

CITY OF CORNELIUS THE DEVELOPMENT & ZONING CODE

(graphic)

Chapter 11 of the Cornelius City Code
Ordinance Number 857, March 21, 2005
Ordinance Number 841, July 21, 2003
Ordinance Number 810, May 1, 2000

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INTRODUCTION AND GENERAL PROVISIONS

SECTION 11.10.00

11.10.00 INTRODUCTION & GENERAL PROVISIONS

10.01 Purpose. This ordinance has been designed in accordance with the goals, policies and statements of intent of the Cornelius Comprehensive Plan, the officially enacted comprehensive plan for the City of Cornelius and its environs. It is the general purpose of this ordinance, therefore, to provide one of the principal means for the implementation of the Cornelius Comprehensive Plan.

- A. Consistency with Plans and Laws. Actions initiated under this code shall be consistent with the Comprehensive Plan and with applicable state and federal laws and regulations as these plans, laws, and regulations may now or hereafter provide.
- B. This ordinance is designed to regulate the division of land and to classify, designate and regulate the location and use of buildings, structures, and land for residential, commercial, industrial, or other uses in appropriate places.
- C. Short Title. This ordinance, Chapter 11 of the City of Cornelius Code shall be known and may be called the Development & Zoning Code.

10.02 Compliance. Except as otherwise specifically provided by this ordinance, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the City be commenced or changed, nor shall any condition of or upon real property be caused or maintained after the effective date of this ordinance, except in conformity with conditions prescribed for each of the several zones and general regulations established hereunder. It shall be unlawful for any person to erect, construct, establish, move into, alter, enlarge, or use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this ordinance contrary to the provisions of this ordinance. Where this ordinance imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this ordinance shall control.

- A. No person shall divide land without first complying with the provision of this ordinance and the laws of the State of Oregon.
- B. The terms or words used in this ordinance shall be interpreted as follows where the context demands; words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; the word "shall" is mandatory and not discretionary; the word "may" is permissive; the masculine gender includes the feminine and neuter; the term "this ordinance" shall be deemed to include the text of this ordinance, the accompanying zoning map and all amendments made hereafter to either.

10.03 Zoning Map. The City is divided into the following zoning districts, each of which shall include a suffix letter designator with its map symbol to indicate its classification:

ZONING DISTRICT	MAP SYMBOL	DENSITY
Residential Districts		
Urban Low Density	R-10	Single-Family
Urban Low Density	R-7	Single-Family
Urban Medium Density	A-2	Multi-Family
Main Street Districts		
Mixed Use	MSMU	
General Employment	MSGE	
Cultural/Institutional	MSCI	
Civic	MSC	
Low Density Residential	MSRL	
Medium Density Residential	MSRM	
Mobile Home Park	MHP	
Commercial Districts		
General Commercial	C-1	
Highway Commercial	C-2	
Industrial Districts		
General Industrial	M-1	
Natural Resource		
Floodplain	FP	

- A. The boundaries of the zoning districts established in this ordinance are indicated on a map entitled the "Zoning Map of the City of Cornelius" which shall hereinafter be referred to as the "city zoning map". The city zoning map and all amendments and changes thereto, and all legends, symbols, notations, references and other matters shown thereon, are hereby adopted by reference.
- B. Amendments to the city zoning map may be made in accordance with the provisions of this ordinance. Copies of all map amendments shall be dated with the effective date of the document adopting the map amendment and shall be maintained without

change, together with the adopting document, on file in the office of the City Recorder.

- C. The Community Development Director shall maintain an up-to-date copy of the city zoning map to be revised from time to time so that it accurately portrays changes of zone boundaries. A separate map shall also be maintained and show the location of conditional use permits, planned unit developments, variances and the location of historical uses. The Community Development Director shall maintain a log that identifies the following land use actions: zone change, conditional use, planned unit development, variance, or historical use and the number of the resolution, ordinance, order or other document authorizing the same.
- D. Interpretation of District Boundaries. Where due to the scale, lack of detail or illegibility of the city zoning map or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of any district boundary, the exact location of a district boundary line shall be determined by the Community Development Director in accordance with the following standards:
1. Street Lines. Where district boundaries are indicated as approximately following the centerline or right-of-way line of streets, such lines shall be construed to be such district boundaries.
 2. Street Vacations. Whenever any street is lawfully vacated, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, such lands formerly within such vacated street shall automatically be subject to the same zoning regulations as are applicable to lands to which same shall attach.
 3. Lot Lines. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. If a district boundary divides a lot into two or more districts, the entire lot shall be placed in the district that accounts for the greater area of the lot by the adjustment of the district boundary, provided that the boundary adjustment is for a distance of less than twenty (20) feet. If an adjustment of more than twenty (20) feet is required, the change in the district boundary shall be treated as a change of zone.
 4. Water Courses. District boundary lines are intended to follow the center lines of water courses unless such boundary lines are fixed by dimensions shown on the City zoning map.

(Sections 11.10.00 through 11.10.03 inclusive, added by Ordinance No. 810, May 1, 2000)

10.04 Authorization of Similar Uses. When any use is not specifically named in this ordinance, the Community Development Director shall determine whether the use is an outright use, conditional use or prohibited use. A request may be made for a Community Development Director's Interpretation for determination of a use. The Director may determine that a use, not specifically designated as an outright or conditional use, shall be one of the allowed uses if the use is of the same general type and is similar to the specified allowed uses.

Nothing contained in this section is intended to authorize the inclusion of a use in a zone district where it is not specifically listed when such a use is specifically listed in another zoning district.

(Section 11.806 amended by Ordinance No. 596, _1, April 20, 1982.)

(Section 11.806 inclusive renumbered to Section 11.10.04 by Ordinance No. 810, May 1, 2000)

(Section 11.10.04 amended by Ordinance No. 841, July 21, 2003)

10.05 Development Permit Required

- A. Except as excluded by *Section 11.10.06.*, no person shall engage in or cause to occur a development for which the appropriate permit has not been issued. The Building Official shall not issue a permit for the construction, reconstruction, or alteration of a structure or a part of a structure for which the appropriate permit has not been issued.
- B. The appropriate permit shall be issued by the Community Development Director in accordance with the provisions set forth in *Section 11.10.20.* of this code. The Community Development Director shall not issue a development permit for the improvement or use of land that has been previously divided or otherwise developed in violation of this code, regardless of whether the permit applicant or its predecessor created the violation, unless the violation can be rectified as part of the development.
- C. Unless appealed, a decision on a development permit shall be final upon expiration of the period provided for filing an appeal or, if appealed, upon rendering of the decision by the reviewing body.

10.06 Exclusions from land use approval. An activity or development listed below is excluded from the requirement for a development permit.

- A. Landscaping or other treatment or use of the land surface of a single-family residential lot not involving a structure, unless the activity involves moving more than twenty (20) cubic yards of fill.
- B. A change internal to a building or other structure that does not substantially affect the use of the structure or an alteration that does not substantially affect the use or external appearance of land or a structure.
- C. Except as otherwise required by *Sections 11.20.00. and 11.30.20.*, the establishment, construction, or termination of an authorized public facility that directly serves development, including such facilities as a private or public street, sewer, water line, electrical power or gas distribution line, or telephone or television cable system, provided said construction complies with applicable Public Works Standards.
- D. Installation or construction of a building that does not require a building permit.

- E. Minor clearing or grading for purposes of site surveying, or exploratory excavations under direction of a soil engineer or engineer geologists, provided said grading or excavation is consistent with Building Code requirements.
- F. Exclusion from a permit does not exempt the development or its use from applicable requirements of the Comprehensive Plan and this code.

(Sections 11.110 through 11.112 inclusive, renumbered to Sections 11.10.05 through 11.10.06 inclusive by Ordinance No. 810, May 1, 2000)

10.07 Use of a Development. A development may be used only for a lawful use. A lawful use of a development is one that is not prohibited by law and for which the development is designed, arranged, and intended or which is nonconforming pursuant to *Section 11.30.90*.

- A. No structure (except single-family and duplex dwellings) hereinafter erected, moved, enlarged or altered shall be occupied, used or changed in use until after a certificate of occupancy has been issued by the Building Official. Such certificate shall be applied for coincident with the application for a building permit. A certificate of occupancy shall be issued only after such structure, enlargement, or alteration has been completed in conformity with the provisions of this ordinance and with an approved site plan and required conditions, and when the proposed use conforms to this ordinance and to any and all other required conditions. Any use legally occupying an existing building at the time this ordinance became effective may be continued but shall not be changed unless a certificate of occupancy for the new use has been issued by the City after finding that such use conforms to this ordinance and required conditions.
- B. Determination of Compliance with Performance Standards. If the Building Official is unable to determine from information submitted by the applicant that a proposed use in an industrial zone will comply with the performance standards for the zone in which it is to be located, he shall not issue a certificate of occupancy, but shall request the applicant to authorize the City to secure expert professional advice from firms or individuals acceptable to both the City and the applicant. Professional fees shall be paid by the applicant. The Building Official may require that the applicant agree to pay professional fees for necessary investigations to determine compliance with the required conditions prior to and after issuance of the certificate of occupancy.
- C. Record. A record of all certificates of occupancy shall be kept on file in the office of the Building Official and copies shall be furnished on request at a reasonable charge to any person having a proprietary or tenancy interest in the subject structure, use or land.
- D. Lawfully Existing Development. For the purposes of this code, lawfully existing uses shall include the following:
 - 1. All existing lots, properties, buildings, and developments developed in accordance with the Comprehensive Plan, and as approved by the Design

Review Board, Planning Commission, and/or Community Development Director prior to May 1, 2000.

2. All development plans, land partitions, and preliminary and final subdivision plats reviewed and approved in accordance with the applicable zoning and subdivision standards prior to May 1, 2000.
3. All conditional uses issued prior to May 1, 2000, shall remain valid consistent with the conditions and time periods in effect on the date of adoption.

10.08 Fees for Land Use Applications. In order to defray expenses incurred in connection with the processing of applications, preparation of reports, publications of notices, issuance of permits and other matters, the City may charge and collect filing and other fees as established by resolution of the Council. The required fees shall be paid to the City upon filing of an application or at such other time as may be specified in this ordinance. The City may charge double the usual application fee to those who fail to apply for any permit or other approval required by the City. The failure to submit a required fee with an application or a notice of appeal, including return of checks unpaid or other failure of consideration, may preclude the processing of that application or appeal.

10.09 Enforcement. The Community Development Director, Community Development Director and/or Building Inspector shall enforce the provisions of this ordinance. An appeal from a ruling of the Community Development Director, Community Development Director and/or Building Inspector shall be made to the Planning Commission.

- A. Appeal to Council. An action or ruling of the Planning Commission authorized by this ordinance may be appealed to the Council within fifteen (15) days after the Planning Commission has rendered its decision by filing written notice with the City Recorder. If no appeal is taken within the 15-day period, the decision of the Planning Commission shall be final. If an appeal is filed, the Council shall receive a report and recommendation from the Planning Commission and shall hold a public hearing on the appeal. Notice of the time, place and purpose of the public hearing shall be given in accordance with the requirements of *Section 11.10.33.*, of the Cornelius Code.
- B. Form of Petitions, Applications, and Appeals. Petitions, applications, and appeals provided for in this ordinance shall be made on forms provided for the purpose or as otherwise prescribed by the Planning Commission in order to assure the fullest practical presentation of pertinent facts and to maintain a permanent record. Applications for a building permit shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the exact size and locations on the lot of the buildings and other structures, existing and proposed; the existing and intended use of each building, structure or part thereof; the number of families to be accommodated, if any; and such other information as is needed to determine their conformance with the provisions of this ordinance and of the building code.
- C. Interpretation. The provisions of this ordinance shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any provisions of this ordinance are less restrictive than comparable conditions imposed by any other

provisions of this ordinance or of any other code provisions, ordinance, resolution or regulation, the provisions which are more restrictive shall govern.

D. Violations of the Development & Zoning Code shall be addressed with the following process:

- (1) Education – A explanatory letter and visit (within a week of receiving a written complaint), giving two weeks to demonstrate compliance.
- (2) Warning – A reminder letter (sent two weeks after the first letter/visit) giving the consequences for not complying or instituting a City-approved compliance plan within a second two weeks.
- (3) Citation – Notice to appear in Municipal Court.

(Sections 11.114 through 11.116 inclusive renumbered to Section 11.10.07)

(Sections 11.10.08 through 11.10.09 inclusive added by Ordinance No. 810, May 1, 2000)

(Section 11.10.09 amended by Ordinance 841, July 21, 2003)

PLANNING COMMISSION

SECTION 11.10.10

11.10.10 PLANNING COMMISSION

- 10.11 Membership.** The Planning Commission shall consist of seven (7) members, to be appointed by the mayor. Planning Commission members shall receive no compensation. [Section 11.030 amended by Ordinance No. 722, _1, April 21, 1992.]
- 10.12 Term.** Planning Commission members shall hold office for four (4) years, except when filling the unexpired portion of a vacancy in office. (Section 11.032 amended by Ordinance No. 722, _2, April 21, 1992.)
- 10.13 Vacancy.** Any vacancy in office shall be filled by the Mayor for the unexpired portion of the term. If within any five-calendar-month period a Planning Commission member has three (3) unexcused absences, or if a Planning Commission member has three (3) consecutive unexcused absences in any period of time, the unexcused absences shall constitute grounds for removal by the mayor.
- 10.14 Residency Requirement.** In order to qualify for an appointment or reappointment to the Planning Commission, a person must have resided in the City one (1) year immediately preceding that person's appointment or reappointment and continue to be a resident of the City at all times during the term of that person's office. No more than one (1) person residing outside the City limits but within the City urban growth boundary may be appointed or reappointed to the Planning Commission if that person has resided within the City urban growth boundary one year immediately preceding that person's appointment or reappointment and continues to reside within the city urban growth boundary at all times during the term of that person's office. [Section 11.036 amended by Ordinance No. 580, _2, July 6, 1981. Section 11.036 amended by Ordinance No. 722, _3, April 21, 1992.]
- 10.15 Chairperson and Vice Chairperson.** The Planning Commission at its first meeting, shall elect a chairperson and vice-chairperson, who shall hold office at the pleasure of the Planning Commission.
- 10.16 Records.** The Community Development Director or designee shall keep an accurate record of all Planning Commission proceedings. The Planning Commission shall on October 1 of each year make and file a report of all its transactions with the Council.
- 10.17 Meetings.** Four (4) members of the Planning Commission shall constitute a quorum. The Planning Commission may make and alter rules and regulations for its government and procedure consistent with laws of this state, with the City charter and ordinances, and the code of the City. It shall meet at least once a month, at such times and places as may be fixed by the Planning Commission.
- 10.18 Powers - Employment.** The Planning Commission may employ consulting advice on municipal problems, a secretary and such clerks as may be necessary, and pay for their

services, and for such other expenses as the Planning Commission may lawfully incur, including the necessary disbursements incurred by its members in the performance of their duties as members of the Planning Commission, out of funds at the disposal of the Planning Commission, as authorized by the Council.

Expenditures. The Planning Commission shall have no authority to make expenditures on behalf of the City, or to obligate the City for the payment of any sums of money, except as provided by *Section 11.10.11 through 11.10.19.*, and then only after the Council has first authorized such expenditures by appropriate resolution, which shall provide the administrative method by which the funds shall be drawn and expended.

10.19 Powers - Recommendations. The Planning Commission shall have all the powers, which are now or hereafter granted to it by the code of the City or by general laws of the state. The Planning Commission may make recommendations to the Council, to public officials and to individuals regarding land uses, location of thoroughfares, public buildings, parks and other facilities; and regarding any other matter related to the planning and development of the City and the surrounding area. The Planning Commission may make studies, hold hearings and prepare reports and recommendations on its own initiative or at the request of the Council.

