subdivisions shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe from flooding.
2. Building lots shall have adequate buildable area outside of floodways.
3. New development proposals (including Substantial Development), partition development plans, and subdivision development plans shall include the mapped Flood Hazard Zones from the effective FIRM, if available.
4. Base Flood Elevation data shall be generated and/or provided for Substantial Improvement, partition proposals, subdivision proposals, and all other proposed development, including manufactured home parks and subdivisions, consistent with Section 4.2.5.B.6.f.

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

5. New development, Substantial Improvement, partitions, and subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
6. On-site waste disposal systems shall be located and constructed to avoid functional impairment or contamination from them, during flooding.
7. Partitions and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards. In AO and AH Flood Hazard Zones, drainage paths shall be provided to guide floodwater around and away from all proposed and existing structures.

B. Development in Floodways.

1. Except as provided in Section 3.6.3.B.4, below, encroachments, including fill, new construction, substantial improvements, and other development are prohibited within the 1.0-ft. Floodway unless certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that such encroachment shall not result in any increase in flood levels during the occurrence of the Base Flood discharge.
2. Any fill allowed to be placed in the Floodway shall be designed to be stable under conditions of flooding, including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and flood-related erosion and scour.
3. Applicants shall obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before an encroachment, including fill, new construction, Substantial Improvement, and other development, into the Floodway is permitted that will cause any increase in the Base Flood Elevation.
4. Projects for stream habitat restoration may be permitted in the Floodway provided:
 - a. The project qualifies for a Department of the Army, Portland District Regional General Permit for Stream Habitat Restoration (NWP-2007-1023);
 - b. A qualified professional (a Registered Professional Engineer; or staff of NRCS; the county; or fisheries, natural resources, or water resources agencies) has provided a feasibility analysis and certification that the project was designed to keep any rise in Base Flood levels as close to zero as practically possible given the goals of the project;
 - c. No structures would be impacted by a potential rise in flood elevation; and,
 - d. An agreement to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged is included as part of the Floodplain Development Permit approval.

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

5. Fences shall not cause any rise in Base Flood Elevation and are subject to the no-rise and CLOMR provisions of Sections 3.6.3.B.1 and 3.6.3.B.3, above.

C. Flood Hazard Zones with Base Flood Elevations but No Floodway.

1. In areas within Flood Hazard Zones A1-30 and AE on the community's FIRM with a Base Flood Elevation, or where a Base Flood Elevation is developed according to Section 4.2.5.B.6.f, but where no regulatory floodway has been designated, new construction, Substantial Improvements, or other development (including fill) shall be prohibited, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the Base Flood more than one foot at any point within the community.
2. Applicants of proposed projects that increase the Base Flood Elevation more than one foot should obtain from FEMA a Conditional Letter of Map Revision (CLOMR) before the project may be permitted.

D. Flood Hazard Zones without Base Flood Elevations. The following standards apply in riverine Areas of Special Flood Hazard where no Base Flood Elevation data have been provided (Approximate A Flood Hazard Zones):

1. When Base Flood Elevation or Floodway data have not been identified by FEMA in a Flood Insurance Study and /or Flood Insurance Rate Maps, the Floodplain Administrator shall obtain, review, and reasonably utilize scientific or historic Base Flood Elevation and Floodway data available from a federal, state, or other source, in order to administer this ordinance.
2. Where the Floodplain Administrator has obtained Base Flood Elevation data, Section 3.6.3.C and Sections 3.6.3.E through 3.6.3.M shall apply.

E. Building Design and Construction. Buildings and structures, including manufactured dwellings, within the scope of the Building Codes, including repair of Substantial Damage and Substantial Improvement of such existing buildings and structures, shall be designed and constructed in accordance with the flood-resistant construction provisions of these codes, including but not limited to Section R324 of the Residential Specialty Code and Section 1612 of the Structural Specialty Code.

F. Manufactured Dwellings.

1. New and replacement manufactured dwellings are within the scope of the Building Codes; and,

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

2. All new manufactured dwellings and replacement manufactured dwellings shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

G. Below Grade Crawlspaces. Below-grade crawlspace foundations are allowed, unless no Base Flood Elevations are available, provided that they conform to guidelines in FEMA TB 11-01, *Crawlspace Construction for Structures Located in Special Flood Hazard Areas*, applicable Building Codes, and the following standards:

1. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Hydrostatic loads and the effects of buoyancy can usually be addressed through the required openings stated in "2.", below. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than five (5) cubic feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer. Other types of foundations are recommended for these areas.
2. The crawlspace is an enclosed area below the Base Flood Elevation, and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than one (1) foot above the lowest adjacent exterior grade.
3. Portions of the building below the Base Flood Elevation must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, or other materials that extend below the Base Flood Elevation. The recommended construction practice is to elevate the bottom of joists and all insulation above Base Flood Elevation.
4. Any building utility systems within the crawlspace must be elevated above the Base Flood Elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the Base Flood Elevation or sealed from floodwaters.
5. The interior grade of a crawlspace below the Base Flood Elevation must not be more than two (2) feet below the lowest adjacent exterior grade.
6. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed four (4) feet at any point. The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas.

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

7. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles or gravel or crushed stone drainage by gravity or mechanical means.
 8. The velocity of floodwaters at the site should not exceed five (5) cubic feet per second for any crawlspace. For velocities in excess of five (5) cubic feet per second, other foundation types should be used.
- H. Accessory Structures. Relief from the elevation or dry flood-proofing standards may be granted for an accessory structure containing no more than 100 square feet. Such a structure must meet the following standards:
1. It shall not be subject to Building Codes;
 2. The accessory structure shall be located on the same property as a permitted primary use;
 3. It shall not be used for human habitation and may be used solely for parking of vehicles or storage of items having low damage potential when submerged;
 4. Toxic material, oil or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality shall not be stored below the Base Flood Elevation, unless confined in a tank installed in compliance with this ordinance;
 5. It shall be constructed of flood resistant materials;
 6. It shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
 7. It shall be firmly anchored to prevent flotation;
 8. Services such as electrical and heating equipment shall be elevated or flood-proofed to or above the Base Flood Elevation; and
 9. It shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for complying with this requirement must be certified by a licensed professional engineer or architect; or
 - a. provide a minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

- b. the bottom of all openings shall be no higher than one foot above the higher of the exterior or interior grade or floor immediately below the opening; and
 - c. openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions without manual intervention.
- I. Recreational Vehicles. In all Areas of Special Flood Hazard, Recreational Vehicles that are an allowed use or structure under the zoning ordinance must either:
- 1. Be placed on the site for fewer than 180 consecutive days;
 - 2. Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached structures or addition, or
 - 3. Meet all the requirements of Section 3.6.3.F, including the anchoring and elevation requirements.
- J. Critical Facilities. Construction of new Critical Facilities shall be, to the extent possible, located outside the limits of Areas of Special Flood Hazard. Construction of new Critical Facilities shall be permissible within Areas of Special Flood Hazard if no feasible alternative site is available. Critical Facilities constructed within Areas of Special Flood Hazard shall have the lowest floor elevated three feet above Base Flood Elevation (or depth number in AO Flood Hazard Zones) or to the height of the 0.2 percent flood (i.e., 500-year), whichever is higher. Access to and from the Critical Facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances or priority organic pollutants as defined by the Oregon Department of Environmental Quality will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the Base Flood Elevation shall be provided to all Critical Facilities to the extent possible. Any grade transition necessary to achieve the access protection requirement shall be achieved outside of Areas of Special Flood Hazard. The Floodplain Administrator shall make the determination as to whether or not a Critical Facility's access and siting have achieved this provision's standard of "to the maximum extent possible."
- K. Tanks. In all Areas of Special Flood Hazard, the following provisions apply to storage tanks that are an allowed use or structure under the zoning ordinance.
- 1. Underground tanks in Areas of Special Flood Hazard shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood;

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

2. Above-ground tanks in Areas of Special Flood Hazard shall be:

- a. Elevated to or above the Base Flood Elevation (or depth number in AO Flood Hazard Zones) and attached to a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood; or be
- b. Anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy assuming the tank is empty, during conditions of the design flood.

3. Tank inlets, fill openings, outlets and vents shall be:

- a. A minimum of 2 feet above the Base Flood Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tank during conditions of the design flood; and
- b. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

L. On-site Sewage Systems. In all Areas of Special Flood Hazard, the following provisions apply to on-site sewage systems that are an allowed use or structure under the zoning ordinance.

- 1. Soil absorption systems shall be located outside of Areas of Special Flood Hazard. Where suitable soil absorption sites outside of the Areas of Special Flood Hazard are not available, the soil absorption site is permitted to be located within the Areas of Special Flood Hazard provided it is located to minimize the effects of inundation under conditions of the Base Flood.
- 2. Mound systems in Areas of Special Flood Hazard are prohibited.

M. Fences and Walls. New fencing and walls shall be designed to collapse under conditions of the Base Flood or to allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass freely. The design standards in Table 3.6.1 shall apply to all fencing and walls erected within the Areas of Special Flood Hazard identified in Section 3.6.1.A. For those types of fencing and walls requiring adequate openings between the base and Base Flood Elevation, such openings shall be provided at least once every three fence panels or 24 feet, whichever is less. Fences less than 24 feet in length shall have at least one flap or opening in the areas at or below the Base Flood Elevation. The minimum dimensions of the flap or opening shall not be less than 12"x12" or 8"x18". Openings shall not include any screening of any type or size. If flaps are used, they may be secured to allow closure during normal use, but must be capable of self release and opening to full dimensions when under pressure of no greater than 20 pounds per sq. ft.