A. Recommendations Written. All recommendations and suggestions made to the Council by the Planning Commission shall be in writing.

(Sections 11.030 through 11.050, inclusive, renumbered to Sections 11.312 through 11.332, inclusive, by Ordinance No. 671, S1, December 15, 1987)

(Sections 11.030 through 11.050, inclusive, renumbered to Sections 11.10.10 through 11.10.19, inclusive, by Ordinance No. 810, May 1, 2000)

APPLICATION PROCEDURE

SECTION 11.10.20

11.10.20 Application Procedures - General.

10.21 Plan/Zone Conformance. Properties proposed for development or use permits must be appropriately designated for the proposed use on the Comprehensive Plan and zoned in accordance with said Plan, or the application must include a request for the appropriate plan amendment and zone change.

10.22 Procedures for Processing Development Permit.

- A. An application for development permit shall be processed under one of the three procedures set forth in *Section 11.10.31*.
- B. When an application and proposed development plan is submitted the Community Development Director shall determine the appropriate procedure specified by the Code, together with the determination of affected departments, public agencies, and property owners. Where there is a question as to the appropriate type of procedure, the application shall be processed in accordance with *Section 11.10.31.C*.
- C. The Community Development Director shall be responsible for the coordination of the development permit application and decision-making procedure and shall only issue a development permit to an applicant whose application and proposed development is found in compliance with all of the applicable provisions set forth in the Comprehensive Plan and Chapter 11 of this code. Before issuing the development permit, the Community Development Director shall be provided with the detail required to establish full compliance with the requirements of this code.

(Section 11.118 inclusive renumbered to Sections 11.10.21 through 11.10.22 inclusive by Ordinance 810, May 1, 2000)

10.23 Neighborhood Review Meeting.

- A. Five (5) days prior to submittal of a Type III request which requires review by the Planning Commission, and for the application to be complete, the applicant shall provide an opportunity to meet with neighboring property owners, residents and businesses by conducting a neighborhood meeting.
- B. The purpose of the Neighborhood Review Meeting is to allow the neighbors and residents to become familiar with the proposal and to identify any issues, which may be associated with an application. The intention of the meeting is an application that is more responsive to neighborhood concerns, reducing the likelihood for delays and appeals of the application.
- C. The applicant shall send by regular mail a written notice announcing the Neighborhood Review Meeting to the Community Development Director and property

owners within two hundred and fifty (250) feet of the subject property. The notice shall include the date, time and location of the meeting and a brief description of the nature and location of the proposal. The notice shall be deposited in the mail in the city, not less than twenty (20) days prior to the required Neighborhood Review Meeting.

- D. At the Neighborhood Review Meeting, the applicant shall present the proposed application to the neighbors in attendance.
- E. The applicant shall not be required to hold more than one Neighborhood Review Meeting provided such meeting is held within one hundred and eighty (180) days prior to submitting a land use or design review application for one specific site.

(Section 11.10.23 added by Ordinance 810, May 1, 2000)

10.24 Application Documents. An application for a building or development permit, which is subject to site design review as set forth in *Section 11.30.10.*, shall consist of the materials and information specified in this section, plus any other materials or information required by this Code. Required documents shall be submitted to the Community Development Director as follows:

- A. A completed permit application form including identification of the project coordinator, or professional design team if application is in a commercial zone or for a planned unit development.
- B. A narrative addressing the approval criteria, including an explanation of intent; stating the nature of the proposed development, reasons for the permit request, pertinent background information, information required by the development standards and as required by other sections of this Code because of the type of development proposal or the area involved or that may have a bearing in determining the action to be taken.
- C. Proof that the property affected by the application is in the exclusive ownership of the applicant or that the applicant has the consent of all individuals or partners in ownership of the, affected property. Legal description of the property affected by the applicant.
- D. The application shall include conceptual and quantitatively accurate representations of the entire development sufficient to judge the scope, size, and impact of the development on the community, public facilities, and adjacent properties; and except as otherwise specified in this Code.
- E. The number of required documents for completeness review, Facilities & Design Review and Planning Commission shall be identified on the application checklist.
- F. Site plans and architectural renderings drawn to scale, showing the proposed layout of all structures and other improvements per the approved City application checklist.

Including an Erosion Control Plan for any building or land development permit. Such a plan shall conform to the standards established by Cleanwater Services (CWS) and shall conform to *Section 4.310., Utilities* of the Cornelius City Code.

- G. The total land area, in square feet devoted to various uses such as total site area, building area (gross and net rentable), parking and paved coverage landscaped area coverage, and average residential density per net acre. The percentage of site coverage for each use shall also be calculated.
- H. Documentation of Neighborhood Review Meeting, if required.
 - 1. A copy of the notice sent to surrounding property owners within two hundred and fifty (250) feet of the subject parcel.
 - 2. A copy of the mailing list used to send out meeting notices.
 - 3. A written statement containing the information posted on the property.
 - 4. An affidavit of mailing and posting notices.
 - 5. Representative copies of written materials and plans presented at the Neighborhood Review Meeting.
 - 6. Notes of the meeting, including the meeting date, time, and location, the name and address of those attending, and oral and written comments received.
- I. An application fee as set by the City Council.

[Section 11.121 added by Ordinance No. 696, _1, December 19,1989.]
(Section 11.10.24.H. inclusive added by Ordinance No. 810, May 1, 2000)
(Sections 11.120 through 11.121 inclusive renumbered to Section 11.10.24., inclusive by Ordinance No. 810, May 1, 2000)

10.25 Complete Submittal Required. Application materials shall be submitted to the Community Development Director who shall have the date of submission indicated on each copy submitted. Within ten (10) working days from the date of submissions, the Community Development Director shall determine whether an application is complete.

- A. If the Community Development Director determines that the application is incomplete or otherwise does not conform to the provisions of the code, the applicant shall immediately be notified of the negative determination in writing by mailing conveying an explanation and a submittal deadline for completion or correction of the application. However, if the application remains incomplete for more than thirty (30) days from the date of notice of negative determination, the materials submitted shall be returned to the applicant and the file shall be closed. If an application is returned and the file closed, resubmittal shall require a new application.
- B. If an application is determined to be complete and in conformance with the provisions of the code, the Community Development Director shall accept it and note the date of acceptance on the application form. The Community Development Director shall

then schedule the appropriate review and notify the applicant in writing of the date of the final decision or hearing as set forth in *Section 11.10.30*.

(Section 11.122, inclusive renumbered to Section 11.10.25., inclusive by Ordinance No. 810, May 1, 2000)

10.26 Filing Fee. The Council shall by resolution establish fees and deposits to be paid for all development permits.

(Section 11.124 inclusive renumbered to Section 11.10.26., inclusive by Ordinance No. 810, May 1, 2000)

10.27 Jurisdiction and Powers.

- A. Authority of Community Development Director . The Community Development Director shall have authority over the daily administration and enforcement of the provisions of this chapter and shall have specific authority as follows:
1. Pursuant to Type I procedures set forth in *Section 11.10.31.A.*, the Community Development Director shall approve, approve with conditions, or deny:
 - a. Design Review Type I requests.
 - b. Signs authorized for administrative review.
 - c. Lot line adjustments in approved subdivisions and for other legally created lots.
 - d. Fence construction permits, consistent with *Section 11.40.22*.
 - e. A temporary permit consistent with *Section 11.30.60*.
 - f. Administrative relief. The Community Development Director may grant or deny a variation from quantifiable provisions of yard, lot coverage, lot area, lot dimension, or parking, to relieve a hardship created by unusual lot conditions or circumstances, provided the request involves only the expansion or reduction of not more than ten percent (10) of the requirement.
 - g. Request for the Community Development Director's Interpretation. The Community Development Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of the Development & Zoning Code, Chapter 11.
 2. Pursuant to Type II procedures set forth in *Section 11.10.31.B.*, the Community Development Director shall approve, approve with conditions, deny, or refer the application to the Planning Commission for a hearing, pursuant to *Section 11.10.31.C.*:
 - a. Design Review Type II requests.
 - b. Architectural, site development, and landscape plans in compliance with applicable standards.
 - c. Land partitions and subdivisions in full compliance with *Section 11.30.20*.
 - d. A temporary permit consistent with *Section 11.30.60*.

- e. Other specific actions or duties delegated by the Planning Commission, or by order of the City Council, setting forth the review procedures guided by clear and objective standards for administration.
- B. Authority of Planning Commission.
- 1. As specified in *Section 11.10.10.*, of this code, the Planning Commission shall have authority to administer and enforce all the provisions of *Section 11.10.30.*
 - 2. At their earliest regularly scheduled meeting following the date of complete submission, the Planning Commission shall review and approve, approve with conditions, or deny the proposed development. However, if the Planning Commission finds that additional information or time is necessary to render a reasonable decision, the matter may be continued to a date certain. The applicant shall be immediately notified in writing of any such continuation or delay together with the scheduled date of review.
- C. Authority of City Council. Upon appeal or upon referral for legislative action, the Council shall have final authority to interpret and enforce the procedures and standards set forth in this chapter.

(Section 11.126 inclusive amended and renumbered to Section 11.10.27., inclusive by Ordinance No. 810, May 1, 2000)

(Section 11.10.27.A.1. amended by Ordinance 841, July 21, 2003)

REVIEW PROCEDURES

SECTION 11.10.30

11.10.30 Review Procedures - General.

10.31 Application Review. Applications for site development permits and land divisions shall be reviewed as follows. A zone change shall be reviewed in accordance with the procedures set forth *Section 11.30.70*.

- A. Type I - Administrative Review. A Type I application, as set forth in *Section 11.10.27.A.1.*, shall be processed without need for public hearing or notification of other property owners.
1. Within ten (10) working days of the date of accepting a complete permit application, the Community Development Director shall grant or deny the development permit. The decision shall be based upon the application, the evidence, applicable code standards, comments from referral agencies, and approvals required by others. The Community Development Director shall notify the applicant, in writing, of the decision. The notice of decision shall indicate the date of final action, conditions attached, if any, and the right of appeal pursuant to *Section 11.10.39*.
 2. The Community Development Director shall issue a development permit if applicable approvals by others have been granted and the proposed development conforms to the requirements of this code and the comprehensive plan.
 3. The Community Development Director shall deny the permit if required approvals are not obtained or the application otherwise fails to comply with code requirements. The notice shall identify the basis for denial.
 4. A Type I decision of the Community Development Director may be appealed by the applicant in accordance with *Section 11.10.39.*, except that review shall be on the record, supplemented by oral commentary relevant to the record presented on behalf of the applicant and the Community Development Director.
- B. Type II - Administrative Review. A Type II application, as set forth in *Section 11.10.27.A.2.*, shall be processed without need for public hearing, except as determined appropriate by the Community Development Director.
1. Upon receipt of an application for a Type II action, public notice of the impending application shall be given pursuant to the provisions of *Section 11.10.33.*, of this ordinance. In addition, notice shall be sent to each member of the Planning Commission. Notice shall be given for general information purposes to provide affected parties the opportunity to review submitted plans and make their comments to the Community Development Director orally or in writing. The Community Development Director shall not hold a public hearing but may allow affected parties to attend meetings of the City for informational purposes.
 2. If the Community Development Director contemplates that persons other than the applicant can be expected to question the application compliance with the Comprehensive Plan and Development Standards, the Community

Development Director may initiate a public hearing before the Planning Commission pursuant to *Section 11.10.31.C.*, or the applicant may request that the application for a Type II decision go directly to the Planning Commission, in which case the notice provision shall follow that for a Type III action as discussed in *Section 11.10.33.*

3. Within ten (10) working days of the final response date, set forth in the notice, the Community Development Director shall review comments received and make a finding for each of any points in dispute and make a final decision. The final decision and supporting findings shall be forwarded to the applicant and affected parties who submitted comments. The notice of decision shall indicate the date of final action, conditions attached, if any, and the right of appeal pursuant to *Section 11.10.39.*
 4. A Type II decision of the Community Development Director may be appealed by the applicant, any person who is adversely affected or aggrieved or anyone who is entitled to notice under *Section 11.10.33(A).* Such appeals shall be limited as follows:
 - a. If the applicant appeals a decision for which no affected parties provided comments, the appeal shall be limited to the record and supplemental oral commentary relevant to the record presented on behalf of the applicant and the Community Development Director.
 - b. If an appeal is made on a decision for which other affected parties provided comments, the appeal shall be a de novo hearing.
- C. Type III - Planning Commission Review. A Type III request, as set forth in *Section 11.10.27.B.*, shall be processed with notice and a public hearing pursuant to *Section 11.10.34.*, as follows:
1. Five (5) days prior to submittal of a Type III request which requires review by the Planning Commission, and for the application to be complete, the applicant shall provide an opportunity to meet with neighboring property owners, residents and businesses by conducting a Neighborhood Review Meeting.
 2. Once a complete application is accepted the Community Development Director shall schedule a public hearing before the Planning Commission at their next regularly scheduled meeting but not more than forty-five (45) days from date of complete application perfection. Notice shall be provided pursuant to *Section 11.10.33.*
 3. The Community Development Director shall prepare a staff report, including conclusionary findings. Said report shall be forwarded to the Planning Commission and made available to interested parties at least seven (7) days prior to the date of public hearing. At the public hearing, the staff, any applicant, and interested persons may present information relevant to the policies, criteria, and standards pertinent to the proposal, giving reasons why the application should or should not be approved or proposing modifications or conditions and the reasons the person believes they are necessary for approval. The hearing body shall make a finding for each of the applicable policies, criteria and standards. The decision, including findings, of the hearing

- body shall be written and adopted, setting forth all conditions of approval or basis for denial and relevant time periods for compliance with said conditions
4. The Community Development Director shall provide notice of final decision to the applicant and interested parties. The notice shall indicate the date the action is to become effective, conditions attached, if any, and the right of appeal pursuant to *Section 11.10.39.*, The notice shall invite persons to submit information within ten (10) days relevant to the standards pertinent to the proposal and giving reasons why the application should or should not be approved or proposing conditions the person believes are necessary for approval according to the standards. The notice shall also advise the person of the right to appeal the decision on the proposed development if the person's concerns are not resolved. If the application is approved and no appeal filed within the timed period allowed, the Community Development Director shall issue a development permit consistent with the standards and conditions of approval.
 5. A decision of the Planning Commission may be appealed by the applicant or affected party pursuant to *Section 11.10.39.*

D. Council Review.

1. When a decision or approval of the Council is required, the Community Development Director shall schedule a public hearing pursuant to *Section 11.10.34.* Said hearing shall be scheduled within sixty (60) days of the date of appeal. At the public hearing the staff shall review the report of the Planning Commission and provide other pertinent information, and interested persons shall be given the opportunity to present testimony and information relevant to the proposal and make final arguments why the matter shall not be approved and, if approved the nature of the provisions to be contained in approving action.
2. To the extent that a finding of fact is required, the Council shall make a finding for each of the criteria applicable and in doing so may sustain or reverse a finding of the Planning Commission. The Council may delete, add, or modify any of the provisions pertaining to the proposal or attach certain development or use conditions beyond those warranted for compliance with standards in granting an approval if the Council determines the conditions are appropriate to fulfill the criteria for approval.
3. To the extent that a policy is to be established or revised, the Council shall make its decision after information from the hearing has been received. The decision shall become effective by passage of an ordinance, resolution, or order.

10.32 Legislative Enactments Not Restricted. Nothing in *Section 11.10.31.A through D.*, shall limit the authority of the Council to make changes in district designations or requirements as part of some more extensive revision of the Comprehensive Plan, the implementing ordinance or development standards, or relieve a use or development from compliance with other applicable laws.

10.33 Notice.

- A. Administrative Review. Notice of a Type II Administrative Review without a hearing shall:
1. Provide a 20-day period for submitting written comments prior to a final decision;
 2. Explain the nature of the application and the proposed use or uses which could be authorized;
 3. Set forth the street address or other easily understood geographical reference to the subject property;
 4. State the date, time and location of the hearing;
 5. Include the name of a local government representative to contact and the telephone number where additional information may be obtained;
 6. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and copies will be provided at reasonable cost;
 7. State that any person who is adversely affected or aggrieved or who is entitled to written notice under this Section may appeal the decision by filing a written appeal in the manner as provided in Section 11.10.39.
 8. State that the decision will not become final until the period for filing an appeal has expired.
 9. State that a person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830.

Notice under this Section shall be provided to the applicant and to the owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet of the property that is the subject of the notice.

- B. Quasi-judicial Evidentiary Hearing. Notice of a Type III Decision before the Planning Commission or an appeal to the Planning Commission from a Type I or II decision shall:
1. Comply with Section 11.10.33(A)(2) through (6).
 2. Notice shall be published in a newspaper of general circulation within the City at least twenty (20) days prior to the initial hearing before the Planning Commission and City Council.
 3. List the applicable criteria from the ordinance and the plan that apply to the application at issue;
 4. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the board based on that issue;

5. State that a copy of the staff report will be available for inspection at no cost at least seven (7) days prior to the hearing and copies will be provided at reasonable cost; and
6. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

Notice under this Section shall be provided to the applicant and the owners of record of property on the most recent property tax assessment roll where such property is located within two hundred and fifty (250) feet of the property that is the subject of the notice at least twenty (20) days prior to the date of the hearing.

- C. Appeal to City Council. Notice of a hearing on appeal to the City Council pursuant to Section 11.10.39(D) and (E) shall be provided in the following manner:
 1. For an on the record appeal notice shall state the issues raised in the appeal and comply with Section 11.10.33 (A)(2) through (5).
 2. For a de novo hearing state the issues raised in the appeal and comply with the applicable provisions required for a Type III Decision under Section 11.10.33.B.
- D. Legislative Hearings. A legislative hearing before the Planning Commission or City Council shall be provided in the following manner:
 1. Notice shall be published in a newspaper of general circulation within the City at least twenty (20) days prior to the initial hearing before the Planning Commission and City Council.
 2. Notice shall be provided to all affected agencies and organizations recognized in the Comprehensive Plan and any person or entity requesting notice.
 3. Notice shall include:
 - a. The time, date and location of the hearing.
 - b. A summary of the proposed amendments.
 - c. A statement that a copy of the proposed amendments are available for review or to purchase a copy.

10.34 Hearing Procedures.

- A. Public hearings shall be conducted in accordance with procedures for evidentiary hearings set forth in *Section 2.510., Government and Administration* or as otherwise amended by City Council action.
- B. Decision - Following the hearing procedure, the hearing body shall approve, conditionally approve, or deny the application; or if the hearing is in the nature of an appeal, affirm, reverse, or remand the decision that is on appeal. A decision on a hearing or an application for a development permit shall be made within sixty (60) days of the application except that with agreement of the hearing body and the applicant or appellant, the processing of a matter under consideration may be

extended for a reasonable period of time as determined by the hearing body, but not to exceed six (6) months from the date of the first hearing on the matter.

- C. Findings and Order - The hearing body shall prepare findings of fact a final order which shall include:
1. A statement of the applicable criteria against which the proposal was tested, and of the hearing body's interpretation of what would be required to achieve compliance with the criteria and standards.
 2. A statement of the facts which the hearing body found establishing compliance or noncompliance with each applicable criteria and assurance of compliance with applicable standards.
 3. The reasons for a conclusion to approve or deny.
 4. The decision to deny or approve the proposed change with or without conditions.

10.35 Participation by Interested Officers or Employees. No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

10.36 Hearing Body – Conflicts of Interest

- A. A member of the hearing body shall disclose any actual or potential conflict of interest before participating in any hearing body proceeding or action on a planning matter involving action on any particular parcel of real estate. No member shall participate as a member of the hearing body if he has an actual conflict of interest. A member of the hearing body may participate as a member of the public at large in cases where he has an actual conflict of interest.
- B. An actual conflict of interest arises when any of the following persons have direct or substantial financial interest in the particular parcel of real estate or in property immediately adjacent to that real estate:
1. the member or his spouse,
 2. a brother, sister, child, parent, father-in-law, or mother-in-law of the member,
 3. any business associate of the member within the previous two (2) years, a prospective partner, an employer or prospective employer.
- C. If a member of the hearing body shows evidence of or declares a potential conflict of interest, members of the public or other members of the hearing body may challenge his participation in hearing body proceedings on the particular issue involved. Following such a challenge, the member of the hearing body may either withdraw from participation or explain the invalidity of the challenge. In cases of potential conflict, the hearing body member, himself, will decide on his final participation.
- D. A potential conflict of interest arises when the member has an indirect

financial interest in the particular parcel of real estate or in property immediately adjacent to that real estate or exhibits bias toward the real estate, its owners, or its tenants.

- E. Disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion.
- F. Rights of Disqualified Member of the Hearing Body.
 - 1. An abstaining or disqualified member of the hearing body shall be counted for purposes of forming a quorum. A member who represents personal interest at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.
 - 2. If four (4) or more members of hearing body abstain or are disqualified, all members present after stating their reasons for abstention or disqualification shall by so doing be requalified and proceed to resolve the issues.
 - 3. Except for appeal hearings conducted by the Council, a member present during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

10.37 Ex Parte Contacts. The general public has a right to have hearing body members free from prehearing or ex parte contacts on matters heard by them. It is recognized that a countervailing public right is free access to public officials on any matter. Therefore, hearing body members shall reveal any significant prehearing or ex parte contacts with regard to any matter, the member shall so state and shall participate or abstain in accordance with *Section 11.10.36*.

10.38 Record of Proceedings. City staff shall be present at each hearing and shall cause the proceedings to be recorded electronically, by computer or in writing

- A. Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.
- B. The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.
- C. Included in the record shall be a brief statement that explains the criteria and standards considered relevant to the decision; states the facts relied upon in

rendering the decision; and explains the justification for the decision based on the criteria, standards, and facts set forth.

- D. A person shall have access to the record of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the person's own expense.

10.39 Appeal Procedures.

- A. Reviewing Body.
 - 1. Type I and II Decision. An appeal of a decision by the Community Development Director on issuance of a development permit may be appealed to the Planning Commission. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, Planning Commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue.
 - 2. Type III Decision. A decision of the Planning Commission may be appealed to the Council. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the City Council, and the parties an adequate opportunity to respond to each issue.
- B. Timeliness of Appeal.
 - 1. An appeal must be received by the City within ten (10) working days of the date the notice of the decision was mailed.
 - 2. Failure to receive the appeal within ten (10) working days is jurisdictional.
 - 3. The day the notice of the decision was mailed shall not be included for purposes of determining the expiration of the appeal period
- C. Contents of an Appeal. The appeal shall set forth:
 - 1. The name of the person or entity appealing the decision.
 - 2. The decision being appealed.
 - 3. A statement of the issue(s) being appealed with sufficient specificity to allow the City and any person an opportunity to respond.
 - 4. A fee shall accompany each application appealed. Failure to provide the fee at the time when the appeal application is submitted shall result in a denial of your appeal.
- D. Hearing on Appeal
 - 1. Planning Commission. An appeal to the Planning Commission shall be de novo.
 - 2. City Council. An appeal to the Council shall be on the record unless otherwise approved by the City Council under Section 11.10.39(E). The record shall include:
 - a. A staff report.
 - b. All written documents or other evidence submitted to the City in the proceeding before Planning Commission and, if applicable, the proceeding before the Community Development Director.

- c. The transcript of the hearing before the Planning Planning Commission.
 - d. Any notices provided by the City.
- E. Petition for a De Novo Hearing before City Council.
 - 1. The applicant may petition the City Council for a de novo hearing. The City will not accept a petition unless the applicant provides a written extension of the 120 day period under state law for a period of thirty (30) days. The City Council shall take final action on the request within thirty (30) days. The decision to approve or deny this request shall be based on the following factors:
 - a. Prejudice to the parties.
 - b. Convenience or availability of evidence at the time of the initial hearing.
 - c. Surprise to opposing parties.
 - d. The competency, relevancy, and materiality of the proposed testimony or other evidence.
 - 2. The Council may allow a new evidentiary hearing or limit new evidence to the issues raised in the appeal. The request shall be decided at a public meeting without hearing or comment. Any comments on the City Council's decision on whether to accept additional evidence may be presented at the time of the appeal hearing.
- F. Effective Date of Decisions. A decision of the Community Development Director or Planning Commission shall become effective eleven (11) working days after the date of the decision unless an appeal is received by the City in accordance with Section 11.10.39(A).

(Section 11.128 through 11.144, inclusive renumbered to Section 11.10.31 through 11.10.39., inclusive by Ordinance No. 810, May 1, 2000)
(Section 11.10.31, 11.10.33, & 11.10.39 amended by Ordinance No. 841)

LAND USE AND ZONING DISTRICTS

SECTION 11.20.00

11.20.00 SINGLE FAMILY RESIDENTIAL ZONE (R-7)

20.01 Purpose. The purpose of the Single Family Residential, R-7 zone is to implement the Low-Density Residential land use designation and policies of the Comprehensive Plan. The R-7 is intended to establish low density residential home sites where a minimum gross acreage of 7,000 square feet is available for each dwelling unit. To do this, the R-7, Single Family Residential zone regulates the construction of single family homes on existing lots, and provides design guidance for single-family residential subdivisions.

20.02 Permitted Uses. The following uses and their accessory uses are permitted outright in an R-7 zone:

- A. Site built detached single-family dwelling; and detached single-family manufactured housing, subject to *Section 11.20.07*.
- B. Underground public utilities.
- C. Accessory uses and/or accessory structures or both, which are customarily and clearly incidental and subordinate to the above uses, including approved carports, garages, or storage facilities. See *Section 11.40.21*.
- D. Accessory dwelling unit subject to *Section 11.20.09*.
- E. Home occupation consistent with *Section 11.20.08*.
- F. Group home consistent with state law.

20.03 Conditional Uses. The following uses may be permitted when in accordance with *Section 11.30.30*:

- A. Governmental structure or use including public and private park, playground, community center and non-commercial recreational facilities, golf course, swimming pool, tennis courts, fire station, library or museum.
- B. School: Nursery, primary, elementary, junior or senior high, college or university.
- C. Utility substation or above ground pumping station with no equipment storage.
- D. Two-family dwelling, including single-family attached, subject to lot area standards and design review.

- E. Home occupation consistent with *Section 11.20.08*.
- F. A Planned Unit Development, including mixed uses approved by the Planning Commission and as provided for under *Section 11.30.40*.
- G. Church, and associated church activities, except commercial day care.
- H. A Manufactured structure for temporary educational purposes subject to the following required conditions in addition to other conditions which may be imposed under *Section 11.30.30*:
 1. Placed upon a permanent concrete or concrete block foundation and supplied with a continuous perimeter skirting that extends at least six (6) inches below the surface of the ground or to an impervious surface. The skirting shall be composed of the same material and finish as the exterior of the unit or of brick or concrete block, or as may be approved by the Planning Commission.
 - (2) Placed a maximum of eighteen (18) inches above ground level at any point, unless the unit is placed upon a basement foundation, or unless approved by the Planning Commission.
 - (3) Manufactured after June 15, 1976, and bear the Oregon Department of Commerce "Insignia of Compliance" indicating conformance with HUD standards.

20.04 Prohibited Uses. The following uses shall be prohibited within the R-7 zone:

- A. Recreational vehicles or other movable temporary dwellings used as a residence, or accessory sleeping units; except as lodging for guests not to exceed two (2) weeks.
- B. More than two (2) dwelling units on a single lot, except for an accessory dwelling unit.
- C. Retail sales, except for when over the Internet and where applicable in compliance with the Home Occupation Permit requirements.
- D. Heavy manufacturing and processing.
- E. Parking and storage of construction equipment, semi-tractors and trailers.
- F. The raising of animals other than normal household pets.

20.05 Area, Density and Lot Requirements.

- A. Maximum density: The average density over the entire development shall not exceed five (5) dwellings per net acre. A net acre is equal to 32,670 square feet, and

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excludes roads, common open space, flood plains, riparian setbacks, and slopes over twenty-five (25) percent.

1. No lot shall be less than 6,000 square feet for single-family detached, and duplex or single-family attached housing shall have at least 4,500 square feet of lot area per unit, except as may be approved as part of a Planned Unit Development.
 2. In the case of flag lots, the pole portion of the lot shall not count towards the required lot area.
- B. Minimum density: The minimum density allowed is four (4) dwellings per net acre. Any land partition or subdivision shall make provisions to ensure that the minimum density is protected when further partitioning is possible.
- C. Maximum height: No building shall exceed thirty-five (35) feet, except for a chimney, radio or television antenna.
- D. Minimum yard area, setbacks:
1. Front yard: The front, as measured from the furthest extension of the home, including porch or deck shall not be less than ten (10) feet. Accessory structures, garages or carports shall not be less than twenty (20) feet.
 2. Rear yard: No rear yard shall be less than ten (10) feet in depth.
 3. Side yard: The minimum width of side yards shall be not less than five (5) feet, as measured from the foundation of the home. On corner lots the side yard facing the street shall not be less than ten (10) feet.
 4. No accessory building or other structure or building shall be closer than three (3) feet from a side or rear property line, see *Section 11.40.21*.
 5. The lot coverage: The area occupied by the home, and all accessory buildings and structures on the lot shall not exceed fifty (50) percent of the lot area.
 6. All setbacks shall be measured from Cleanwater Services (CWS) required buffer areas, where applicable.
- E. Minimum lot shape:
1. No single-family lot shall be less than sixty (60) feet in width or less than sixty (60) feet in depth, except as may be approved as part of a Planned Unit Development.
 2. In the case of in-fill development on parcels, as defined by the city's 1998 vacant land inventory, the commission may allow the lot width to be reduced to fifty (50) feet.
 3. In the case of in-fill development on parcels, as defined by the current City Vacant Land Inventory, the lot width at the street may be reduced to not less than twenty (20) feet for a single lot and not less than thirty (30) feet for two (2) dwelling units. A flag design shall serve no more than two (2) lots.

20.06 Site Development Standards.

- A. **Perimeter Requirements.** If topographical or other barriers within the development do not provide adequate buffering between a subdivision and adjacent non-residential development, the Reviewing Body may impose one (1) or more of the following requirements.
1. Where the subdivision abuts an arterial or collector street or an existing planned unit development, the Reviewing Body may require that a perimeter landscaped strip, no more than twenty-five (25) feet wide *and/or sound mitigation structures*, be established along the abutting property line. All required building setbacks shall be measured from the inner edge of the perimeter strip, which shall be set aside as a separate tract. And, provisions for pedestrian connections through the landscape strip may also be required.
 2. Where the subdivision abuts an existing or planned non-residential area, the Reviewing Body may require that a perimeter landscaped strip, no more than fifty (50) feet wide, be established along the abutting property line. All required building setbacks shall be measured from the inner edge of the perimeter strip, which shall be set aside as a separate tract. And, provisions for pedestrian connections through the landscape strip may also be required.
 3. All driveways and landscaped areas shall comply with vision clearance standards set forth below.
- B. **Vehicular Access, Internal Circulation and Clear Vision Areas.**
1. Where possible, vehicular access to residential subdivisions shall be from abutting arterial or collector streets. Access to individual lots shall be primarily from minor local streets. Direct lot access to arterials shall not be permitted, and direct access to collector streets shall only be allowed as permitted by the Planning Commission.
 2. The minimum street width shall be:
 - a. Collector. Sixty (60) feet of right-of-way and thirty-six (36) feet of pavement curb to curb.
 - b. Local. Fifty (50) feet of right-of-way and twenty-eight (28) feet of paved surface curb to curb, with parking only permitted on the north or west side of the street. A forty-six (46) foot of right-of-way and twenty-eight (28) feet of pavement curb to curb, with parking only permitted on the north or west side of the street may be permitted with appropriate findings through the Conditional Use Permit process as part of a Planned Unit Development
 - c. Dead-end, without turn-around. In the case of in-fill development on parcels identified on the City's current Vacant Land Inventory Map, a forty (40) foot right-of-way with twenty (20) feet of pavement curb to curb shall be permitted, if not more than one hundred and fifty (150)

feet in length, and with no on-street parking, and serving not more than six (6) lots.