(Continued)

Table 3.6.1 Fence and Wall Design Standards

<u>Fence or Wall Type</u>	<u>Floodway Fringe (Riverine)</u>	<u>Floodway (Riverine)</u>	<u>Shallow/ Sheetflow/ Ponding Zones (AO and AH)</u>
<u>A</u>	<u>Yes</u>		
<u>B</u>	<u>Yes</u>	<u>Yes, with limited cross channel fencing</u>	<u>Yes</u>
<u>C</u>	<u>Design Review Required</u>		
<u>D</u>	<u>Yes, if open at base to BFE</u>	<u>No¹</u>	<u>Yes, if open at base to BFE</u>
<u>E</u>	<u>Yes, if open at base to BFE</u>	<u>No¹</u>	<u>Yes, if open at base to BFE</u>
<u>F</u>	<u>Yes, if adequate openings at base to BFE</u>	<u>No¹</u>	<u>Yes, if adequate openings at base to BFE</u>
<u>G</u>	<u>Yes, if adequate openings at base to BFE</u>	<u>No¹</u>	<u>Yes, if adequate openings at base to BFE</u>
<u>H</u>	<u>Yes, if adequate openings at base to BFE</u>	<u>No¹</u>	<u>Yes, if adequate openings at base to BFE</u>
<u>Fence/Wall Types:</u> <u>A</u> Open barb or barbless wire. Open means no more than one horizontal strand per foot of height <u>B</u> Open pipe or rail fencing (e.g. corrals). Open means rails occupy less than 10% of the fence area and posts are spaced no closer than 8 feet apart. <u>C</u> Collapsible fencing; fence must be designed to collapse at design flood velocities <u>D</u> Other wire, pipe, or rail fencing (e.g. field fence, chicken wire, etc.) which does not meet open requirements above. <u>E</u> Chain link fencing <u>F</u> Continuous wood fencing <u>G</u> Masonry walls <u>H</u> Retaining walls, bulkheads			
<u>Footnotes:</u> ¹ Unless shown, using FEMA-approved engineering/modeling standards, to cause no-rise in BFE.			

3.6.3 Provisions for Flood Hazard Reduction (continued)

N. Other Development in Non-coastal High Hazard Areas. All development in non-coastal high hazard areas (A Flood Hazard Zones) for which specific provisions are not specified in this ordinance or Building Codes, shall:

1. Be located and constructed to minimize flood damage;
2. Be designed so as not to impede flow of flood waters under Base Flood conditions;
3. If located in a Floodway, meet the limitations of Section 3.6.3.B, above;
4. Be anchored to prevent flotation or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
5. Be constructed of flood damage-resistant materials;
6. Have electric service and or mechanical equipment elevated above the Base Flood Elevation (or depth number in AO Flood Hazard Zones), except for minimum electric service required to address life safety and electric code requirements.

O. Temporary Storage, Structures, and Bridges. A Floodplain Development Permit is required for construction or placement of temporary structures, temporary storage associated with non-residential uses, and temporary bridges located in Areas of Special Flood Hazard:

1. Temporary structures, not including bridges, shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant extensions for demonstrated cause; such cause shall reaffirm the temporary nature of the structure. Temporary structures shall be anchored to prevent flotation, collapse, or lateral movement.
2. Temporary storage of 50 cubic yards or more shall be limited as to time of service, but shall not be permitted for more than 90 days. The Floodplain Administrator is authorized to grant extensions for demonstrated cause; such cause shall reaffirm the temporary nature of the storage. Stored material shall be anchored or contained to prevent flotation or release outside the assigned storage area. Hazardous materials priority persistent pollutants identified by the Oregon Department of Environmental Quality shall not be stored in the Floodway.
3. Temporary encroachments in the Floodway (including bridges) require a Floodplain Development Permit subject to conditions "a." through "g.", below. No CLOMR/LOMR is required.
 - a. The Floodplain Development Permit shall stipulate the days and dates the structure or other development will be on site based on the existing and expected hydrologic conditions within the Floodway. If a longer period is required, a new permit shall be issued.

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

- b. A flood warning plan for the project shall be in place to allow equipment to be evacuated from the site and placed outside the Floodplain.
 - c. Placement of equipment in the Floodway shall be restricted to only that equipment which is absolutely necessary for the purposes of the project. All other accessory equipment and temporary structures (i.e. construction trailers) shall be restricted from the Floodway. Structures shall be placed on site so that flood damages are minimized.
 - d. Temporary changes to the Floodplain under a one (1) percent chance flood event (100-year Flood) shall be identified.
 - e. All insurable structures affected by any increase in Base Flood Elevation during a one (1) percent chance flood event (100-year Flood) shall be identified.
 - f. The applicant shall be notified that they may be liable for any flood damages resulting from the temporary structure.
- P. Watercourse Alterations. A water course is considered altered when any change occurs within its banks, including installation of new culverts and bridges, or size modifications to existing culverts and bridges (as shown on effective FIRM).
- 1. The bankfull flood carrying capacity of the altered or relocated portion of the water course shall not be diminished. Prior to issuance of a Floodplain Development Permit, the applicant must submit a description of the extent to which any water course will be altered or relocated as a result of the proposed development and submit certification by a registered professional engineer that the bankfull flood carrying capacity of the water course will not be diminished.
 - 2. Adjacent communities, the U.S. Army Corps of Engineers, Oregon Department of State Lands, and Oregon Department of Land Conservation and Development must be notified prior to any alteration or relocation of a water course. Evidence of notification must be submitted to the Floodplain Administrator and to the Federal Emergency Management Agency.
 - 3. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of the water course so that the flood carrying capacity will not be diminished.
 - 4. The applicant shall meet the requirements to submit technical data in Sections 4.2.5.B.6.h when an alteration of a watercourse, including the placement of culverts, results in the relocation or elimination of Areas of Special Flood Hazard.
- Q. Non-conversion of Enclosed Areas Below the Lowest Floor. To ensure that the areas below the Base Flood Elevation continue to be used solely for parking vehicles, limited storage, or access to the building and not be finished for use as human habitation without first becoming fully compliant with the floodplain management ordinance in effect at the time of conversion, the Floodplain Administrator shall:

(Continued)

3.6.3 Provisions for Flood Hazard Reduction (continued)

1. Determine which applicants for new construction and/or substantial improvements have fully enclosed areas below the lowest floor that are five (5) feet or higher;
2. Enter into a "NON-CONVERSION AGREEMENT FOR CONSTRUCTION WITHIN FLOOD HAZARD AREAS" or equivalent with the City of Halsey. The agreement shall be recorded with the Linn County as a deed restriction. The non-conversion agreement shall be reviewed and approved by the Floodplain Administrator; and
3. Have the authority to inspect any area of a structure below the Base Flood Elevation to ensure compliance upon prior notice of at least 72 hours.

Chapter 4.1 Types of Applications and Review Procedures

Sections:

- 4.1.1 Purpose
- 4.1.2 Description of Permit Procedures
- 4.1.3 Type I Procedure
- 4.1.4 Type II Procedure
- 4.1.5 Type III Procedure
- 4.1.6 Type IV Procedure
- 4.1.7 General Provisions
- 4.1.8 Special Procedures

4.1.1 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.

4.1.2 Description of Permit/Decision-making Procedures.

All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this Chapter. General procedures for all permits are contained in Section 4.1.7. Specific procedures for certain types of permits are contained in Section 4.1.2 through 4.1.6. The procedure "type" assigned to each permit governs the decision-making process for that permit. There are four types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections A-D below. In addition, Table 4.1.2 lists all of the City's land use and development applications and their required permit procedure(s).

- A. Type I Procedure (Ministerial). Type I decisions are made by City staff, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria (such as setbacks), and applying city standards and criteria requires no use of discretion.
- B. Type II Procedure (Administrative). Type II decisions are made by the Planning Commission with public notice and a public meeting, but no hearing. The appeal of a Type II decision is heard by the City Council.
- C. Type III Procedure (Quasi-Judicial). Type III decisions are made by the Planning Commission and require a public hearing; appeals are reviewed by the City Council. Type III decisions generally use discretionary approval criteria.
- D. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments which apply to entire districts). Type IV matters are brought before the Planning Commission for recommendations to the City Council, who will make the final decision.

Table 4.1.2
Summary of Development Decisions/Permit by
Type of Decision-making Procedure*

Access Permit (public street)	Type I	Chapters 3.1, 4.2, 4.3
Annexation	Type III/IV	Comprehensive Plan and city/county intergovernmental agreement
Building Permit	N/A	Building Code
Code Interpretation	Type II	Chapter 4.7
Code Amendment	Type IV	Chapter 4.6
Comprehensive Plan Amendment	Type IV	Comprehensive Plan
Conditional Use Permit	Type III	Chapter 4.4
<u>Floodplain Development Permit</u>	<u>Type II</u>	<u>Chapters 3.6 and 4.2</u>
Historic Alteration/Demolition	Type III	Chapter 4.8
Home Occupation Permit	Type I	Chapter 4.8
Modification to Approval	Type I/II/III	Chapter 4.5
Zone Change		
Quasi-Judicial (no plan amendment)	Type III	Chapter 4.6
Legislative (plan amendment)	Type IV	Chapter 4.6
Lot Line Adjustment	Type I	Chapter 4.3
Non-Conforming Use	Type I	Chapter 5.2
Partition	Type II	Chapter 4.3
Sign Permit	Type I	Chapter 3.5
Development Review	Type I	Chapter 4.2, Building Code
Site Design Review		
Type II	Type II	Chapter 4.2
Type III	Type III	Chapter 4.2
Subdivision	Type II/III	Chapter 4.3
Temporary Use Permit	Type II/III	Chapter 4.8
Variance		
Class A	Type I	Chapter 5.1
Class B	Type II	Chapter 5.1
Class C	Type III	Chapter 5.1

*Note: The Chapters referenced above in the right-hand column describe the types of land uses and development activity that require permits under each type of decision-making procedure.