- d. Public and/or private alleys or both shall be constructed to City standards as approved by the City Engineer and adopted by City Council.
 3. Clear vision areas shall be provided at all roadway and driveway intersections in accordance with the vision clearance standards set forth in *Section 11.40.27*.
- C. Access Streets Sidewalks - Drainage.
1. All streets shall be designed in accordance with standards set forth in the subdivision code.
 2. All driveways for new construction shall have minimum pavement width twelve (12) feet and shall not be more than twenty-five (25) feet in width at the curb. Each driveway shall have a concrete curb apron designed to comply with public works standards. And, not more than two (2) lots may be served by one (1) shared driveway.
 3. Cul-de-sacs shall serve no more than twelve (12) homes and have a minimum turning radius of forty-five (45) feet measured to the front edge of the curb.
 4. For all new construction curbs, gutters, sidewalk and street tree shall be provided along the entire lot frontage, per the Public Works Public Utilities Design Standards and shall meet ADA accessibility standards. In the case of remodels or garage additions to an existing house no sidewalk shall be required if one does not exist, but the driveway apron and paved driveway shall be required.
 5. Storm drainage shall be managed through a system of underground drainage lines and catch basins, which convey storm water off the site to a public storm system, and shall comply with Cleanwater Services (CWS) standards for water quality and quantity.
- D. Lighting Streets. Streets and walkways shall be lighted during the hours of darkness in accordance with public works standards.
- E. Mailboxes. Except for in-fill partitioning, clustered mailboxes shall be provided, consistent with the locational criteria set by the Post Master. They shall be of uniform style.
- F. Parking and Loading Space.
1. Off-street Parking:
 - a. Resident: One (1) covered parking space shall be provided for each home either on an individual lot or in an off-street parking bay within one hundred (100) feet from the dwelling being served. For an accessory dwelling, one (1) additional off-street parking space is

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required. However, the commission may waive this additional parking space, if appropriate on-street parking is available within one hundred (100) feet of the lot.

- b. Guest: Where on-street parking is prohibited on both sides of a street, guest parking shall be provided in off-street parking bays at the rate of one (1) parking space for every three (3) home sites along the street section. Guest parking should be in close proximity to the homes being served.
 - c. Parking and Storage of recreational vehicles and vehicles of similar size: Recreational vehicles, such as camping trailers, boats, campers, motor homes, and other such vehicles and vehicles of similar size shall only be parked or stored within an area specifically designated and designed for such use, and shall not be located in the public right-of-way.
2. Paving and Design: Off-street parking areas shall be paved and designed in accordance with the standards of the off-street parking regulations of zoning ordinance.
- G. Open Space. Within residential developments containing twenty (20) or more lots or units there shall be, at least, three hundred (300) square feet of recreational space per unit provided in public open space for single family development. Such space may be considered as part of any required landscaping, but must be designed in a manner that affords residents usable open area, such as lawn, patios, etc. Delineated wetlands recognized by the Division of State Lands may apply twenty (20) percent of their area located on the subject parcel(s) to the open space requirement. Calculate the total square footage of delineated wetland area on the subject parcel(s) and multiply it by twenty (20) percent. Streets, access drives and parking lots shall not be considered open space. Open space must be a usable open recreational area, and may include a club house or indoor recreation facility. All outdoor area shall be landscaped and maintained by the owner, or a home owners association, according to the approved development plans, unless the open space is dedicated to and accepted by the City as a public park.

20.07 Manufactured Housing on Individual Lots. All manufactured homes on individual lots within the R-7 zone shall:

- A. Be multi-sectional and enclose a space of not less than one thousand (1,000) square feet.
- B. All manufactured homes shall be skirted with a minimum of smooth face or split face concrete blocking or similar material.

- C. Have a pitched roof with at least a nominal slope of one (1) foot in height for each three (3) foot in width.
- D. Have exterior siding and roofing material which in color, material grade, and appearance is comparable to the exterior siding and roofing material predominantly used on surrounding residential dwellings.
- E. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards required of site built single-family construction under the state Building Code (1981) as defined by ORS 455.010.
- G. Have at least a one (1) car garage constructed of like materials as the home.
- H. Comply with all federal, state and local building codes for placement, occupation and storage.

20.08 Home Occupation. Home occupations may be allowed as follows:

- A. Type A. Allowed through a Type I administrative review consistent with the following:
 - 1. There are no structural alterations or changes necessary to the dwelling or accessory building, or to the premises in order to conduct the business operations; and
 - 2. There is no outdoor display or storage, nor indoor display or storage of merchandise on the premises which can be seen from the street or sidewalk adjacent to the dwelling; and
 - 3. The business is conducted by members of the immediate family all of whom reside in the residence and there are no additional employees; and
 - 4. Personal appearances by customers on the property are limited to one (1) at a time, and not more than eight (8) customers per day; and
 - 5. There is no external signage which informs potential customers of the location of the residential dwelling for the purpose of attracting customers to the dwelling, and
 - 6. The business activity does not create noise levels audible above normal ambient residential levels beyond the property line of the property upon which the residential dwelling is located, and
 - 7. The activities does not attract more than three (3) commercial deliveries of goods and services daily, and
 - 8. The home occupation may not serve as a headquarters or dispatch center where employees come to the site and are dispatched to other locations; and
 - 9. In the case of home day care, there are not more than seven (7) children total and the operator is appropriately licensed by the state; and

10. The owner has and maintains a valid city business license.
- B. Type B. Allowed by approval of the Planning Commission through a Type III application, and subject to the following:
1. There are structural alterations or changes necessary to the dwelling, accessory building, or to the premises in order to conduct the business operations, and/or a new accessory building is needed to conduct the normal operations of the business; and
 2. There is no outdoor display or storage, nor indoor display or storage of merchandise on the premises which can be seen from the street or sidewalk adjacent to the dwelling; and
 3. The business is conducted by members of the immediate family living on the premises and/or not more than one (1) employee who does not reside in the residence; and
 4. Personal appearances by customers on the property are limited to three (3) at a time, and not more than ten (10) customers per day; and
 5. The business activity does not create noise levels audible above normal ambient residential levels beyond the property line of the property upon which the residential dwelling is located, and
 6. The activities does not attract more than five (5) commercial deliveries of goods and services daily, and
 7. The home occupation may not serve as a headquarters or dispatch center where employees come to the site and are dispatched to other locations; and
 8. The owner has and maintains a valid city business license, and
 9. There is no accessory dwelling associated with the primary residence.

20.09 Accessory Dwellings.

- A. A second or secondary, self-contained, one (1) bedroom, living unit with separate entrance and kitchen, developed in conjunction with an existing single-family home and usually created in one of the following ways:
1. existing space in the primary dwelling;
 2. a combination of existing and newly created space associated with the primary dwelling;
 3. space within an existing accessory building, such as a detached garage;
 4. the addition of a new accessory building associated with an existing single-family home.
- B. Accessory dwellings shall comply with the following:
1. The owner(s) of the primary dwelling shall occupy at least one (1) of the units.

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2. There shall be a minimum of two hundred fifty (250) square feet of floor area for each occupant, and there shall be no more than two (2) occupants, and the unit shall not exceed eight hundred (800) square feet, or thirty (30) percent of the total floor area of the primary dwelling.
3. One (1) additional off-street parking space shall be provided, unless waived by the planning commission.
4. The exterior architectural design and building materials are consistent with those of the primary dwelling, and there shall be only one (1) front door facing the street.
5. All yard area requirements of the base zone shall be met, and the unit shall comply with the fire and life safety codes.

(Sections 11.622 through 11.634, inclusive amended and renumbered to Sections 11.20.01 through 11.20.09., inclusive by Ordinance No. 810, May 1, 2000)

(Sections 11.20.05 and 11.20.06 amended by Ordinance 841, July 21, 2003)

11.20.10 SINGLE FAMILY RESIDENTIAL ZONE (R-10)

20.11 Purpose The purpose of the Single Family Residential, R-10 zone is to implement the Low-density Residential land use designation and policies of the Comprehensive Plan. To do this, the R-10 Single Family Residential zone regulates the construction of single family homes on existing lots, and provides design guidance for single-family residential subdivisions.

20.12 Permitted Uses. The following uses and their accessory uses are permitted outright in an R-10 zone:

- A. Site built detached single-family dwelling; and detached single-family manufactured housing, subject to *Section 11.20.07*.
- B. Underground public utilities.
- C. Accessory uses and structures which are customarily and clearly incidental and subordinate to the above uses, including approved carports, garages, or storage facilities. See *Section 11.40.21*.
- D. Accessory dwelling unit, subject to *Section 11.20.09*.
- E. Home occupation consistent with *Section 11.20.08*.
- F. Group home consistent with state law.

20.13 Conditional Uses. The following uses may be permitted when in accordance with *Section 11.30.30*:

- A. Governmental structure or use including public and private park, playground, community center and non-commercial recreational facilities, golf course, swimming pool, tennis courts, fire station, library or museum.
- B. School: Nursery, primary, elementary, junior or senior high, college or university.
- C. Utility substation or above ground pumping station with no equipment storage.
- D. Two-family dwelling, including single-family attached, subject to lot area standards and design review.
- E. Home occupation consistent with *Section 11.20.08*.

- F. A Planned Unit Development, including mixed uses approved by the Planning Commission and as provided for under *Section 11.30.40*.
- G. Church, and associated church activities, except commercial day care.
- H. A Manufactured structure for temporary educational purposes subject to the following required conditions in addition to other conditions which may be imposed under *Section 11.30.30., Conditional Use Permit*. Placed upon a permanent concrete or concrete block foundation and supplied with a continuous perimeter skirting that extends at least six (6) inches below the surface of the ground or to an impervious surface. The skirting shall be composed of the same material and finish as the exterior of the unit or of brick or concrete block, or as may be approved by the Planning Commission.
 - 2. Placed a maximum of eighteen (18) inches above ground level at any point, unless the unit is placed upon a basement foundation, or unless approved by the Planning Commission.
 - 3. Manufactured after June 15, 1976, and bear the Oregon Department of Commerce "Insignia of Compliance" indicating conformance with HUD standards.

20.14 Prohibited Uses. The following uses shall be prohibited within the R-10 zone:

- A. Recreational vehicles or other movable temporary dwellings used as a residence, or accessory sleeping units; except as lodging for guests not to exceed two (2) weeks.
- B. More than two (2) dwelling units on a single lot.
- C. Retail sales, except for when over the Internet.
- D. Heavy manufacturing and processing.
- E. Parking and storage of construction equipment, semi-tractors and trailers.
- F. The raising of animals other than normal household pets.

20.15 Area, Density and Lot Requirements.

- A. Minimum density: The minimum density allowed is three (3) dwellings per net acre. Any land partition or subdivision shall make provisions to ensure that the minimum density is protected when further partitioning is possible.
 - 1. No lot shall be less than 10,000 square feet for single-family detached.
 - 2. In the case of flag lots, the pole portion of the lot shall not count towards the

required lot area.

- B. Maximum height: No building shall exceed thirty-five (35) feet, except for a chimney, radio or television antenna.
- C. Minimum yard area, setbacks:
1. Front yard: The front, as measured from the furthest extension of the home, including porch or deck shall not be less than twenty-five (25) feet. Accessory structures, garages or carports shall not be less than twenty-five (25) feet.
 2. Rear yard: No rear yard shall be less than twenty-five (25) feet in depth.
 3. Side yard: The minimum width of side yards shall be not less than ten (10) feet, as measured from the foundation of the home. On corner lots the side yard facing the street shall not be less than twenty (20) feet.
 4. No accessory building or other structure or building shall be closer than three (3) feet from a side or rear property line.
 5. The lot coverage: The area occupied by the home, and all accessory buildings and structures on the lot shall not exceed fifty (50) percent of the lot area.
- D. Minimum lot shape:
1. No single-family lot shall be less than eighty (80) feet in width or less than eighty (80) feet in depth, except as may be approved as part of a Planned Unit Development.

20.16 Site Development Standards.

- A. Perimeter Requirements. If topographical or other barriers within the development do not provide adequate buffering between a subdivision and adjacent non-residential development, the Reviewing Body may impose one (1) or more of the following requirements.
1. Where the subdivision abuts an arterial or collector street or an existing planned unit development, the Reviewing Body may require that a perimeter landscaped strip, no more than twenty-five (25) feet wide and/or sound mitigation structures, be established along the abutting property line. All required building setbacks shall be measured from the inner edge of the perimeter strip, which shall be set aside as a separate tract. And, provisions for pedestrian connections through the landscape strip may also be required.
 2. Where the subdivision abuts an existing or planned non-residential area, the Reviewing Body may require that a perimeter landscaped strip, no more than fifty (50) feet wide, be established along the abutting property line. All required building setbacks shall be measured from the inner edge of the perimeter strip, which shall be set aside as a separate tract. And, provisions for pedestrian connections through the landscape strip may also be required.

3. All driveways and landscaped areas shall comply with vision clearance standards set forth below. All landscaping shall comply with the general landscaping standards set forth below.
- B. Vehicular Access, Internal Circulation and Clear Vision Areas.
1. Where possible, vehicular access to residential subdivisions shall be from abutting arterial or collector streets. Access to individual lots shall be primarily from minor local streets. Direct lot access to arterials shall not be permitted, and direct access to collector streets shall only be allowed as permitted by the Planning Commission.
 2. The minimum street width shall be:
 - a. Collector. Sixty (60) feet of right-of-way and thirty-six (36) feet of pavement curb to curb.
 - b. Local. Forty-six (46) feet of right-of-way and twenty-eight (28) feet of pavement curb to curb, with no parking on one side of the street.
 - c. Dead-end, without turn-around. Twenty (20) feet, if not more than one hundred and fifty (150) feet in length, and with no on-street parking, and serving not more than six (6) lots.
 3. Clear vision areas shall be provided at all roadway and driveway intersections in accordance with the vision clearance standards set forth in *Section 11.40.27*.
- C. Access Streets Sidewalks - Drainage.
1. All streets shall be designed in accordance with standards set forth in the subdivision code.
 2. All driveways for new construction shall have minimum pavement width twelve (12) feet and shall not be more than twenty-five (25) feet in width at the curb. Each driveway shall have a concrete curb apron designed to comply with public works standards. And, not more than two (2) lots may be served by one (1) shared driveway.
 3. Cul-de-sacs shall serve no more than twelve (12) homes and have a minimum turning radius of forty-five (45) feet measured to the front edge of the curb.
 4. For all new construction curbs, gutters, and a minimum five (5) foot wide sidewalk shall be provided along the entire lot frontage, and shall meet ADA accessibility standards. In the case of remodels or garage additions to an existing house no sidewalk shall be required if one does not exist, but the driveway apron and paved driveway shall be required.
 5. Storm drainage shall be managed through a system of underground drainage lines and catch basins, which convey storm water off the site to a public storm system, and shall comply with Cleanwater Services (CWS) standards for water quality and quantity.
- D. Lighting Streets. Streets and walkways shall be lighted during the hours of darkness in accordance with Public Works standards.

- E. Mailboxes. Except for in-fill partitioning, clustered mailboxes shall be provided, consistent with the locational criteria set by the Post Master. They shall be of uniform style.
- F. Parking and Loading Space.
 - 1. Off-street Parking:
 - a. Resident: One (1) covered parking spaces shall be provided for each home either on an individual lot or in an off-street parking bay within one hundred (100) feet from the dwelling being served. For an accessory dwelling, one (1) additional off-street parking space is required. However, the commission may waive this additional parking space, if appropriate on-street parking is available within one hundred (100) feet of the lot.
 - b. Guest: Where on-street parking is prohibited on both sides of a street, guest parking shall be provided in off-street parking bays at the rate of one (1) parking space for every three (3) home sites along the street section. Guest parking should be in close proximity to the homes being served.
 - c. Parking and Storage of recreational vehicles and vehicles of similar size: Recreational vehicles, such as camping trailers, boats, campers, motor homes, and other such vehicles and vehicles of similar size shall only be parked or stored within an area specifically designated and designed for such use, and shall not be located in the public right-of-way.
 - 2. Paving and Design: Off-street parking areas shall be paved and designed in accordance with the standards of the off-street parking regulations of zoning ordinance.

20.17 Manufactured Housing on Individual Lots. All manufactured homes on individual lots within the R-10 zone shall:

- A. Be multi-sectional and enclose a space of not less than one thousand (1,000) square feet.
- B. Have a pitched roof with at least a nominal slope of one (1) foot in height for each three (3) foot in width.
- C. Have exterior siding and roofing material which in color, material grade, and appearance is comparable to the exterior siding and roofing material predominantly used on surrounding residential dwellings in the zoning district.

- D. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards required of site built single-family construction under the state Building Code (1981) as defined by ORS 455.010.
- E. Have at least a one (1) car garage constructed of like materials as the home.
- F. Have skirting that consists of smooth or split face concrete blocks.
- G. Comply with all federal, state, and local building codes for placement occupation and storage.

20.18 Home Occupation. Home occupations may be allowed as follows:

- A. Type A. Allowed through a Type I administrative review consistent with the following:
 - 1. There are no structural alterations or changes necessary to the dwelling or accessory building, or to the premises in order to conduct the business operations; and
 - 2. There is no outdoor display or storage, nor indoor display or storage of merchandise on the premises which can be seen from the street or sidewalk adjacent to the dwelling; and
 - 3. The business is conducted by members of the immediate family all of whom reside in the residence and there are no additional employees; and
 - 4. Personal appearances by customers on the property are limited to one (1) at a time, and not more than eight (8) customers per day; and
 - 5. There is no external signage which informs potential customers of the location of the residential dwelling for the purpose of attracting customers to the dwelling, and
 - 6. The business activity does not create noise levels audible above normal ambient residential levels beyond the property line of the property upon which the residential dwelling is located, and
 - 7. The activities does not attract more than three (3) commercial deliveries of goods and services daily, and
 - 8. The home occupation may not serve as a headquarters or dispatch center where employees come to the site and are dispatched to other locations; and
 - 9. The owner has and maintains a valid city business license, and
 - 10. In the case of home day care, there are not more than seven (7) children total and the operator is appropriately licensed by the state.
- B. Type B. Allowed by approval of the planning commission through a Type III application, and subject to the following:

1. There are structural alterations or changes necessary to the dwelling, accessory building, or to the premises in order to conduct the business operations, and/or a new accessory building is needed to conduct the normal operations of the business; and
2. There is no outdoor display or storage, nor indoor display or storage of merchandise on the premises which can be seen from the street or sidewalk adjacent to the dwelling; and
3. The business is conducted by members of the immediate family living on the premises and/or not more than one (1) employee who does not reside in the residence; and
4. Personal appearances by customers on the property are limited to three (3) at a time, and not more than ten (10) customers per day; and
5. The business activity does not create noise levels audible above normal ambient residential levels beyond the property line of the property upon which the residential dwelling is located, and
6. The activities does not attract more than five (5) commercial deliveries of goods and services daily, and
7. The home occupation may not serve as a headquarters or dispatch center where employees come to the site and are dispatched to other locations; and
8. The owner has and maintains a valid city business license, and
9. There is no accessory dwelling associated with the primary residence.

20.19 Accessory Dwellings.

- A. A second or secondary, self-contained, one (1) bedroom, living unit with separate entrance and kitchen, developed in conjunction with an existing single-family home and usually created in one of the following ways:
 1. existing space in the primary dwelling;
 2. a combination of existing and newly created space associated with the primary dwelling;
 3. space within an existing accessory building, such as a detached garage;
 4. the addition of a new accessory building associated with an existing single-family home.
- B. Accessory dwellings shall comply with the following:
 1. The owner(s) of the primary dwelling shall occupy at least one (1) of the units.
 2. There shall be a minimum of two hundred fifty (250) square feet of floor area for each occupant, and there shall be no more than two (2) occupants, and the unit shall not exceed eight hundred (800) square feet, or thirty (30) percent of the total floor area of the primary dwelling.
 3. One (1) additional off-street parking space shall be provided, unless waived by the planning commission.

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4. The exterior architectural design and building materials are consistent with those of the primary dwelling, and there shall be only one (1) front door facing the street.
5. All yard area requirements of the base zone shall be met, and the unit shall comply with the fire and life safety codes.

(Sections 11.642 through 11.652, inclusive amended and renumbered to Sections 11.20.10 through 11.20.19., inclusive by Ordinance No. 810, May 1, 2000)

11.20.20 MANUFACTURED HOME PARK ZONE, MHP

20.21 Purpose. These provisions are intended to regulate the establishment of manufactured home parks and shall also apply to modifications, enlargements, or amendments to existing manufactured home parks, including removal and replacement of homes. The purpose of these regulations is:

- A. To provide for mobile home parks as a use permitted outright in the mobile home park zone.
- B. To assist in providing opportunities for low and moderately priced single-family housing.
- C. To provide opportunities for upgrading and updating of dwelling units within existing mobile home parks, thereby improving living conditions for mobile home owners.
- D. To provide standards to ensure a high-quality living environment within mobile home parks.
- E. To recognize and support the basic design concept that Manufactured home parks tend to be closed, safe environments isolated from major traffic flows, while at the same time providing for appropriate collector street connectivity.
- F. To provide standards to ensure compatibility with residential, commercial, and/or industrial development adjacent to mobile home parks.
- G. These provisions are intended to conform to state definitions as set forth in ORS 446.003 established by the Department of Commerce, Building Codes Agency, OAR Chapter 918, Division 600, General Rules. However, the standards set forth herein supersede those set in the state code, and any discrepancy with the state code shall be governed by the City standard.

20.22 Permitted Uses. The following uses may be permitted within manufactured home parks, provided they are designated on the approved development plan:

- A. Manufactured home dwellings with a minimum width of twelve (12) feet and a minimum floor area of six hundred seventy-two (672) square feet;

- B. Parks, playgrounds, community centers and non-commercial recreational facilities such as golf courses, shuffleboard courts, swimming pools, tennis courts, game rooms, libraries and similar uses.
- C. Public utilities.
- D. Accessory uses and structures which are customarily and clearly incidental and subordinate to the above uses, including approved carports, garages, or storage facilities.
- E. Use of a manufactured home as a park manager's office, or as a temporary sales office for the park during and immediately following construction.
- F. Other Conditional Uses, including neighborhood commercial, considered compatible and complimentary to the park and neighborhood, as may be approved by the Planning Commission in a public hearing.

20.23 Prohibited Uses. The following uses shall be prohibited within mobile home parks:

- A. Sales lot for manufactured homes or other movable dwellings, including recreational vehicles. This provision shall not prohibit the sale of a manufactured home on the space it is intended to occupy.
- B. Conventional single family and multi-family units.
- C. The raising of animals other than normal household pets.

20.24 Approval Process.

- A. These provisions address three (3) types of actions:
 - 1. The replacement of a manufactured home in an existing manufactured home park, as a Type I process.
 - 2. A modification, enlargement or change to an existing manufactured home park, as a Type II process.
 - 3. The establishment of a manufactured home park, as a Type III process.
- B. Replacement of a Manufactured Home. Consistent with Type I procedures, a manufactured home in an existing manufactured home park may be removed and replaced by another manufactured home upon

issuance of a manufactured home placement permit, issued by the Community Development Director, subject to the following standards:

1. The front and rear setbacks shall be as set forth in *Section 11.20.26.D.1.* or equal to the setback of the replaced unit, whichever is less.
2. The side yard setback shall be as set forth in *Section 11.20.26.D.3.* or equal to the set-backs of the replaced unit whichever is less.
3. Within existing parks, where specific lot lines were not previously shown on a master plan, yards and lot lines shall be defined by an assumed line half the distance of the established building separation; or the actual distance from the foundation line of a manufactured home to the perimeter lot line of the park or to the edge of the street or interior roadway.
4. An existing manufactured home that does not meet the minimum safety standards established by HUD may be replaced by a manufactured dwelling unit that meets HUD safety standards as long as the replacement unit maintains the minimum separation requirements as defined by the Oregon Structural Specialty Code.

C. Establishment of a Manufactured Home Park.

1. The establishment of a manufactured home park is a two-part process. It involves:
 - a. General design approval of a Master Site Plan by the City Planning Commission. The approval standards shall be the site development standards set forth in *Section 11.20.26. and 11.20.27.*, and other applicable provisions of the City Code; and
 - b. Design Review approval of a Master Site Plan by the City Development Review Committee.
2. No construction approval permit shall be given by the City until the applicant has received approval from the Planning Commission and Development Review Committee.

D. A Modification, Enlargement or Change to an Existing Manufactured Home Park. The approval of a modification, enlargement or change to an existing manufactured home park is a Type II process. It involves:

1. Satisfaction of the standards set forth in *Section 11.20.25.*, and
2. No construction approval or permit shall be given by the City until the applicant has received approval from the Facilities and Design Review Committee.

20.25 Modification, Enlargement or Changes to Existing Manufactured Home Parks.

- A. Prior to consideration under *Section 11.20.25.B.*, of any modification, enlargement or change to an existing manufactured home park, a Master Site Plan shall be submitted and approved by the Design and Facilities Review Committee which shall conform to the provisions of *Section 11.20.26. and 11,20.27.* Any changes which conform to the approved plan shall not require any additional approvals.
- B. Prior to implementing any modification, enlargement or change consistent with the approved Master Site Plan, an application shall be submitted which satisfies the provisions of *Section 11.20.25.C., Partial Site Plan*, to the Community Development Director for approval for each modification. The Community Development Director shall determine if the proposed modification, enlargement or change is consistent with the approved overall site plan. The Community Development Director shall have the authority to approve, approve with conditions consistent with the provisions of this code, or deny any application. Notice of an approval or approval with conditions shall be given to all property owners and manufactured home owners within two hundred-fifty (250) feet of the area being modified. The decision of the Community Development Director shall be appealable to the Planning Commission by any person who is aggrieved or has interests adversely affected by the decision. A notice of appeal shall be filed in the office of the Community Development Director not later than ten (10) working days after the date of the notice of the decision.
- C. Partial Site Plan.
 - 1. An application for any modification to an existing manufactured home park shall place on record a partial site plan with approximate dimensions showing that the provisions of this zone are satisfied and which includes:
 - a. A narrative statement which states the number of units allowed on the site by the approved master site plan, the number of existing units, and the number of units being added or deleted. If there is not an approved master site plan, then the applicant shall provide a scaled aerial photo, no more than two (2) years old, of the entire park, and including at least one hundred (100) feet around the perimeter of the park. The average setbacks shall be documented as a basis for determining yard requirements for replacement units.

- b. Drawings to scale which show the dimensions and height of any buildings on the site.
 - c. A drawing to scale which shows the size of a manufactured home being added, deleted or moved, and the relationship of the manufactured home to the setback requirements set forth in *Section 11.20.26*.
 - d. A list of names of all persons owning property or manufactured homes within two hundred-fifty (250) feet of the manufactured home park area being modified.
 - e. A fee in an amount determined by the City Council.
2. Each portion of the park being modified shall satisfy the applicable requirements outlined in *Sections 11.20.26 through 11.20.29*.

20.26 Area, Density and Height Requirements.

- A. Minimum area dimensions: The minimum area for a manufactured home park shall be four (4) acres. The minimum width of the tract for portions used only for vehicular access shall be sixty (60) feet. For portions containing manufactured home spaces and buildings open generally to occupants of the park, the minimum dimension shall be two hundred (200) feet.
- B. Maximum density: The average density over the entire development shall not exceed ten (10) dwellings per gross acre. Portions of the manufactured home park where grades exceed fifteen (15) percent shall not be included in the gross area computation.
- C. Maximum height: No building in a manufactured home park shall exceed two (2) stories or thirty-five (35) feet, whichever is less, except for a chimney, radio or television antenna.
- D. Minimum yard area, setbacks, lot size and shape:
 - 1. Front yard: The front, as measured from the furthest extension of the manufactured home, including porch or deck shall not be less than ten (10) feet from the back of the sidewalk. Accessory structures, garages or carports shall not be less than twenty (20) feet from the back of the sidewalk.
 - 2. Rear yard: No rear yard shall be less than ten (10) feet in depth. However, where a rear yard abuts a perimeter landscape strip, the rear yard may be reduced to five (5) feet.
 - 3. Side yard: The minimum width of side yards shall be not less than seven and one half (7 1/2) feet, as measured from the edge of

- the eave or the furthest extension of the manufactured home or accessory structure to the edge of the manufactured home space.
4. Distance between manufactured homes: Neighboring manufactured homes shall be separated by an average distance of at least fifteen (15) feet, but in no case shall manufactured dwelling units be closer than ten (10) feet. No accessory building or other structure or building on a manufactured home space shall be closer than ten (10) feet from other buildings or structures on the same space, or another manufactured home.
 5. Distance between manufactured homes and other non-residential buildings: manufactured homes shall be no closer than twenty (20) feet to any permitted building other than another manufactured home or an accessory structure on a manufactured home space.
 6. Lot lines: Manufactured home lot lines need not be perpendicular to streets or radial to curves, but shall be clearly identified on the Master Site Plan, and identifiable on-site.
 7. The lot coverage: The area occupied by the manufactured home, accessory buildings and structures on the lot shall not exceed seventy-five (75) percent of the lot area.
- E. No manufactured home space shall be less than thirty (30) feet in width or less than eighty-five (85) feet in length, unless legally created prior to May 1, 2000.

20.27 Site Development Standards.

- A. Open Space. There shall be at least two hundred (200) square feet of open space for each unit in the park provided in common open space. However, the minimum required area shall be five thousand (5,000) square feet. Streets, access drives and parking lots shall not be considered open space. Open space must be a usable open recreational area, and shall be landscaped and maintained by the park owner according to the approved Master Site Plan.
- B. Perimeter Requirements. If topographical or other barriers within the development do not provide adequate buffering between the manufactured home park and adjacent development, the Reviewing Body may impose one (1) or more of the following requirements.
 1. Where the manufactured home park abuts an arterial or collector street or an existing or planned residential area, the Reviewing body may require that a perimeter landscaped strip, no more than twenty-five (25) feet wide, be established along the abutting

property line. All required building setbacks shall be measured from the inner edge of the perimeter strip.