4.1.3 Type I Procedure (Ministerial)

A. Application Requirements.

1. Application Forms. Type I applications shall be made on forms provided by the City.
2. Application Requirements. Type I 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 Planner's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Planner shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at city hall.

C. Final Decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The decision is the final decision of the City. It cannot be appealed to City officials.

D. Effective Date. The decision is effective the day after it is final.

4.1.4 Type II Procedure (Administrative)

A. Application requirements.

1. Application Forms. Type II applications shall be made on forms provided by the City.
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Be filed with 2 copies 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;
 - c. Be accompanied by the required fee;
 - d. Include a statement addressing the effect of the development on public facilities and services. The statement shall address, at a minimum, the transportation system, including pedestrian and bicycle access, the drainage system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the statement 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. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development. Floodplain Development Permit applications shall address the items noted above, as applicable, as well as the development standards in Chapter 3.6 and the approval criteria in Section 4.2.6.

(Continued)

4.1.4 Type II Procedure (Administrative) (continued)

A. Notice of Application for Type II Administrative Decision.

1. Before making a Type II Administrative Decision, City staff shall mail notice to:
 - a. All owners of record of real property within 200 feet of the subject site;
 - b. Any person who submits a written request to receive a notice; and
 - c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.
2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process;
3. Notice of a pending Type II Administrative Decision shall:
 - a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
 - b. List the relevant approval criteria by name and number of code sections;
 - c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
 - d. Include the name and telephone number of a contact person regarding the Administrative Decision;
 - e. Identify the specific permits or approvals requested;
 - f. Describe the street address or other easily understandable reference to the location of the site;
 - g. State that 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 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 planning commission shall hold a meeting to discuss the application and issue a Type II Administrative Decision. 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, lienholder, vendor, or seller: The Halsey Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

(Continued)

4.1.4 Type II Procedure (Administrative) (continued)

C. Administrative Decision Requirements. The Planning Commission shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Commission shall approve, approve with conditions, or deny the requested permit or action.

D. Notice of Decision.

1. Within five days after the Planning Commission signs the decision, a Notice of Decision shall be posted on the property and sent by mail to:
 - a. Any person who submits a written request to receive notice , or provides comments during the application review period;
 - b. The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
 - c. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - d. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies which were notified or provided comments during the application review period.
2. City staff shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and 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 or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
 - f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and
 - g. A statement that unless appellant (the person who files the appeal) is the applicant, the hearing on the appeal shall be limited to the specific issues identified in the written comments submitted during the comment period. Additional evidence related to the Notice of Appeal (See subsection F.2.a, below) may be submitted by any person during the appeal hearing, subject to any rules of procedure adopted by the City Council.

(Continued)

4.1.4 Type II Procedure (Administrative) (continued)

E. Final decision and effective date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

F. Appeal. A Type II administrative decision may be appealed to the City Council as follows:

1. Who may appeal. The following people have legal standing to appeal a Type II Decision:
 - a. The applicant;
 - b. Any person who was mailed written notice of the Type II administrative decision;
 - c. Any other person who participated in the proceeding by submitting written comments.
2. Appeal 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;
 - (1) Time for filing. A Notice of Appeal shall be filed with the City within 14 days of the date the Notice of Decision was mailed;
 - (2) Content of notice of appeal. The Notice of Appeal shall contain:
 - (a) An identification of the decision being appealed, including the date of the decision;
 - (b) A statement demonstrating the person filing the appeal has standing to appeal;
 - (c) A statement explaining the specific issues raised on appeal;
 - (d) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
 - (e) Filing fee.
 - (3) The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing, or the statutory maximum, whichever is less.
 - b. Scope of appeal. The appeal of a Type II Administrative Decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under Section 4.1.4.C, unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow such additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II Administrative Appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II Administrative Decision;
 - c. Appeal procedures. Type III notice and hearing procedures shall be used for all Type II Administrative Appeals, as provided in Sections 4.1.5.C – G.

4.1.5 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 4.1.7.C
- B. Application requirements.
1. Application forms. Type III applications shall be made on forms provided by the City;
 3. Content. Type III applications shall:
 - a. Include the information requested on the application form;
 - b. Be filed with copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action;
 - d. Be accompanied by the required fee;
 - e. Include a statement addressing the effect of the development on public facilities and services. The statement shall address, at a minimum, the transportation system, including pedestrian and bicycle access, the drainage system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the statement 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. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

(Continued)

4.1.5 Type III Procedure (Quasi-Judicial) *(continued)*

C. Notice of Hearing.

1. Mailed notice. Notice of a Type III application hearing or Type II appeal hearing shall be given by City staff 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 which is the subject of the application;
 - (2) All property owners of record within 200 feet of the site;
 - (3) Any governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice, or who is otherwise entitled to such notice.
 - (4) Any person who submits a written request to receive notice;
 - (5) For appeals, the appellant and all persons who provided testimony; and
 - (6) 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. City staff 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 posted on the property and mailed to the persons who must receive notice;
 - c. At least 14 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;
 - d. At least 14 days before the hearing, City staff shall post notice of the hearing on the property per Subsection 2 below. The City shall prepare and submit an affidavit of posting of the notice which shall be made part of the administrative record.

(Continued)

4.1.5 Type III Procedure (Quasi-Judicial) (continued)

2. Content of Notice. Notice of appeal of a Type II Administrative decision or a Type III hearing to be mailed, posted and published per Subsection 1 above shall contain the following information:
 - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
 - b. The 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.
 - j. The following notice: "Notice to mortgagee, lienholder, vendor, or seller: The Halsey Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

(Continued)

4.1.5 Type III Procedure (Quasi-Judicial) *(continued)*

D. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall state to those in attendance:
 - a. The applicable approval criteria and standards that apply to the application or appeal;
 - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
 - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.
2. If the hearings body 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 hearings body 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 the record was left open. If such a request is filed, the hearings body shall reopen the record per subsection E of this section;
 - a. When the hearings body re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to Section 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 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.

(Continued)

4.1.5 Type III Procedure (Quasi-Judicial) *(continued)*

4. The record.
 - a. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;
 - b. The hearings body may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
 - c. The review authority shall retain custody of the record until the City issues a final decision.
5. Participants in the appeal of a Type II Administrative decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section 6 below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
 - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 6 below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
 - b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
 - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
 - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
 - e. If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
 - f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

(Continued)

4.1.5 Type III Procedure (Quasi-Judicial) *(continued)*

6. Ex parte communications.
 - a. Members of the hearings body shall not:
 - (1) Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
 - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
 - b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
 - (1) Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
 - (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
 - c. A communication between City staff and the hearings body is not considered an ex parte contact.
7. Presenting and receiving evidence.
 - a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
 - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section D;
 - c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the hearings body may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

(Continued)

4.1.5 Type III Procedure (Quasi-Judicial) *(continued)*

E. The Decision Process.

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or a Type III application shall be based on standards and criteria in the development code. A decision made on an appeal of a Floodplain Development Permit or on a determination made by the Floodplain Plain Administrator shall also be based on applicable criteria contained in Section 5.1.5.C. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The hearings body shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City within ten business days after the close of the deliberation.

F. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within five business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

G. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing.

4.1.6 Type IV Procedure (Legislative)

- A. Pre-Application conference. A pre-application conference is required for all Type IV applications. The requirements and procedures for a pre-application conference are described in Section 4.1.7.C.
- B. Application requirements.
1. Application forms. Type IV applications shall be made on forms provided by the City.
 3. 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. 2 copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
- C. Notice of Hearing.
1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications, except annexations where only a hearing by the City Council is required.
 2. Notification requirements. Notice of public hearings for the request shall be given by City staff in the following manner:
 - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, 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 (i.e., 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) Recognized neighborhood groups or associations affected by the ordinance;
 - (4) Any person who requests notice in writing;
 - (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

(continued)

4.1.6 Type IV Procedure (Legislative) (continued)

- b. At least 14 days before the scheduled Planning Commission public hearing date, and 14 days before the City Council hearing date, notice shall be published in a newspaper of general circulation in the City.
 - c. City staff 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 Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.
 - e. Notifications for annexation shall follow the provisions of this Chapter, except as required for local government boundary commissions (ORS 199).
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 office where additional information about the application can be obtained;
 - b. A description of the location of the proposal reasonably calculated to give notice of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where 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 subsection E below); and
 - f. Each mailed notice required by section D shall contain the following statement: "Notice to mortgagee, lienholder, vendor, or seller: The Halsey 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 U.S. Postal Service;
 - b. Published notice is deemed given on the date it is published.