2. Where the manufactured home park abuts an existing or planned non-residential area, the Reviewing Body may require that a perimeter landscaped strip, no more than fifty (50) feet wide, be established along the abutting property line. All required building setbacks shall be measured from the inner edge of the perimeter strip.
 3. Where required above, the Reviewing Body may require that perimeter strips be landscaped in a manner to buffer and screen from view adjoining commercial and industrial uses from the manufactured home park. Such buffering or screening shall be in place prior to issuance of home siting permits. Either of the following techniques may be used:
 - a. A six (6) foot high earthen berm, with seventy-five (75) percent of the area planted with evergreen and deciduous trees, shrubs, and ground cover arranged so as to create an effective buffer and visual screen; or
 - b. A six (6) foot high decorative masonry wall, or combination masonry wall and wooden fence, and a combination of evergreen and deciduous trees, shrubs, and ground cover arranged so as to create an effective buffer and visual screen.
 4. All required landscaped areas shall comply with the general landscaping standards and vision clearance standards set forth below.
- C. **Landscape Plan.** In addition to the open space requirements, at least twenty (20) percent of the gross site area shall be in landscaping. The perimeter buffer area required under *Section 11.20.27.B.*, shall be considered landscaped area. All front yards of manufactured home lots shall be landscaped prior to occupancy, in accordance with the approved Master Site Plan.
- D. **Patio.** A patio of wood, concrete, flagstone or equivalent material having a minimum area of one hundred-sixty (160) square feet shall be installed on each manufactured home space prior to occupancy of the manufactured home.
- E. **Accessory Structures.** Accessory structures such as carports, garages, storage lockers, recreation and management buildings, cabanas and ramadas shall be allowed and shall satisfy the setback and lot coverage requirements.

- F. Vehicular Access, Internal Circulation and Clear Vision Areas.
1. Where possible, vehicular access to a manufactured home park shall be from abutting arterial or collector streets. When bounded by more than one (1) arterial or collector street, only one (1) access point from each street shall be permitted. If the park is situated so that it would block through connection of a public collector street, then the Reviewing Body may require that a public street connection shall be made through the park.
 2. No manufactured home park entrance or exit shall be closer than one hundred (100) feet to any intersection of a public street.
 3. No manufactured home space shall have direct vehicular access to a street bordering the development, unless it is a public street that extends through the park, required by (F)(1) above.
 4. Each manufactured home space shall have direct access to an internal access street. Internal street shall be designed to discourage outside traffic from traversing the development, except as required by (F)(1) above.
 5. Clear vision areas shall be provided at all roadway and driveway intersections in accordance with the vision clearance standards of the zoning ordinance.
- G. Internal Access Streets - Drainage.
1. All interior roadways and drives, except in the case of a through public street, shall be paved and maintained by the owner of the manufactured home park in accordance with city standards.
 2. All interior roadways shall have minimum pavement width from curb face to curb face, as follows:
 - a. Two-way streets:

No on-street parking	24 feet
Parking on one side	28 feet
Parking on both sides	36 feet
 3. All corners shall have a minimum curb radius of twenty (20) feet.
 4. Cul-de-sacs shall serve no more than twelve (12) manufactured home sites and have a minimum turning radius of forty (40) feet measured to the front of the curb.
 5. All streets shall have curbs, gutters, and a minimum five (5) foot wide sidewalk on each side, and shall meet ADA accessibility standards.
 6. Storm drainage shall be managed through a system of underground drainage lines and catch basins, which convey storm water off the site to a public storm system, and shall comply with Cleanwater Services (CWS) standards for water quality and quantity.

- H. Lighting Streets and Sidewalks. Streets and walkways shall be lighted during the hours of darkness. Such lighting shall be automatically controlled and not be under control of the individual manufactured home occupants. Lighting shall be designed to an average of twenty-five hundredths (0.25) horizontal candle power of light the full length of all roadways and walks within the park boundaries.
- I. Mailboxes. Clustered mailboxes shall be provided, consistent with the locational criteria set by the Post Master. They shall be of uniform style.
- J. Parking and Loading Space.
1. Off-street Parking:
 - a. Resident: One (1) covered parking space shall be provided for each manufactured home either on the manufactured home space or in an off-street parking bay within one hundred (100) feet of the dwelling being served. The covered parking space requirement may be waived in the replacement of a manufactured dwelling when the applicant can show that the minimum setbacks for the carport cannot be met, and fewer than fifty (50) percent of the manufactured dwellings within one hundred (100) feet of the lot in question have a carport.
 - b. Guest: Where on-street parking is prohibited on both sides of an interior roadway, guest parking shall be provided in off-street parking bays at the rate of one (1) parking space for every three (3) manufactured home sites along the roadway section. Guest parking should be in close proximity to the manufactured home units being served.
 - c. Storage of recreational vehicles: Recreational vehicles, such as camping trailers, boats, campers, motor homes, and other such vehicles shall only be parked or stored within an area specifically designated and designed for such use, and shall be enclosed by a six (6) foot high sight-obscuring wooden fence or decorative masonry wall with a gate.
 2. Loading Space: Off-street loading bays and maneuvering areas shall be provided for all uses receiving delivery vehicles on a regular basis in conformance with the off-street loading requirements of the Zoning Ordinance, except for home occupational uses.
 3. Paving and Design: Off-street parking and loading areas shall be paved and designed in accordance with the standards of the off-street parking and loading regulations of zoning ordinance, and all streets which are to be used for emergency vehicle access shall be designed to load carrying capacities required by the fire chief.

20.28 Manufactured Home Installation.

- A. Compliance with HUD standards: Any manufactured home placed within any manufactured home park established under this ordinance shall have been manufactured after June 15, 1976, and bear the insignia of compliance issued by the Oregon Department of Commerce to show conformance with construction standards promulgated by the United States Department of Housing and Urban Development (HUD) construction standards.
- B. Removal of wheels: Wheels shall be removed from the manufactured home upon placement within a manufactured home park. Hubs and axles may remain.
- C. Site Preparation, Skirting, and Tie-downs: The site shall be properly prepared, compacted and graded for drainage as required by the building official, based on soil conditions and the weight of the unit being installed. All manufactured homes shall be skirted with a minimum concrete blocking or similar material as prescribed by the Building Official. Manufactured homes shall be tied down in accordance with state standards.

20.29 Prior Approvals.

- A. Any and all conditions attached to the approval of any manufactured home park prior to September 2, 1986, shall continue to apply and shall not be repealed, modified or in any manner affected by the provisions of the *City Building Code, Section 10.010 through 10.100*, inclusive, so long as modifications are not made. However, the standards set forth herein supersede those established by the Department of Commerce, Building Codes Agency, OAR Chapter 918, Division 600, General Rules, and any discrepancy with the state code shall be governed by the City standards, for any modifications or replacements made on or after the effective date of this Ordinance.

(Sections 11.740 through 11.745, inclusive amended and renumbered to Sections 11.20.20 through 11.20.29., inclusive by Ordinance No. 810, May 1, 2000)

11.20.30 MULTI-FAMILY RESIDENTIAL ZONE, A-2

20.31 Purpose. The purpose of the Multi-Family Residential or A-2 zone is to implement the City's land use designation and policies for Medium-Density Residential housing as set forth in the Comprehensive Plan. The A-2 zone regulates development of single family homes on existing lots; and provides design guidance for small lot single-family residential subdivisions and multi-family developments.

20.32 Permitted Uses. The following uses and their accessory uses are permitted outright in an A-2 zone:

- A. Attached dwellings, including single-family attached units sharing a common property wall.
- B. Multiple family dwellings of three (3) or more units.
- C. Boarding house, lodging or rooming house.
- D. Underground public utilities.
- E. Accessory uses and structures which are customarily and clearly incidental and subordinate to the above uses, including approved carports, garages, or storage facilities.
- F. Private parks and recreational facilities designed within a multi-family development.
- G. Accessory dwelling unit, associated with single-family detached or attached, and subject to *Section 11.20.09*.
- H. Home occupation, including internet sales, consistent with *Section 11.20.08*.
- I. Group home consistent with state law.

20.33 Conditional Uses. The following uses may be permitted when in accordance with *Section 11.30.30*.

- A. Governmental structure or use including public and private park, playground, community center and non-commercial recreational facilities,

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golf course, swimming pool, tennis courts, fire station, library or museum.

- B. School: Public or private: nursery, primary, middle, junior or senior high, but not college or university.
- C. Utility substation or above ground pumping station with no equipment storage.
- D. Home occupation consistent with *Section 11.20.08*.
- E. A Planned Unit Development, including office and retail sales and other mixed uses approved by the Planning Commission and conditional use as provided for under *Section 11.30.40*.
- F. A manufactured/modular structure for temporary educational purposes subject to the following required conditions in addition to other conditions which may be imposed under *Section 11.30.30*:
- H. Church, and associated church activities, except commercial day care.
- I. Site built detached single-family dwelling; and detached single-family manufactured housing, subject to *Section 11.20.07*.

20.34 Prohibited Uses. The following uses shall be prohibited within the A-2 zone:

- A. Recreational vehicles or other movable temporary dwellings used as a residence, or accessory sleeping units; except as lodging for guests not to exceed two (2) weeks.
- B. Manufacturing, processing, and bulk storage, except as permitted as a home occupation.
- C. Parking and storage of construction equipment, semi-tractors and trailers.
- D. The raising of animals other than normal household pets.
- E. Retail sales, except for when over the Internet and where applicable in compliance with the Home Occupation requirements.
- F. Heavy manufacturing and processing.

20.35 Area, Density and Lot Requirements. Lot area and density requirements shall be calculated based on net acreage. A net acre is equal to 32,670 square feet, and excludes roads, common open space, flood plains, riparian setbacks, and slopes over twenty-five (25) percent.

- A. Maximum density: The average density over the entire development shall not exceed fourteen (14) dwellings per net acre.
 - 1. Lot Size:
 - a. Single-family detached residence, no lot shall be less than 3,100 square feet.
 - b. Duplex or single-family attached residence, shall have at least 3,000 square feet of lot area per unit.
 - c. Multi-family development shall have at least 2,330 square feet per unit, except as may otherwise be approved as part of a Planned Unit Development. In the case of flag lots, the pole portion of the lot shall not count towards the required lot area.
 - 2. In the case of flag lots, the pole portion of the lot shall not count towards the required lot area.
- B. Minimum density: The minimum density allowed is eight (8) dwellings per net acre for single family, and eleven (11) for multi-family development. Any land partition or subdivision shall make provisions to ensure that the minimum density is protected when further partitioning is possible and initial development is less than the minimum density.
- C. Maximum height: No building shall exceed thirty-five (35) feet, except for a chimney, radio or television antenna, or as may be approved by the Planning Commission as part of a planned unit development .
- D. Setback Requirements. Except as provided in *Section 11.40.21.*, in an A-2 zone the minimum setback requirements shall be as follows: Minimum yard area, setbacks:
 - 1. Front yard: The front, as measured from the foundation of the structure, including porch or deck shall not be less than ten (10) feet. Accessory structures, garages or carports shall not be less than twenty (20) feet.
 - 2. Rear yard: No rear yard shall be less than ten (10) feet in depth for a single story structure, plus five (5) feet per additional story as measured from the foundation of the structure.
 - 3. Side yard: For single family residences, the minimum width of side yards shall be not less than five (5) feet, as measured from the foundation of the home. On corner lots the side yard facing the street shall not be less than ten (10) feet. For Multi-Family

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residences, no side yard shall be less than five (5) feet in depth for a single story structure, plus five (5) feet per additional story as measured from the foundation of the structure. On corner lots the side yard facing the street shall not be less than ten (10) feet.

4. Building separation: Buildings within a complex shall be separated by at least ten (10) feet, plus five (5) feet per additional story.
 5. No accessory building or other structure or building shall be closer than three (3) feet from a side or rear property line.
- E. Lot coverage: The area occupied by the home, and all accessory buildings and structures on the lot shall not exceed fifty-five (55) percent of the lot area.
- F. Height of Building: No building shall exceed a height of thirty-five (35) feet, except as may be approved under a planned development by the planning commission.
- G. Minimum Lot Dimensions:
1. No single-family lot shall be less than thirty (30) feet in width, abutting a public street, nor less than sixty (60) feet in depth, except as may be approved as part of a Planned Unit Development.
 2. For multi-family, the minimum average lot width shall be seventy-five (75) feet abutting a public street, except on a cul-de-sac where the width may be reduced to fifty (50) feet.
 3. In the case of in-fill development on parcels, as defined by the City's current Vacant Land Inventory, the Community Development Director may allow the lot width at the street to be reduced to not less than twenty (20) feet for a single lot with no more than two dwelling units and not less than thirty (30) feet for more than two (2) dwelling units.

20.36 Site Development Standards. All multi-family developments are subject to design review requirements, as set forth in *Section 11.30.10*; and all prior conditions of approval attached to any use in a multi-family zone shall continue to apply.

- A. Open Space. Within residential developments containing twenty (20) or more lots or units there shall be, at least, three hundred (300) square feet of open recreational space per unit provided in common open space for multi-family development and/or three hundred (300) square feet of recreational space per unit provided in public open space for single family development. Such space will be considered part of the required landscaping, but must be designed in a manner that affords residents

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usable open area, such as lawn, patios, etc. Delineated wetlands recognized by the Division of State Lands may apply twenty (20) percent of their area located on the subject parcel(s) to the open space requirement. Calculate the total square footage of delineated wetland area on the subject parcel(s) and multiply it by twenty (20) percent. Streets, access drives and parking lots shall not be considered open space. Open space must be a usable open recreational area, and may include a club house or indoor recreation facility. All outdoor area shall be landscaped and maintained by the owner, or a home owners association, according to the approved development plans, unless the open space is dedicated to and accepted by the City as a public park.

- B. Perimeter Requirements. If topographical or other barriers within the development do not provide adequate buffering between the development and adjacent non-residential development, the Reviewing Body may impose one (1) or more of the following requirements.
1. Where the development abuts an arterial or collector street or an existing planned unit development, the reviewing body may require that a perimeter landscaped strip, no more than twenty-five (25) feet wide and/or sound mitigation structures, be established along the abutting property line. All required building setbacks shall be measured from the inner edge of the perimeter strip, which shall be set aside as a separate tract. And, provisions for pedestrian connections through the landscape strip may also be required.
 2. Where the development abuts an existing or planned non-residential area, the Reviewing Body may require that a perimeter landscaped strip, no more than fifty (50) feet wide, be established along the abutting property line. All required building setbacks shall be measured from the inner edge of the perimeter strip, which shall be set aside as a separate tract. And, provisions for pedestrian connections through the landscape strip may also be required.
 3. All driveways and landscaped areas shall comply with vision clearance standards set forth below. All landscaping shall comply with the general landscaping standards set forth below.
- C. Landscape Plan.
1. For multi-family residence, in addition to the open space requirements, the entire net area of the site that is not covered by building or parking and circulation improvements shall be landscaped prior to occupancy, in accordance with the approved Site Plan and the standards set forth herein.
 2. At maturity at least eighty (80) percent of the landscape area shall be covered by plant material, lawn, and trees when the plantings reach maturity. The remaining area may be covered in non-

vegetative ground cover.

3. Frontage Trees. Frontage trees shall be required and shall be selected from the approved Public Works Street Tree List. The total number of trees shall be determined by dividing the total linear footage of the site, which abuts a public street, by thirty (30). The location of the trees shall be determined through design review. And, the following standards shall apply:
 - a. Trees shall be located at least five (5) feet from a utility pole, fire hydrant, driveway, crosswalk, or utility easement, except as may be approved by the Public Works Director; and at least twenty (20) feet from an overhead street light.
 - b. There shall be no impervious material within one and one-half (1 1/2) foot radius around the tree trunk.
 - c. Trees at the time of planting shall have a minimum height of six (6) to eight (8) feet from ground level, and shall be at least two (2) inch in caliper (d.b.h.).
 - d. Trees shall not cause any vision impairment to vehicular traffic.
4. Installation of required landscaping may be deferred for up to six (6) months, provided that the owner posts with the City a cash deposit or irrevocable letter of credit assigned to the City, for an amount equal to one hundred and fifty (150) percent of the estimated cost of the landscaping materials and installation by a qualified contractor.

D. Vehicular Access, Internal Circulation and Clear Vision Areas.

1. Where possible, vehicular access to residential subdivisions shall be from abutting arterial or collector streets. Access to individual lots shall be primarily minor local streets. Direct lot access to an arterial shall not be permitted, unless there is no viable alternative, and direct access to collector and local streets shall only be allowed as permitted by the Planning Commission.
2. The minimum public street width shall be:
 - a. Collector. Sixty (60) feet of right-of-way and thirty-six (36) feet of pavement curb to curb.
 - b. Local. Fifty (50) feet of right-of-way and twenty-eight (28) feet of paved surface curb to curb, with parking only permitted on the north or west side of the street. A forty-six (46) foot of right-of-way and twenty-eight (28) feet of pavement curb to curb, with parking only permitted on the north or west side of the street may be permitted with appropriate findings through the Conditional Use Permit process as part of a Planned Unit Development

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- c. Dead-end, without turn-around. In the case of in-fill development on parcels identified on the City's most recent Vacant Land Inventory Map, a forty (40) foot right-of-way with twenty (20) feet of pavement curb to curb shall be permitted, if not more than one hundred and fifty (150) feet in length, and with no on-street parking, and serving not more than six (6) lots.
 3. Internal Access. All internal roadways and drives shall be paved and maintained by the owner in accordance with City standards. No entrance or exit shall be located closer than one hundred (100) feet to any intersection of a public street, unless there is no reasonable alternative. They shall have the following minimum unobstructed, pavement width:
 - a. Two-way traffic 24 feet
 - b. One-way traffic 15 feet
 4. Internal sidewalks or pathways shall be provided to ensure safe and convenient pedestrian circulation throughout the development.
 5. Clear vision areas shall be provided at all roadway and driveway intersections in accordance with the vision clearance standards set forth in *Section 11.40.27*.
- E. Access Streets Sidewalks - Drainage.
 1. All streets shall be designed in accordance with standards set forth in the subdivision code.
 2. All driveways for new construction shall have minimum pavement width twelve (12) feet and shall not be more than twenty-five (25) feet in width at the curb. Each driveway shall have a concrete curb apron designed to comply with public works standards. And, not more than two (2) lots may be served by one (1) shared driveway.
 3. Cul-de-sacs shall serve no more than twelve (12) homes and have a minimum turning radius of forty-five (45) feet measured to the front edge of the curb.
 4. For all new construction curbs, gutters, and a minimum five (5) foot wide sidewalk, off-set from the curb shall be provided along the entire lot frontage, and shall meet ADA accessibility standards. In the case of remodels or garage additions to an existing house no sidewalk shall be required if one does not exist, but the driveway apron and paved driveway shall be required. However, a curb tight sidewalk may be approved by the Public Works Director when it is impractical to provide the off-set.
 5. Storm drainage shall be managed through a system of underground drainage lines and catch basins, which convey storm water off the site to a public storm system, and shall comply with

Cleanwater Services (CWS) standards for water quality and quantity.

- F. Lighting Streets. Streets and walkways shall be lighted during the hours of darkness in accordance with Public Works standards.
- G. Mailboxes. Except for in-fill partitioning, clustered mailboxes shall be provided, consistent with the locational criteria set by the Post Master. They shall be of uniform style.
- H. Insects and Rodents. Materials, including wastes, shall be stored and managed, and grounds shall be maintained in a manner that will not attract or aid in the propagation of insects or rodents or cause a health hazard.
- I. Screening.
 - 1. Sight obscuring screening shall be provided for all garbage and trash collection areas, approved outdoor storage, and parking lots abutting a low density residential development. Such screening shall be six (6) feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and chain link fence.
 - 2. The Review Body may require non-sight obscuring screening and/or fencing of parking lots abutting property lines, front yards abutting a public street, or other yards abutting a low density residential development.
- J. Parking and Loading Space.
 - 1. Off-street Parking:
 - a. Resident: One (1) covered parking space shall be provided for each dwelling unit either on the individual lot or in an off-street parking bay within one hundred (100) feet from the dwelling being served. For an accessory dwelling, one (1) additional off-street parking space is required. However, the Planning Commission may waive this additional parking space, if appropriate on-street parking is available within one hundred (100) feet of the lot.
 - b. Guest: Where on-street parking is prohibited on both sides of a street, guest parking shall be provided in off-street parking bays at the rate of one (1) parking space for every three (3) home sites along the street section. Guest parking should be in close proximity to the homes being served.
 - c. Storage of recreational vehicles: Recreational vehicles, such as camping trailers, boats, campers, motor homes, and

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other such vehicles shall only be parked or stored within an area specifically designated and designed for such use, and shall only be parked or stored within an area specifically designated and designed for such use, and shall not be located in the public right-of-way.

2. Paving and Design: Off-street parking and maneuvering areas shall be paved with asphalt or concrete and designed in accordance with the standards of the off-street parking regulations of zoning ordinance.
3. Parking lot landscaping: There shall be a five (5) foot landscaped buffer at the perimeter of all parking lot areas. Parking lots shall be designed and landscaped so as to breakup large paved areas with landscaped islands, such as every ten (10) spaces. See *Section 11.40.15*.
4. On each home site, or on each individual dwelling within a complex, there shall be posted one (1) wooden or metal sign no smaller than one half (1/2) square foot and no larger than one (1) square foot identifying the address number of the home, in a manner that is clearly visible from the street. Within a complex, there shall be a uniform design and location for building and unit addressing, which shall be approved by the Fire Chief.
5. Each resident may display on their home one (1) sign identifying the person residing therein, provided that the sign is not larger than one (1) square foot.
6. Traffic control and directional signs shall be installed as required by the public works standards.

20.37 Manufactured Housing on Individual Lots. All manufactured homes on individual lots within the A-2 zone shall:

- A. Comply with all federal, state and local building codes for placement, occupation and storage.
- B. Have a pitched roof with at least a nominal slope of one (1) foot in height for each three (3) feet in width.

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- C. Have exterior siding and roofing material which in color, material grade, and appearance is comparable to the exterior siding and roofing material predominantly used on surrounding residential dwellings.
- D. Be certified by the manufacturer to have an exterior thermal envelope meeting performance standards required of site built single-family construction under the state Building Code (1981) as defined by ORS 455.010.
- E. Have at least a one (1) car garage constructed of like materials as the home.
- G. Have skirting that consists of smooth or split face concrete blocks.
- H. Be multi-sectional and enclose a space of not less than one thousand (1,000) square feet.

20.38 Home Occupation. Home occupations may be allowed as follows:

- A. Type A. Allowed through a Type I administrative review consistent with the following:
 - 1. There are no structural alterations or changes necessary to the dwelling or accessory building, or to the premises in order to conduct the business operations; and
 - 2. There is no outdoor display or storage, nor indoor display or storage of merchandise on the premises which can be seen from the street or sidewalk adjacent to the dwelling; and
 - 3. The business is conducted by members of the immediate family all of whom reside in the residence and there are no additional employees; and
 - 4. Personal appearances by customers on the property are limited to one (1) at a time, and not more than eight (8) customers per day; and
 - 5. There is no external signage which informs potential customers of the location of the residential dwelling for the purpose of attracting customers to the dwelling, and
 - 6. The business activity does not create noise levels audible above normal ambient residential levels beyond the property line of the property upon which the residential dwelling is located, and
 - 7. The activities do not attract more than three (3) commercial deliveries of goods and services daily, and

8. The home occupation may not serve as a head quarters or dispatch center where employees come to the site and are dispatched to other locations, and
 9. The owner has and maintains a valid city business license.
 10. In the case of home day care, there are not more than seven (7) children total and the operator is appropriately licensed by the state.
- B. Type B. Allowed by approval of the planning commission through a Type III application, and subject to the following:
1. There are structural alterations or changes necessary to the dwelling, accessory building, or to the premises in order to conduct the business operations, and/or a new accessory building is needed to conduct the normal operations of the business; and
 2. There is no outdoor display or storage, nor indoor display or storage of merchandise on the premises which can be seen from the street or sidewalk adjacent to the dwelling, and
 3. The business is conducted by members of the immediate family living on the premises and/or not more than one (1) employee who does not reside in the residence; and
 4. Personal appearances by customers on the property are limited to three (3) at a time, and not more than ten (10) customers per day; and
 5. The business activity does not create noise levels audible above normal ambient residential levels beyond the property line of the property upon which the residential dwelling is located, and
 6. The activities do not attract more than five (5) commercial deliveries of goods and services daily, and
 7. The home occupation may not serve as a headquarters or dispatch center where employees come to the site and are dispatched to other locations; and
 8. The owner has and maintains a valid city business license, and
 9. There is no accessory dwelling associate with the primary residence.

20.39 Accessory Dwellings. This section applies only to single-family detached or attached dwelling units.

- A. A second or secondary, self-contained, one (1) bedroom, living unit with separate entrance and kitchen, developed in conjunction with an existing single-family home and usually created in one (1) of the following ways:
1. existing space in the primary dwelling;

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2. a combination of existing and newly created space associated with the primary dwelling;
 3. space within an existing accessory building, such as a detached garage;
 4. the addition of a new accessory building associated with an existing single-family home.
- B. Accessory dwellings shall comply with the following:
1. The owner(s) of the primary dwelling shall occupy at least one (1) of the units.
 2. There shall be a minimum of two hundred fifty (250) square feet of floor area for each occupant, and there shall be no more than two (2) occupants, and the unit shall not exceed eight hundred (800) square feet, or thirty (30) percent of the total floor area of the primary dwelling.
 3. One (1) additional off-street parking space shall be provided, unless waived by the planning commission.
 4. The exterior architectural design and building materials are consistent with those of the primary dwelling, and there shall be only one (1) front door facing the street.
 5. All yard area requirements of the base zone shall be met, and the unit shall comply with the fire and life safety.

(Sections 11.660 through 11.674, inclusive amended and renumbered to Sections 11.20.30 through 11.20.39., inclusive by Ordinance No. 810, May 1, 2000)

(Sections 11.20.35 and 11.20.36 amended by Ordinance 841, July 21, 2003)

11.20.40 General Commercial, C-1

(Sections 11.682 through 11.690, inclusive renumbered to Sections 11.20.40 through 11.20.44., inclusive by Ordinance No. 810, May 1, 2000)

(General Commercial, C-1 deleted from Code by Ordinance No. 841, July 21, 2003)

11.20.50 HIGHWAY COMMERCIAL ZONE, C-2

20.51 Purpose: The purpose of the Highway Commercial or C-2 zone is to provide for retail businesses, services, and offices located along the Tualatin Valley Highway corridor, where the principal users are auto oriented.

20.52 Uses Permitted Outright. In a C-2 zone the following uses shall be permitted outright, provided that all operations are conducted within an enclosed structure:

- A. General retail.
- B. Service commercial, including barber, banks.
- C. Automobile, truck, marine, motorcycle, appliance and/or parts sales, service, repair, rental, and including custom vehicle assembly, provided that all operations are conducted within an enclosed structure.
- D. Office, including professional, medical/dental.
- E. Indoor amusement or entertainment and restaurants, including fast food with drive-up window.
- F. Motel, motor courts, hotel, inns or bed and breakfasts.
- G. Small engine or equipment repair shop.
- H. Single family dwelling units as a secondary or accessory use to commercial.
- I. Other similar uses as may be approved by the Planning Commission.

20.53 Conditional Uses Permitted. In a C-2 zone the following uses and their accessory uses may be permitted when in accordance with *Section 11.30.30*.

- A. Outdoor storage and/or display of merchandise, materials, goods, and equipment, or any other outdoor activity.
- B. Government or other similar institutional uses.
- C. Warehouse or wholesale operation.

- D. Above ground utility yard and above ground storage tanks.
- E. Large machinery or farm equipment sales, service or rental.
- F. A Planned Unit Development, as provided under *Section 11.30.40*.
- G. Requests to exceed the permitted building height.
- H. Church, and associated church activities.
- I. Service stations and fuel distribution, provided storage tanks are underground.
- J. Multi-family dwelling units, consistent with A-2 Standards.

20.54 Development Requirements

- A. Lot Size. In a C-2 zone there is no minimum lot size, save and except that the lot must be large enough to accommodate the proposed use, including all design standards and functional requirements related to the use.
- B. Setback Requirements. In a C-2 zone the following setbacks shall meet the base standard, however, the review body may require a greater or lesser setback based on the design review criteria set forth in this chapter.
 - 1. The front yard shall be twenty (20) feet, except that:
 - a. Parking shall be allowed within five (5) feet of the front property line.
 - b. For all properties abutting the south side of Baseline Road, there shall be a front yard setback equal to five (5) percent of the average lot depth, but not less than four (4) feet.
 - 2. No side yard shall be required, except five (5) feet when abutting a residential use or zone, and when a side yard abuts a public street the setback shall be the same as the front yard.
 - 3. No rear yard is required, except five (5) feet when abutting a residential use or zone, and when a side yard abuts a public street the setback shall be the same as the front yard.
- C. Height of Building. No building shall exceed a height of thirty-five (35) feet, unless approved by the Planning Commission.

20.55 Performance Standards. In a C-2 zone no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

- A. Design review approval. All design review requirements and conditions of approval, including all prior attached conditions shall be satisfied.
- B. Environmental standards. All uses shall comply with required air, land, and water quality standards set forth by all state, federal and local jurisdictions (i.e. Department of Environmental Quality, Cleanwater Services, and Metro).
- C. Heat and glare.
 - 1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed structure, such that glare is not visible from a public street or adjacent property.
 - 2. Exterior lighting shall be designed such that glare is directed away from public streets or adjacent properties.
- D. Insects and rodents. Materials including wastes shall be managed and stored, and grounds shall be maintained in a manner that will not attract or aid the propagation of insects or rodents or create a health hazard.
- E. Outside storage. Outside storage shall be appropriately screened consistent with *Section 11.20.77.F.1*.

20.56 Development Standards. In a C-2 zone no new use or occupation of land or a structure or a new structure and no change of use of land or a structure shall be permitted unless there is continuing compliance with the following standards:

- A. Landscape Plan.
 - 1. For all uses in a C-2 zone, the first five (5) feet of lineal street frontage on the subject site shall be landscaped (exclusive of frontage trees), prior to occupancy, in accordance with the approved site plan and the standards set forth herein.
 - 2. When at maturity at least eighty (80) percent of the proposed landscape area shall be covered by plant material, lawn, and trees. The remaining area may be covered in non-vegetative ground cover.
 - 3. Frontage Trees. Frontage trees shall be required and shall be selected from the approved Public Works Street Tree List. The total number of trees shall be determined by dividing the total linear footage of the site, which abuts a public street, by thirty (30) feet.

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The location of the trees shall be determined through design review. And, the following standards shall apply:

- a. Trees shall be located at least five (5) feet from a utility pole, fire hydrant, driveway, crosswalk, or utility easement, except as may be approved by the Public Works Director; and at least twenty (20) feet from an overhead street light.
- b. There shall be no impervious material within one and one-half (1 1/2) foot radius around the tree trunk.
- c. Trees at the time of planing shall have a minimum height of six (6) feet from ground level, and shall be at least two (2) inches in caliper (d.b.h.).
- d. Trees shall not cause any vision impairment to vehicular traffic.
- e. Installation of required landscaping may be deferred for up to six (6) months, provided that the owner posts with the city a cash deposit or irrevocable letter of credit assigned to the city, for an amount equal to one hundred and fifty (150) percent of the estimated cost of the landscaping materials and installation by a qualified contractor.