(Continued)

4.1.6 Type IV Procedure (Legislative) (continued)

D. 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 residence 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 staff report 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.

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4.1.6 Type IV Procedure (*Legislative*) (*continued*)

- E. 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.
- F. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);
 2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
 3. Any applicable intergovernmental agreements; and
 4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.6 shall be required for Comprehensive Plan Amendments, Zone Changes and Development Code Amendments.
- G. 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 10 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City.
 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 City staff before the Council public hearing on the proposal. Staff shall send a copy to each Council member and place a copy in the record;

(Continued)

4.1.6 Type IV Procedure (Legislative) (continued)

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 30 days of its first public hearing on the proposed change, City staff 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, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.
4. The City Council shall:
 - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;
 - b. Consider the recommendation of the Planning Commission; however, it 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.

(Continued)

4.1.6 Type IV Procedure *(continued)*

H. 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.

I. 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 business days after the City Council decision is filed. The City shall also provide notice to all persons as required by other applicable laws.

J. 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.

K. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The 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 City staff 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 which were given as required by this Chapter.

4.1.7 General Provisions

- A. 120-day Rule. The City shall take final action on permit applications which are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete. Any exceptions to this rule shall conform to the provisions of 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, Sunday, or legal holiday, in which event, the period runs until the end of the next business day.
- C. Pre-application Conferences.
1. Participants. When a pre-application conference is required, the applicant shall meet with the City Planner or his/her designee(s);
 2. Information provided. At such conference, the City Planner shall:
 - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
 - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
 - c. Provide available technical data and assistance which will aid the applicant;
 - d. Identify other governmental policies and regulations that relate to the application; and
 - e. Reasonably identify other opportunities or constraints concerning the application.
 3. Disclaimer. Failure of the City Planner or his/her designee to provide any of the information required by this Section 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. Applications.
1. Initiation of applications:
 - a. Applications for approval under this chapter may be initiated by:
 - (1) Order of City Council;

(continued)

4.1.7 General Provisions *(continued)*

- (2) Resolution of the Planning Commission;
 - (3) The City Planner;
 - (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 Planner.
 - 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 zone change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
 - (3) Separate findings and decisions shall be made on each application.
3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:
 - a. Acceptance. When an application is received by the City, the City Planner 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.

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4.1.7 General Provisions *(continued)*

b. Completeness.

- (1) Review and notification. After the application is accepted, the City Planner shall review the application for completeness. If the application is incomplete, the City Planner shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
- (2) When application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the City Planner of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City Planner in (1), above. For the refusal to be valid, the refusal shall be made in writing and received by the City Planner no later than 14 days after the date on the City Planner'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 Planner first accepted it.
- (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 the application was first accepted.

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 Planner at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by the City Planner and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;
- b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, the Planner or hearings body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the Planner or hearings body determines that the new documents or other evidence significantly change the application, the Planner shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the Planner 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;

(continued)

4.1.7 General Provisions *(continued)*

- 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 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 Planner's Duties. The City Planner 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 which comply with Section 4.1.7;
- 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 should also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;

(Continued)

4.1.7 General Provisions *(continued)*

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 Planner shall make the staff report and all case-file materials available at the time that the notice of the decision is issued;
 - b. In the case of an application subject to a hearing (Type III or IV process), the City Planner shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 4.1.4.B (Type II), 4.1.5.C (Type III), or 4.1.6.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.

(Continued)

4.1.7 General Provisions *(continued)*

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the City Planner to correct typographical errors, rectify inadvertent omissions and/or make other minor changes which do not materially alter the decision.
2. The City Planner 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 10 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Section 4.5. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

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

4.1.8 Special Procedures

A. Expedited Land Divisions. An Expedited Land Division ("ELD") shall be defined and may be used as in ORS 197.360 which is expressly adopted and incorporated by reference here.

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. An ELD shall be reviewed in accordance with the procedures in ORS 197.365;
3. Appeal procedure. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375.

Chapter 4.2 Development Review and Site Design Review

Sections:

- 4.2.1 Purpose
- 4.2.2 Applicability
- 4.2.3 Development Review Approval Criteria
- 4.2.4 Site Design Review - Application Review Procedure
- 4.2.5 Site Design Review - Application Submission Requirements
- 4.2.6 Site Design Review Approval Criteria
- 4.2.7 Bonding and Assurances
- 4.2.8 Development in Accordance With Permit Approval

4.2.1 Purpose.

The purpose of this Chapter is to:

- A. Provide rules, regulations and standards for efficient and effective administration of 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. Lessen or avoid congestion in the streets, and secure safety from fire, flood, pollution and other dangers;
- E. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;
- F. Encourage the conservation of energy resources; and
- G. Encourage efficient use of land resources, full utilization of urban services, mixed uses, pedestrian safety, and detailed, human-scaled design.
- H. Manage the alteration of flood hazard areas, and stream channels to minimize the impact of development on the natural and beneficial functions of the floodplain, and;
- I. Implement the City's Comprehensive Plan policies regarding development within the floodplain.

4.2.2 Applicability.

Development Review or Site Design Review shall be required for all new developments and modifications of existing developments, except that regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt. The criteria for each type of review are as follows:

(Continued)

4.2.2 Applicability (continued)

- A. Site Design Review. Site Design Review is a discretionary review conducted by the Planning Commission without a public hearing. (See Chapter 4.1 for review procedure.) It applies to all developments in the City, except those specifically listed under “B” (Development Review) that do not require concurrent approval of a Floodplain Development Permit. Site Design Review ensures compliance with the basic development standards of the land use district (e.g., building setbacks, lot coverage, maximum building height), as well as the more detailed design standards and public improvement requirements in Chapters 2 and 3.
- B. Development Review. Development Review is a non-discretionary or “ministerial” review conducted by the City Planner without a public hearing. (See Chapter 4.1 for review procedure.) It is for less complex developments and land uses that do not require site design review approval. Development Review is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions of Chapter 2. Development Review is required for all of the types of development listed below,
1. Single-family detached dwelling (including manufactured homes);
 2. A single duplex, up to two single family attached (town home) units, or a single triplex which is not being reviewed as part of any other development, and accessory parking on the same lot;
 3. Building additions of not more than 600 square feet, and Minor Modifications to development approvals as defined by Chapter 4.5;
 4. Any proposed development which has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 4.4 - Conditional Use Permits;
 5. Home occupation, subject to review under Chapter 4.8;
 6. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter 4.8;
 7. Accessory structures with less than 800 square feet of floor area, including accessory dwellings;
 8. Other developments, when required by a condition of approval.

4.2.3 Development Review Approval Criteria

Development Review shall be conducted only for the developments listed in Section 4.2.2.B, above, and it shall be conducted as a Type I procedure, as described in Chapter 4.1.3. Prior to issuance of building permits, the following standards shall be met:

1. The proposed land use is permitted by the underlying land use district (Chapter 2);
2. 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 sub-district(s) are met (Chapter 2);
3. All applicable building and fire code standards are met; and
4. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

4.2.4 Site Design Review - Application Review Procedure

Site Design Review shall be conducted as a Type II procedure using the procedures in Chapter 4.1, and using the approval criteria contained in Section 4.2.6~~5~~.

4.2.5 Site Design Review - Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

- A. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Section 4.1.4 (Type II application).
- B. Site Design Review Information. An application for site design review shall include the following information, as deemed applicable by the City Planner:
 1. Site analysis map. At a minimum the site 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. Any changes in topography on the site;
 - c. Identification of slopes greater than 10 percent;
 - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site(s);
 - e. Natural resource features, including wetland areas, streams or habitat areas;
 - f. Site features, including existing structures, pavement, areas having unique views, and drainage ways, canals and ditches;
 - g. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
 - h. The location, size, and species of trees having a caliper (diameter) of 8 inches or greater at four feet above grade;

(Continued)

4.2.5 Application Submission Requirements *(continued)*

- i. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed.
 - j. Name and address of project designer, engineer, surveyor, and/or planner, if applicable.
 - k. Other information, as determined by the City Planner. The City may require studies or exhibits prepared by qualified professionals to address specific site features.
2. Proposed site plan. The site plan may be combined with the site analysis map if it is clear what is existing and what is proposed. The site plan shall contain the following information, if applicable:
 - a. The proposed development site, including boundaries, dimensions, and gross area;
 - b. Features identified on the existing site analysis map ~~that~~ which 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, as applicable;
 - g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
 - 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, as applicable;

(Continued)

4.2.5 Application Submission Requirements *(continued)*

- 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, sizes, and types of signs.
 - o. Other information, determined by the City Planner. The City may require studies or exhibits prepared by qualified professionals to address factors specific to the proposal (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code.
3. Architectural drawings. Architectural drawings shall be submitted showing:
- a. Building elevations (as determined by the City Planner with building height and width dimensions;
 - b. Building materials, color 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 developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to slopes, soil stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Chapter 3.4.

(Continued)

4.2.5 Application Submission Requirements *(continued)*

5. Landscape plan. A landscape plan is required and may be combined with the site plan if the features are still clear. The landscape plan shall show the following:
 - a. The location and height of existing and proposed fences and other buffering or screening materials;
 - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
 - c. The location, 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 Planner. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.2 of this Code.
6. Floodplain Development Permit for sites containing Areas of Special Flood Hazard. An application for a Floodplain Development Permit shall include the information required in "1." through "5.", above, and the following additional information:
 - a. Delineation of Areas of Special Flood Hazard, floodway boundaries, and Base Flood Elevations, or flood depth in AO zones, where available;
 - b. For all proposed structures, elevation in relation to the highest adjacent grade and the Base Flood Elevation, or flood depth in AO zones, of the:
 - (1) lowest enclosed area, including crawlspace or basement floor;
 - (2) top of the proposed garage slab, if any, and;
 - (3) the next highest floor.
 - c. Locations and sizes of all flood openings in any proposed structures;
 - d. Elevation to which any non-residential structure will be flood-proofed;

(Continued)

- ~~6. Sign drawings shall be required in conformance with the City's Sign Code (Chapter 3.5).~~
- ~~7. Copies of all existing and proposed restrictions or covenants.~~
- ~~8. Written narrative addressing compliance with the applicable approval criteria contained in Section 4.2.6.~~

4.2.5 Application Submission Requirements (continued)

- e. Certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of the National Flood Insurance Program and Building Codes;
- f. Determination of Unmapped 100-year Floodplain Information. The following shall be included with applications involving properties for which any of the items listed below have not been mapped consistent with Section 3.6.1.A, and contain or are suspected to contain a portion of the 100-year Floodplain. Provision of this information is the responsibility of the applicant.
 - (1) The boundary of the 100-year Floodway Fringe;
 - (2) The boundary of the 1.0-ft. Floodway;
 - (3) A determination of the corresponding Area(s) of Special Flood Hazard (e.g., 'A1-30', 'AE', 'AH', approximate 'A', and 'AO'), as applicable; and
 - (4) The Base Flood Elevation for zones 'A1-30', 'AE', 'AH', and approximate 'A', or flood depth for zone 'AO', as applicable.
- g. All necessary permits from those governmental agencies from which approval is required by federal or state law, including, but not limited to, Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334, 16 U.S.C. 1531-1544, and State of Oregon Removal-Fill permits, as amended, shall be obtained, or obtaining such permits shall be a Condition of Approval to be satisfied prior to issuance of any construction permit.
- h. Provisions for New Technical Data When CLOMR/LOMR. Exceptional circumstances directly related to the construction of public infrastructure may necessitate an increase in the Base Flood Elevation within the 1.0-ft. Floodway and/or Floodway Fringe. The Floodplain Administrator shall be responsible for determining whether exceptional circumstances exist. If such exceptional circumstances are found to exist, materials required by Section 4.2.5.B.6 as part of a Floodplain Development Permit application shall include the following:

(Continued)

4.2.5 Application Submission Requirements (continued)

- (1) It is the responsibility of the applicant to have technical data prepared in a format required for a Conditional Letter of Map Revision (CLOMR) or Letter of Map Revision (LOMR) and to submit such data to FEMA on the appropriate application forms. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- (2) Applicants shall be responsible for all costs associated with obtaining a CLOMR or LOMR from FEMA. The City of Halsey shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application.
- (3) Applicants shall obtain FEMA approval for the CLOMR or LOMR and include the written documentation of the approval to the Floodplain Administrator as part of the application materials in Section 4.2.5.B.6.
- (4) Within six months of project completion, an applicant who obtains an approved CLOMR from FEMA, or whose development modifies Floodplain boundaries or Base Flood Elevations shall obtain from FEMA a LOMR reflecting the as-built changes to the FIRM.

i. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development;

j. Substantial Damage and Substantial Improvement Determination. For Floodplain Development Permit applications submitted to improve existing buildings and structures, including additions, repairs, renovations, and alterations, the Floodplain Administrator, shall:

(1) Require the applicant to obtain a professional appraisal of the market value of the building or structure before the proposed work is performed; when repair of damage is proposed, the market value of the building or structure shall be the market value before the damage occurred.

(2) Compare the cost of improvement, the cost to repair the damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.

(I) Except as indicated in subsections (II) through (IV), below, all costs to repair substantial damage, including emergency repairs, including the costs of complying with any county, state, or federal regulation other must be included.

(Continued)

4.2.5 Application Submission Requirements (continued)

(II) The costs associated with the correction of pre-existing violations of state or local health, sanitary, or safety code specifications that were identified by the building official, the director of environmental health, or any other local code enforcement official prior to the improvement or repair and that are the minimum necessary to ensure safe living conditions shall not be included.

(III) Costs associated with the following items are not included:

(i) The preparation and approval of all required plans, calculations, certifications, and specifications;

(ii) The performance of surveys or other geotechnical or engineering studies and resulting reports;

(iii) Permit and review fees, and;

(iv) The construction, demolition, repair, or modification of outdoor improvements, including landscaping, fences, swimming pools, detached garages and sheds, etc.;

(IV) Proposed alterations of a designated historic building or structure are not to be considered Substantial Improvement unless the alteration causes a loss of said designation.

(3) The Floodplain Administrator shall make the final determination of whether the proposed improvement and/or repair constitutes Substantial Improvement or Substantial Damage.

(4) The Floodplain Administrator shall notify the applicant of the results of the determination by letter.

(5) Applicant has the right to appeal the determination pursuant to Section 4.1.4.F.

7. Sign drawings shall be required in conformance with the City's Sign Code (Chapter 3.5).

8. Copies of all existing and proposed restrictions or covenants.

9. Written narrative addressing compliance with the applicable approval criteria contained in Section 4.2.6.

4.2.6 Approval Criteria

The review authority shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:

- A. The application is complete, as determined in accordance with Chapter 4.1 - Types of Applications and Section 4.2.5, above.
- B. The application complies with the all of the applicable provisions of the underlying Land Use District (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;
- C. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;
- D. The application complies with the Design Standards contained in Chapter 3. All of the following applicable standards shall be met:
 - 1. Chapter 3.1 - Access and Circulation;
 - 2. Chapter 3.2 - Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
 - 3. Chapter 3.3 - Automobile and Bicycle Parking;
 - 4. Chapter 3.4 - Public Facilities;
 - 5. Chapter 3.5 - Other Standards (Telecommunications Facilities, Signs, Sensitive Lands, Historic Properties), as applicable; and
 - 6. Chapter 3.6 - Floodplain Standards
- E. Conditions required as part of a Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), or other approval shall be met.
- F. Exceptions to criteria D.1-6, above, may be granted only when approved as a Variance (Chapter 5.3).

(Continued)

4.2.6 Approval Criteria (continued)

- ~~C. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;~~
- ~~D. The application complies with the Design Standards contained in Chapter 3. All of the following standards shall be met:
 - ~~1. Chapter 3.1 Access and Circulation;~~
 - ~~2. Chapter 3.2 Landscaping, Significant Vegetation, Street Trees, Fences and Walls;~~
 - ~~3. Chapter 3.3 Automobile and Bicycle Parking;~~
 - ~~4. Chapter 3.4 Public Facilities;~~
 - ~~5. Chapter 3.5 Other Standards (Telecommunications Facilities, Signs, Sensitive Lands, Historic Properties), as applicable.~~~~
- ~~E. Conditions required as part of a Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), or other approval shall be met.~~
- ~~F. Exceptions to criteria D.1-5, above, may be granted only when approved as a Variance (Chapter 5.3).~~

4.2.7 Mandatory Conditions of Approval for Floodplain Development Permits

The following Conditions of Approval are mandatory and shall be imposed on every Floodplain Development Permit.

- A. Required As-built Certification During Construction. For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction. Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall be cause for the Floodplain Administrator to issue a stop-work order for the project.

(Continued)

4.2.7 Mandatory Conditions of Approval for Floodplain Development Permits (continued)

- B. Documentation Required Prior to Issuance of Certificate of Occupancy.** In addition to the requirements of the Building Codes pertaining to certificate of occupancy, prior to the final inspection the owner or authorized agent shall submit the following documentation that has been prepared and sealed by a registered surveyor or engineer. Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a certificate of occupancy until such deficiencies are corrected.
- 1. For elevated buildings and structures in non-coastal Areas of Special Flood Hazard (A zones), the as-built elevation of the lowest floor, including basement or where no Base Flood Elevation is available the height above highest adjacent grade of the lowest floor; and,**
 - 2. For buildings and structures that have been floodproofed, the elevation to which the building or structure was floodproofed.**
- C. Stream Habitat Restoration Monitoring.** A Floodplain Development Permit approval granted consistent with Section 3.6.3.B.4 shall be conditioned to monitor the project, correct problems, and ensure that flood carrying capacity remains unchanged, as required by Section 3.6.3.B.4.d.

4.2.87 Bonding and Assurances

- A. Performance Bonds for Public Improvements.** On all projects where public improvements are required, the City shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements;
- B. Release of Performance Bonds.** The bond or assurance shall be released when the City Engineer finds the completed project conforms to the site development approval, including all conditions of approval.
- C. Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by City staff or a qualified landscape architect is filed with the City Recorder assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

4.2.28 Development in Accordance With Permit Approval

Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site design review approval) and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.7. 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 Section 4.5, shall be processed as a Type I procedure and require only Development Review. Major modifications, as defined in Section 4.5, shall be processed using the same procedure as the original application (usually Type II or III) and shall require site design review. For information on Type I, II, and III procedures, please refer to Chapter 4.1. For Modifications approval criteria, please refer to Chapter 4.5.
- B. Approval Period. Development Review and Site Design Review approvals shall be effective for a period of one year, or 180 days for a Floodplain Development Permit, from the date of approval. The approval shall lapse if:
 1. A building permit has not been issued within a one-year period, or within 180 days and thereafter acted upon for a Floodplain Development Permit; or
 2. Construction on the site is in violation of the approved plan.
- C. Extension. Except for a Floodplain Development Permit, The City Planner shall, upon written request by the applicant, grant an 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.

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4.2.98 Development in Accordance With Permit Approval (*continued*)

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 reviewing authority shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 5 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 required public improvements, in accordance with Section 4.2.4. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Engineer;
 - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
 - d. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.5).

Chapter 4.6 Zone Changes and Development Code Amendments

Sections:

- 4.6.1 Purpose
- 4.6.2 Legislative Amendments
- 4.6.3 Quasi-Judicial Amendments
- 4.6.4 Conditions of Approval
- 4.6.5 Zoning Map Refinements
- ~~4.6.6~~ Record of Amendments

4.6.1 Purpose.

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

4.6.2 Legislative Amendments.

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1, Section 5.

4.6.3 Quasi-Judicial Amendments.

A. Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision. Quasi-judicial map amendments shall follow the Type III procedure, as governed by Chapter 4.1.5, using standards of approval in Subsection D below. The approval authority shall be as follows:

1. The Planning Commission shall decide zone changes which do not involve comprehensive plan amendments;
2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan amendment. The City Council shall decide such applications; and
3. The Planning Commission shall make a recommendation to the City Council on a zone change application which also involves a comprehensive plan 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 Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;
- ~~2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;~~

(Continued)

4.6.3 Quasi-Judicial Amendments (continued)

2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;
3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or zoning map regarding the property which is the subject of the application.

4.6.4 Conditions of Approval.

A quasi-judicial decision may be denied, approved, or approved with conditions. A legislative decision may be approved or denied.

4.6.5 Zoning Map Refinements.

A. Zoning Map Refinements Defined. Refinements to the City of Halsey Zoning Map are adjustments or expansions to the 100-year Floodplain Overlay so that the Zoning Map is consistent with the Comprehensive Plan Map. Refinements are made based on professional analyses of the actual boundaries of the following 100-year Floodplain components:

1. 1.0-ft. Floodway, in accordance with FEMA regulations; and
2. 100-year Floodway Fringe, in accordance with FEMA regulations.

B. Zoning Map Refinement Provisions. Zoning Map Refinements to the 1.0-ft. Floodway and the 100-year Floodplain must be made in accordance with the provisions in Chapter 3.6 and the following additional provisions.

1. 1.0-ft. Floodway. Surveyed and mapped by a licensed surveyor or civil engineer, using two-ft. contour intervals established by the survey, and outlining a river channel or other Watercourse and the adjacent land areas that must be reserved in order to discharge the Base Flood (100-year Flood) without cumulatively increasing the water surface elevation more than one ft.
2. 100-year Floodplain. Surveyed and mapped by a licensed surveyor or civil engineer, using the Base Flood elevations established by the Federal Emergency Management Agency (FEMA) and two-ft. contour intervals established by the survey.

C. Zoning Map Refinement Procedures. Zoning Map Refinements shall be made in accordance with the Type I Procedure outlined in Section 4.1.3 and demonstrate consistency with the Comprehensive Plan Map.

4.6.~~65~~ 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.

Chapter 5.1 Variances

Sections:

5.1.1 Purpose

5.1.2 Class A Variance

5.1.3 Class B Variance

5.1.4 Class C Variance

5.1.5 Class D Variance

5.1.6 Variance Application and Appeals

5.1.1 Purpose

The purpose of this Chapter is to provide flexibility to development standards, in recognition of the complexity and wide variation of site development opportunities and constraints. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met. Because some variances are granted using "clear and objective standards," they can be granted by means of a Type I procedure. Other variances, as identified below, require a Type II or III procedure because they involve discretionary decision-making.

5.1.2 Class A Variances.

A. Class A variances. The following variances are reviewed using a Type I procedure, as governed by Chapter 4.1, using the approval criteria in Subsection B, below:

1. Front yard setbacks. Up to a 10 percent change to the front yard setback standard in the land use district.
2. Interior setbacks. Up to a 10 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
3. Lot coverage. Up to 10 percent increase of the maximum lot coverage required in the base zone.
4. Landscape area. Up to 10 percent reduction in landscape area (overall area or interior parking lot landscape area).

B. Class A variance approval criteria. A Class A Variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area.
3. The variance will not result in violation(s) of Chapter 3, or other design standards.

5.1.3 Class B Variances

- A. Class B variances. Due to their discretionary nature, the following types of variances shall be reviewed using a Type II procedure, in accordance with Chapter 4.1:
1. Variance to minimum housing density standard (Chapter 2). The City may approve a variance after finding that the minimum housing density provided in Chapter 2 cannot be achieved due to physical constraints that limit the division of land or site development. "Physical constraint" means drainage channel, wetlands, unusual parcel configuration, access constraints, or a similar constraint. The variances approved shall be the minimum variance necessary to address the specific physical constraint on the development.
 2. Variance to Vehicular Access and Circulation Standards (Chapter 3.1). Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding the following:
 - a. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
 - b. There are no other alternative access points on the street in question or from another street;
 - c. The access separation requirements cannot be met;
 - d. The request is the minimum adjustment required to provide adequate access;
 - e. The approved access or access approved with conditions will result in a safe access; and
 - f. The visual clearance requirements of Chapter 3.1 will be met.

(Continued)

5.1.3 Class B Variance (continued)

3. Variances to Street Tree Requirements (Chapter 3.2). The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 3.2, after finding the following:
 - a. Installation of the tree would interfere with existing utility lines;
 - b. The tree would cause visual clearance problems; or
 - c. There is not adequate space in which to plant a street tree; and
 - d. Replacement landscaping is provided elsewhere on the site (e.g., parking lot area trees).
4. Variance to Parking Standards (Chapter 3.3).
 - a. The City may approve variances to the minimum or maximum standards for off-street parking in Chapter 3.3.1 upon finding the following:
 - (1) The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity;
 - (2) The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and
 - (3) All other parking design and building orientation standards are met, in conformance with the standards in Chapter 2 and Chapter 3.
 - b. The City may approve a reduction of required bicycle parking per Chapter 3.3.2, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.
 - c. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.
5. Variance to Maximum or Minimum Yard Setbacks to Reduce Tree Removal or Impacts to Wetlands (Chapters 2 and 3.2). The City may grant a variance to the applicable setback requirements of this Code for the purpose of preserving a tree or trees on the site of proposed development or avoiding wetland impacts. Modification shall not be more than is necessary for the preservation of trees or wetlands on the site.
6. Variances to transportation improvement requirements (Chapter 3.4.1). The City may approve, approve with conditions, or deny a variance to the transportation improvement standards of Chapter 3.4.1, based on the criteria for granting variances provided in Chapter 3.4.1.B. When a variance request cannot be supported by the provisions of that Chapter, then the request shall be reviewed as a Class C variance.

5.1.4 Class C Variance

A. Purpose. The purpose of this section is to provide standards for variances which exceed the Class A and Class B variance criteria in Sections 5.1.2 and 5.1.3. Class C variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, sensitive lands or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to "permitted uses" shall be granted.

B. Applicability.

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

C. Approvals Process and Criteria.

1. Class C variances shall be processed using a Type III procedure, as governed by Chapter 4.1.5, using the approval criteria in subsection 2, below. In addition to the application requirements contained in Chapter 4.1.5, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 2.
2. The City shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
 - b. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
 - c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
 - d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;

(Continued)

5.1.4 Class C Variance *(continued)*

- e. The hardship is not self-imposed; and
- f. The variance requested is the minimum variance which would alleviate the hardship.

5.1.5 Class D Variance

A. Purpose. The purpose of this section is to provide criteria for variances from floodplain development standards contained in Chapter 3.6. Class D variances may be granted if an applicant substantiates the existence of exceptional circumstances that preclude consistency with the development standards in Chapter 3.6, and demonstrates consistency with the applicable variance criteria.

B. Applicability. Class D variances are limited to the following:

1. Modifying the required elevation standard for new construction and Substantial Improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level.
2. Allowing a Water Dependent use, provided structures or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
3. Reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, upon a determination that the proposed reconstruction, rehabilitation, or restoration will not preclude the structure's continued historic resource designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
4. Allow a lesser degree of floodproofing than watertight or dry-floodproofing for non-residential structures, where it can be determined that such action will have low damage potential, complies with all other variance criteria and otherwise complies with Building Codes.

C. Approvals Process and Criteria.

1. Class D variances shall be processed using a Type III procedure, as governed by Chapter 4.1.5, using the approval criteria in Section 5.1.5.C.3, below. In addition to the application requirements contained in Chapter 3.6 and Section 4.1.5, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in Section 5.1.5.C.3, below. The burden to show that the variance is warranted and meets the criteria set out below is on the applicant.

(Continued)

5.1.5 Class D Variance (continued)

2. In passing upon such applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the:
 - a. danger that materials may be swept onto other lands to the injury of others;
 - b. danger to life and property due to flooding or erosion damage;
 - c. susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. importance of the services provided by the proposed facility to the community;
 - e. necessity to the facility of a waterfront location, where applicable;
 - f. availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. compatibility of the proposed use with existing and anticipated development;
 - h. the relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
 - i. safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - k. costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
3. The City shall approve, approve with conditions, or deny an application for a variance based on findings made in response to Section 5.1.5.C.2, and findings that all of the following criteria are satisfied:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
 - b. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 - c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(Continued)

5.1.5 Class D Variance (continued)

d. Variances shall only be issued upon a:

(1) showing of good and sufficient cause;

(2) determination that failure to grant the variance would result in exceptional hardship to the applicant, and;

(3) determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 4.1-4(4), or conflict with existing local laws or ordinances.

4. The decision to either grant or deny a variance shall be in writing and shall set forth the reasons for such approval and denial. If the variance is granted, the property owner shall be put on notice along with the written decision that the permitted building will have its lowest floor below the Base Flood Elevation and that the cost of flood insurance likely will be commensurate with the increased flood damage risk.

5.1.6 Variance Application and Appeals

5.1.5 — Variance Application and Appeals

The variance application shall conform to the requirements for Type I, II, or III applications (Chapter 4.1.3, 4.1.4, 4.1.5), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his/her request, alternatives considered, and why the subject standard cannot be met without the variance. Appeals to variance decisions shall be processed in accordance with the provisions of Chapter 4.1.

CITY OF HALSEY
ORDINANCE # 2011-388

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN MAP FOR LAND WITHIN
THE HALSEY URBAN GROWTH BOUNDARY AND DECLARING AN EMERGENCY.

Whereas, the Land Use Element of the Comprehensive Plan includes a Floodplain overlay designation that requires the indication of areas subject to recurring flooding and where urban development should be restricted or prohibited due to potential health and safety hazards; and

Whereas, the current Comprehensive Plan Map does not depict the location or extents of the Floodplain designation; and

Whereas, the City of Halsey participates in the National Flood Insurance Program; and

Whereas, in order to remain eligible for participation in the National Flood Insurance Program, the City of Halsey must adopt certain minimum floodplain development regulations crafted by the federal government; and

Whereas, those floodplain development standards must be adopted as part of the City of Halsey Development Code in order to be applicable to development occurring within the City Limits; and

Whereas, Oregon State law requires that the Development Code be consistent with the Comprehensive Plan; and

Whereas, the Comprehensive Plan Map must depict the location of the Floodplain overlay in order for the Zoning Map to be amended with the same overlay; and

Whereas, the amendment of the Zoning Map consistent with the Floodplain overlay of the Comprehensive Plan Map will allow the implementation of the minimum floodplain development standards once there is land inside of the City Limits affected by the Floodplain overlay; and

Whereas, the proposed Comprehensive Plan Map Amendment supports the goal of the Land Use Element, which is "To guide land development so that the use of land is orderly, convenient, and harmonious with the natural environment" and supports the objectives there under; and

Whereas, the City Council received a recommendation from the Halsey Planning Commission to approve the Comprehensive Plan Map Amendment depicted on Exhibit 'I', Attachment 'A'; and

Whereas, the Halsey City Council has considered these recommended Comprehensive Plan Map Amendments at a duly noticed public hearing on December 14, 2010, and interested persons and the general public were given an opportunity to be heard; and

Whereas, the Council has reviewed the public testimony and the recommendations of the Planning Commission, and staff; and

Whereas, findings of fact have been prepared by staff, which findings consist of the formal findings attached hereto as Exhibit 'I'; and

Whereas, said findings are by reference incorporated herein and are hereby adopted by the City Council; and

Whereas, the City Council finds that the burden of proof has been met; and

Whereas, the City Council finds that the proposed amendment is consistent with the Statewide Planning Goals, and the Comprehensive Plan; and

Whereas, the City Council finds that the public necessity, convenience, and general welfare require such amendment; and

Whereas, there is a need to adopt the amendments quickly to assure that property is properly planned and developed, therefore declaring an emergency;

NOW, THEREFORE,

THE CITY OF HALSEY ORDAINS AS FOLLOWS:


Section 1. The Comprehensive Plan Map of the City of Halsey is hereby amended as shown on Exhibit 'I.'

Section 2. This ordinance takes effect immediately upon its passage.

Passed by the Halsey City Council this 12th day of January, 2011

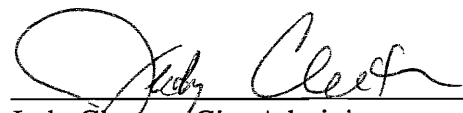
Approval by the Mayor this 12th day of January, 2011

Effective this 12th day of January, 2011



Marjean Cline, Mayor, City of Halsey

ATTEST:



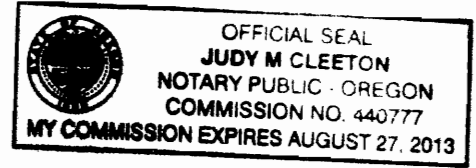
Judy Cleeton, City Administrator

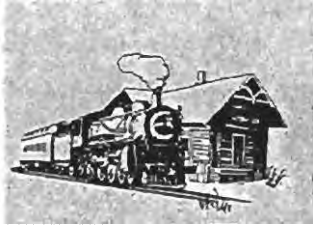
State of Oregon
County of Linn

This instrument was acknowledged before me on January 12, 2011 by the above named
Marjean Cline, Mayor of Halsey.

Judy M Cleiton
Notary Public for Oregon

My Commission expires: August 27, 2013





City Council
Findings of Fact
Ordinance 2011-388
January 13, 2011

City of Halsey

CASE: 100-YEAR FLOODPLAIN OVERLAY COMPREHENSIVE PLAN MAP
AMENDMENT
CPA10-1

REQUESTS: Comprehensive Plan Map Amendment to incorporate a 100-year Floodplain Overlay to be consistent with the Land Use Element of the Comprehensive Plan, and with the Flood Insurance Study and Flood Insurance Rate Map for Linn County, Oregon.

APPLICANT: City of Halsey

LOCATION: Properties within the Urban Growth Boundary containing portions of the 100-year Floodplain, as identified by the Federal Emergency Management Agency.

BACKGROUND

The City of Halsey participates in the National Flood Insurance Program (NFIP), which is administered, in part, by the Federal Emergency Management Agency (FEMA). Communities that participate in NFIP are eligible for obtaining flood insurance on properties that have been identified by FEMA as containing portions of the 100-year Floodplain. Depending on the strength and breadth of regulatory standards implemented by each local jurisdiction that participates in NFIP, property owners can receive significant discounts on flood insurance policies. Currently, none of the properties located inside of the Halsey City Limits is encumbered by the 100-year Floodplain. However, there are three properties located inside of the Urban Fringe, that land situated between the Urban Growth Boundary and the City Limits, which have been identified by FEMA as containing portions of the 100-year Floodplain. While the City of Halsey is not required to implement 100-year Floodplain development standards until these properties are annexed to the City, adopting such standards prior to annexation ensures that the necessary regulations are in place to assess an annexation proposal and subsequent development. On March 29, 2010, the Planning Commission voted to initiate amendments to the HDC that would result in the adoption of 100-year Floodplain development standards. This decision was consistent with a recommendation from City Staff that doing so at this time would take advantage of an on-going statewide process to update 100-year Floodplain regulations for many local jurisdictions.

In 2005, FEMA began a nationwide project to update the country's federal Flood Insurance Rate Maps (FIRM) and Flood Insurance Studies (FIS). This project has taken a number of years and only recently did FEMA begin the update for the Linn County FIS. As part of this map modernization process, FEMA digitized the existing paper FIRM maps associated with the Linn County FIS. No new

floodplain studies were done. The digitization of the FIRM was based on local topographic maps and, as a result, some of the new 100-year Floodplain boundaries are different and more accurate than the boundaries shown on the current paper maps. This process was completed for many other counties in Oregon and facilitated by the Department of Land Conservation and Development, which serves as the State Floodplain Coordinator. For those jurisdictions for which updated FIS and FIRM were prepared, FEMA has mandated that DLCD complete a review of the existing 100-year Floodplain development standards to determine if there are any shortcomings when compared to the minimum federal requirements. Again, the City of Halsey is not required to go through this process due to the location of 100-year Floodplain areas in relation to the current City Limits, but there are advantages for doing so, as mentioned above.

As part of the map modernization process, a Model Floodplain Development Ordinance was developed by DLCD in coordination with FEMA and the state Building Codes Division so that state-specific land use and building code provisions are integrated with the minimum federal floodplain regulations. The most important of these is the creation of an independent Floodplain Development Permit program that will track development within the 100-year Floodplain. City Staff have used the Model Ordinance as the basis for the proposed amendments, including the creation of a Floodplain Development Permit, with the goal of achieving an optimal level of regulation that improves the community's flood insurance policy discounts.

In order for the City of Halsey to adopt and implement floodplain development provisions through the Halsey Development Code, the Comprehensive Plan Map must depict the areas within the Urban Growth Boundary affected by the 100-year Floodplain. Although the Land Use Element of the Comprehensive Plan includes a Floodplain Overlay designation, the Comprehensive Plan Map does not currently shown the location of this overlay. The proposed amendment to the Comprehensive Plan Map rectifies this omission by integrating 100-year Floodplain mapping data from FEMA with the existing Comprehensive Plan Map to establish the overlay, (Attachment A).

LEGISLATIVE AMENDMENT TO THE COMPREHENSIVE PLAN MAP

Process for Amending the Comprehensive Plan Map

The Plan Adoption and Amendment section of the Halsey Comprehensive Plan notes the following:

- Policy 2:** That changes to the plan shall be made only after study and adequate public discussion.
- Policy 3:** Adequate findings of fact shall be made a part of the record in plan change hearings, and shall be made available for public review.
- Policy 5:** That amendments to the plan shall be made only after public hearings conducted by both the Planning Commission and the City Council and the amendment is adopted by ordinance by the City Council.

The following findings of fact are related to the proposed Comprehensive Plan Map amendment. These findings were presented to the Planning Commission and the City Council during separate public hearings conducted by each decision making body. As required by Policy 5, the Planning Commission made a recommendation to the City Council on the proposed amendments based on the presented

findings of fact and any additional findings made by the Planning Commission. A subsequent decision by the City Council to formally adopt the proposed amendments by ordinance was based on the Planning Commission's recommendation, the findings of fact presented below, and any additional findings made by the City Council.

In general, it has been demonstrated that the proposed amendments are consistent with the applicable policies of the Comprehensive Plan and with relevant Statewide Planning Goals.

Findings of Fact

Applicable Statewide Planning Goals:

The following list of goals is a summary of each applicable Statewide Planning Goal.

Goal 1 - Citizen Involvement _ To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. It requires each City and County to have a citizen involvement program with six components specified in the goal. It also requires local governments to have a Committee for Citizen Involvement (CCI) to monitor and encourage public participation in planning.

Goal 2 - Land Use Planning _ To establish a land use planning process and Policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. Outlines the basic procedures of Oregon's Statewide Planning Program. States that land use decisions are to be made in accordance with a Comprehensive Plan, and that suitable "implementation ordinances" putting the Plan's Policies into effect must be adopted. Requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed.

Goal 7 - Areas Subject to Natural Disasters and Hazards _ To protect life and property from natural disasters and hazards. Addresses development in places subject to natural hazards such as floods or landslides. Requires that jurisdictions apply "appropriate safeguards" (flood plain zoning, for example) when planning for development in such areas.

Applicable Comprehensive Plan Policies:

Land Use Element – Land Use Classifications:

6. **Floodplain** – To indicate areas which are subject to recurring flooding and where urban development should be restricted or prohibited due to potential health and safety hazards. The floodplain designation is established as an overlay zone which is supplemental to the existing agricultural, residential, commercial or industrial designation.

Land Use Element – Development Limitations:

3. **The City of Halsey** will seek to maintain and improve the quality of air, land, and water resources in the area. Halsey will cooperate with county, state, and federal agencies which regulate environmental quality and shall comply with applicable regulations and standards established by these agencies when the city is issuing any permits. This policy is intended to cover discharges and emissions which may impair air, water, or land quality or exceed the established standards for noise or other emissions.

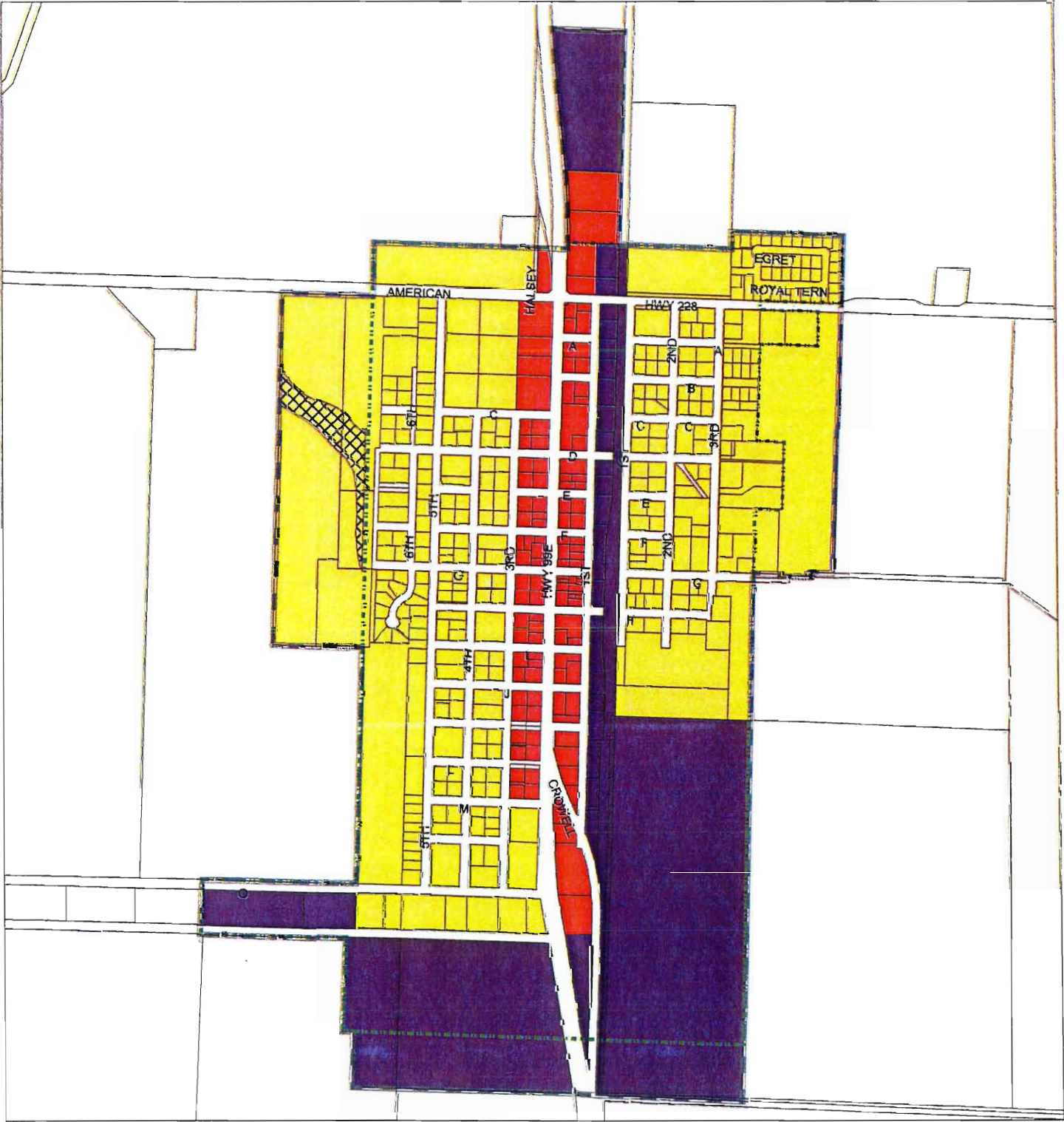
Land Use Element – Natural Hazards:


1. That low density and open space uses that are least subject to loss of life or property damage such as open storage, forestry, agriculture and recreation should be allowed in floodplains, especially the floodway portion. The floodway portion shall be given special attention in order to avoid development that is likely to impede the flow of flood waters, through the use of standards located in the zoning ordinance.
4. Development proposals in areas considered to pose hazards, such as flooding, poor drainage, ponding and high water table, and soils that affect building suitability, shall be reviewed by the City to ensure that environmental problems or hazards to life and property will not result from development.

Findings of Fact


1. The Comprehensive Plan contains policies directing the creation of a floodplain overlay.
2. Currently, the adopted Comprehensive Plan Map does not contain a floodplain overlay.
3. The proposed amendment to the Comprehensive Plan Map (Attachment A) would result in the adoption of a 100-year Floodplain Overlay that is consistent with the FIS and FIRMs published on September 29, 2010, by FEMA for Linn County, Oregon.
4. Comprehensive Plan Policies cited above mandate that the City of Halsey coordinate with state and federal agencies to regulate environmental quality and ensure compliance with the associated standards when reviewing development permits. The Proposed 100-year Floodplain Overlay enables to the City of Halsey to control what forms of development can occur within the 100-year Floodplain, including those that may introduce hazardous materials and substances to the 100-year Floodplain, or otherwise cause floodwaters to be displaced to areas outside of the 100-year Floodplain that might contain such materials if development within the 100-year Floodplain were not regulated.
5. Adoption of the proposed 100-year Floodplain Overlay will enable the implementation of 100-year Floodplain development standards as part of the HDC, and allow for the review of proposals within the 100-year Floodplain against those standards, as required by policies of the Comprehensive Plan cited above.
6. Implementation of 100-year Floodplain development standards will allow the City of Halsey to remain a participating NFIP community.
7. The proposed Comprehensive Plan Map amendment complies with the Statewide Planning Goals cited above by enabling the implementation of 100-year Floodplain development provisions as part of the HDC. These standards and the procedural review of applications proposing development within the 100-year Floodplain will ensure that adequate safeguards are in place to minimize risks to life, property, and environmental quality. The public will be afforded opportunities to review and comment on each development proposal within the 100-year floodplain, while the decisions made on these applications will be based on factual information.

City of Halsey Proposed Comprehensive Plan Map






Urban Growth Boundary




City Limits




100-year Floodplain Overlay

LEGEND


Comprehensive Plan Designations



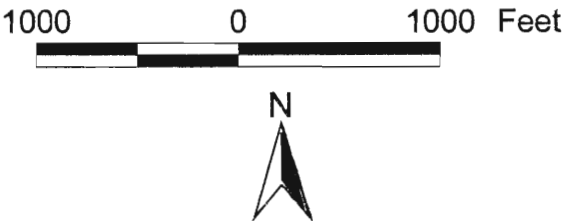
Commercial



Industrial



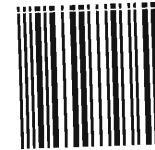
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Salem, OR 97301-2540

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