B. Vehicular Access, Internal Circulation and Clear Vision Areas.

1. Where possible, vehicular access to commercial developments shall be from abutting arterial or collector streets, and shall be shared with adjacent properties to minimize multiple curb cuts. Access to individual lots from T.V. Highway shall be approved by ODOT, with secondary access from adjacent collectors or minor local streets where possible. Except in the case of a multi-building complex, direct lot access to an arterial shall not be permitted, unless there is no viable alternative, and direct access to collector and local streets shall only be allowed as permitted by the review body.
2. The minimum public street width for commercial development shall be:
 - a. Collector. Sixty (60) feet of right-of-way and thirty-six (36) feet of pavement curb to curb. Additional street width for turn lanes may be required if warranted by traffic volumes generated by the development.
 - b. Local. Fifty (50) feet of right-of-way and twenty-eight (28) feet of pavement curb to curb.
3. Internal Access. All internal roadways and drives shall be paved and maintained by the owner in accordance with City standards. No entrance or exit shall be located closer than one hundred (100) feet to any intersection of a public street, unless there is no

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reasonable alternative. They shall have the following minimum unobstructed, pavement width:

- a. Two-way traffic 24 feet
- b. One-way traffic 15 feet

- 4. Internal sidewalks or pathways shall be provided to ensure safe and convenient pedestrian circulation throughout the development.
- 5. Clear vision areas shall be provided at all roadway and driveway intersections in accordance with the vision clearance standards set forth in *Section 11.40.27*.

C. Access Streets Sidewalks - Drainage.

- 1. All streets shall be designed in accordance with standards set forth in the subdivision code and public works standards.
- 2. All driveways for new construction shall have minimum pavement width twelve (12) feet and shall not be more than thirty-five (35) feet in width at the curb, unless specifically approved by the review body to meet unusual requirements of a particular use. Each driveway shall have a concrete curb apron designed to comply with public works standards.
- 3. Cul-de-sacs shall serve no more than four (4) separate uses and shall have a minimum turning radius of fifty (50) feet measured to the front edge of the curb.
- 1. Sidewalks and improvements.
 - a. For all new construction curbs, gutters, and a minimum six (6) foot wide sidewalk, with eight (8) foot at a bus stop, shall be provided along the entire lot frontage, and shall meet ADA accessibility standards.
 - b. Site Design Review Type II requests for remodels, alterations and/or additions to an existing building shall require a sidewalk, if one does not exist, the driveway apron and paved driveway to be constructed to City standards. Commercial sidewalks shall be curb tight, unless otherwise approved by the review body
- 5. Storm drainage shall be managed through a system of underground drainage lines and catch basins, which convey storm water off the site to a public storm system, and shall comply with Cleanwater Services (CWS) standards for water quality and quantity.

D. Lighting Streets. Streets and walkways shall be lighted during the hours of darkness in accordance with public works standards.

- E. Mailboxes. Except for in-fill partitioning, clustered mailboxes shall be provided, consistent with the locational criteria set by the Post Master. They shall be of uniform style.
- F. Screening.
 - 1. Sight obscuring screening shall be provided for all garbage and trash collection areas, and for any approved outdoor storage, or parking lots abutting a residential development. Such screening shall be six (6) feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and a decorative fence, such as wrought-iron. Chain link fencing may not be used in the front yard area.
 - 2. The reviewing body may require non-sight obscuring screening and/or fencing of parking lots abutting property lines, front yards abutting a public street, or other yards abutting a residential development.
- G. Parking and Loading Space.
 - 1. Off-street Parking: Parking shall be provided as set forth in *Section 11.40.10*.
 - 2. Paving and Design: Off-street parking and maneuvering areas shall be paved with asphalt or concrete and designed in accordance with the standards of the off-street parking regulations of zoning ordinance.
 - 3. Parking lot landscaping: There shall be a five (5) foot landscaped buffer at the perimeter of all parking lot areas. Parking lots shall be designed and landscaped so as to breakup large paved areas with landscaped islands, such as every ten (10) spaces.

20.57 Signs. Signs within the C-2 zone may be allowed consistent with *Section 11.40.50*.

(Sections 11.702 through 11.710, inclusive amended and renumbered to Sections 11.20.50 through 11.20.57., inclusive by Ordinance No. 810, May 1, 2000), (Sections 11.20.52 and 11.20.53 amended by Ordinance 841, July 21, 2003)

11.20.60 CORE COMMERCIAL-EMPLOYMENT, CE

20.61 Purpose. The purpose of this district is to implement the provisions of the Core Area Enhancement Plan, as set forth in Chapter IV, of the Comprehensive Plan. The Core Commercial and Employment Planning District is designed to provide for a coordinated mixed use (commercial & employment) center which is both Transit Supportive and Pedestrian Friendly. The general intent of this planning district is to create or re-create a better sense of coordinated development, while maintaining and recognizing the separate ownership's and business interests within the District.

This District is designed to provide a wide variety of goods, services and employment opportunities. By providing a greater mix of uses, the overall level of activity and interactivity within the District is expected to be enhanced. This greater mix and intensity, in turn, will create greater opportunities to attract people to the District and encourage them to stay for more than short, single purpose trips.

The general intent of this district is to create a more powerful sense of place. It is hoped that this District evolves into a very desirable place to be, to work, shop, or to relax and be entertained.

Therefore, the design criteria for this District focuses more on the location and orientation of uses and building to each other, then it does on specific uses. The primary intent of this design is to create a Pedestrian Friendly and Transit Oriented development plan. It is hoped that through coordinated development planning that a desirable mix and pattern of uses can be accomplished towards these purposes, regardless of the ownership pattern.

A. As a general guideline, the desired allocation of uses and activity areas includes:

Buildings	40%
Parking (surface)	40%
Landscaping, including pathways, plazas and courtyards	20%.

20.62 Permitted Uses.

A. Uses permitted within the C-E District shall be limited to those uses permitted outright in the C-2, *Section 11.20.50.*; and M-1, *Section 11.20.70.* zones, except that no residential use shall be permitted. For

industrial uses the performance standards set forth in *Section 11.20.70.*, shall also apply within this District.

- B. While any use listed above may be allowed, there is an underlying intent for this District to cluster complimentary and supportive uses. The purpose of such clustering is to strengthen each business by encouraging inter-activity between the various businesses in the District.
- C. There shall be no minimum lot size, save and except as required to provide all necessary functional requirements of the proposed development, including building, parking, circulation, etc. Adjustments may be made to lot size in consideration of the potential for shared parking and off-site landscaping.

20.63 Process. New development proposals or proposals for expansion of existing development within the C-E District shall be processed under the Site Design Review, procedures,

- A. Notice. When a development is proposed within the District, notice shall be provided as set forth in *Section 11.10.31.B.*, except that the affected area of notice shall be modified to include all properties within the District, and shall include all properties within one hundred (100) feet of the subject site when the site is located at the perimeter of the District.
- B. Submission of Documents and Other Requirements. *Section 11.10.23.*, shall also be applicable to this District.
- C. Land Use, Design and Performance Criteria.
 - 1. The basic land use design and performance criteria to guide development and redevelopment within the District are as follows:
 - a. Uses locating within this District are expected to be commercial, including retail, office, and (indoor) recreation, and entertainment. However, there are some existing industrial uses, which are expected to continue to operate in the District. Other new general light industrial uses, including manufacturing, processing, and research and development businesses would also be allowed to locate here.
 - b. A good mix of complimentary pedestrian oriented commercial uses should be oriented to and clustered near [within five hundred (500) ft.] transit stops.
 - c. A desired target is for employment intensity within the District to average twenty (20) employees per acre or greater. This is only a target, and is not intended as a rigid standard. Not all businesses must employ at least twenty

(20) people per acre. However, in order to create a Transit supportive environment, it is hoped that the aggregate employment within the District will approach or exceed the target range.

It is also recognized that employment is only part of the total design puzzle for the desired success of this special district. Creating a high volume of customers and a strong interactivity of customers between businesses is also a design objective. The combination of consumers and employees is expected to create a critical mass resulting in a transit supportive environment.

- d. Uses that compliment or support existing uses within the district generally will be allowed. More specifically, those that compliment or support immediately adjacent uses will be encouraged. Related uses and supporting activities should be clustered to create greater possibilities for interactivity between uses:
 - (1) Complimentary uses are those that, share customers or otherwise provide additional opportunities and activities for customers and employees that are already in the District associated with other uses. For example, restaurants provide both customers and employees with food and refreshment without having to leave the District.
 - (2) Supportive uses or activities are those which provide to or service other uses within the District. For example, print shops provide photo copying for customers that may be shopping in the district as well as serving the printing needs for other businesses in the District.
 - (3) Auto dependant commercial uses and land intensive uses will be discouraged. However, such uses that would provide multiple activities for customers of the existing car wash, for example, could be allowed. Such complimentary or supportive uses should be clustered around the existing use to minimize auto movements within the District.
 - e. Outdoor Vendors, displays and other activities may be allowed along storefronts and in public plazas, subject to special location permits. It is expected that careful and coordinated site planning will specifically create special places for such desirable outdoor activities.
2. Other Applicable Criteria and Standards.
- a. In addition to the standards and criteria set forth in *Section 11.20.60*, all developments must comply with the applicable provisions of the subdivision Regulations set forth in *Section*

11.30.24., and other applicable provisions of the Municipal Code, and shall further comply with the rules and regulations of the committee adopted under the provisions of *Section 11.30.00*.

3. Development will coincide with the provision of public streets and other appropriate circulation internal to the District, water, and sewerage facilities. These public facilities shall be capable of adequately servicing all intervening properties as well as the proposed development and will be designed to meet the zoning and subdivision standards. Sidewalks, pedestrian and bike pathways, and off-street parking will be required for all new or expanded developments consistent with the standards and criteria of this Section.
 - a. The District abuts the Tualatin Valley Highway and North Adair Street where the highway divides into one-way couplets. The highway is under the jurisdiction of the Oregon Department of Transportation (ODOT). Primary access to the District is intended to be from signalized intersections as planned for the Highway.
 - b. Access from North 19th and 26th Avenues shall be managed by the City. New access points shall be minimized, and existing accesses shall be shared wherever possible.
 - c. Surface Water Drainage. Adequate provisions shall be made to insure proper drainage of surface water, to preserve natural flow of watercourses and springs, and to prevent soil erosion and flooding. Appropriate water quality facilities shall be provided, however, such facilities may be designed and provided as part of a coordinated master drainage system for the entire District.
 - d. Utilities. Electric, telephone, and other utility service to new construction or expansion of existing uses shall be located underground.

D. Relation of Building to the District and Other Uses.

1. To meet the design objectives, building location, orientation and design needs to create a pleasant, safe, and walkable environment. The proposed structures shall be located and oriented in a manner that establishes a strong interrelationship between buildings, uses, and activity areas. Building a human scale, pedestrian friendly environment is of primary concern within this District. Site plans shall be particularly sensitive to creating strong visual and physical relationship, which encourage pedestrian movement within the district. Building height, bulk, lot area, coverage, setbacks, and scale should be particularly considered with regard to achieving compatible and complimentary relationships.

2. Movement within the District should favor pedestrians over autos. Movement to and from the District also needs to adequately provide for both auto and non-auto movements, with minimal conflicts and confusion between the various modes. As a general guideline, the desired hierarchy of activities from the street into the site should be transit, pedestrian (bike), buildings, including courtyards and plazas, then parking. However, limited amounts of parking may be allowed along the Highway frontage. Parking lots adjacent to the highway right-of-way should be limited to a maximum of a double loaded parking bay, with appropriate travel lanes.
3. Buildings shall be oriented with regard to creating visual exposure from both the Highway and from within the District and other uses. This special design orientation will require careful consideration of location, design and relationship of entry doors, pedestrian access and vehicular circulation that does not create significant conflicts with pedestrian circulation, and loading docks, etc. Buildings may need to be designed with multiple fronts, much like occurs on corner lots where exposure to the building is from more than one (1) street.
4. In order to enhance the connectivity of activities, individual developments within the District need to be designed without regard to individual property lines, which might otherwise create artificial barriers to convenient internal circulation and orderly, coordinated development.

20.64 Development Requirements.

- A. Lot coverage will be limited to forty (40) percent of the land area, unless parking structures are provided.
- B. Setbacks will vary within the District and between certain uses. The primary intent of setbacks within the District are to maintain a human scale and to maintain visual corridors into the District from the abutting streets and sidewalks. Setbacks within the District shall be as follows:
 1. Eastern Boundary. Where the District boundary is adjacent to the established residential neighborhood there shall be a twenty-five (25) foot landscaped buffer at least six (6) feet in height. The planting shall include one (1) row of evergreen trees planted fifty (50) foot on center, and one (1) row of deciduous trees, selected from the approved Public Works Street Tree List, alternately planted fifty (50) foot on center, or as otherwise determined appropriate by the Facilities & Design Review Committee, consistent with the intent of this screening. However, provisions for pedestrian circulation from the residential to the District shall be provided.

2. Western Boundary. The western District boundary that is adjacent to the Main Street District along N. 19th Avenue shall plan for development in a coordinated manner. Development shall provide for a transition zone between these two (2) districts that is appropriately screened/buffered and allowing safe pedestrian connections.
 3. Highway Frontage
 - a. Where the lots or development within the District abuts the highway the setback shall vary between a minimum of zero (0), where a building may be set adjacent to the sidewalk, up to a maximum of seventy (70) feet, which allows for a single double loaded parking bay between the sidewalk and the building.
 - b. Where the setback is zero (0), buildings shall be limited to fifteen (15) feet or one (1) story, and the sidewalk must be a minimum of ten (10) feet wide adjacent to the store front.
 - c. Where the building is setback from the sidewalk, the building height shall be limited to fifteen (15) feet or one (1) story for the first twenty-five (25) feet of setback, but may be increased five (5) feet in height for each ten (10) feet of additional setback, to a maximum of sixty (60) feet.
 - d. Wherever the building is setback from the sidewalk, a sidewalk must connect the front door of the building to the street sidewalk system and/or internal pathways system.
 4. North 26th Avenue. Where lots or development abut 26th Avenue the front yard setback shall be twenty (20) feet.
 5. Building Separation. To encourage pedestrian movement between uses, building entries should not be separated by more than five hundred (500) feet.
 6. Others. No other setbacks shall be required, save and except as may be required to meet Fire, Life & Safety Codes. Multi-story buildings may also require other fire, life and safety improvements such as sprinkler systems, etc.
- C. In order to protect options for future alternative uses of this railroad right-of-way for other than freight trains, special setbacks or pedestrian corridors should be considered parallel to the right-of-way.
- D. The Community Development Director may require additional setbacks to those required in the zone where necessary to insure adequate site distance at intersections; air; light; open space; to separate uses, particularly industrial storage and circulation areas; area between buildings for off-street parking; and to preserve trees.

20.65 Development Standards.

- A. Landscaping. A major design objective is to create a safe, pleasant, landscaped pedestrian environment. Landscaping is expected to become the major unifying feature throughout the District.
1. Landscaping should be used to separate and buffer parking areas from pedestrian areas. Consideration of covered pathways, particularly along building fronts, should also be given high priority in design. Landscaping is intended to provide visual relief, buffering from vehicles for pedestrian and bikeways, and accent or framing of buildings, plazas and other activity areas.
 2. Plazas, courtyards, and storefront activity areas are encouraged to be provided throughout the District. Uses and buildings should be clustered around public spaces whenever possible, with entries oriented to these plazas to create interactive use of the open public spaces.
 3. Landscaping within the District is intended to be coordinated without regard to individual property lines. This will require special arrangements and cooperation between owners, businesses and the City. If possible, it would be desirable to develop a street, pathway and landscaping master plan for the entire District.
 4. The elements of landscaping include all forms of planting and vegetation, all adjustments, refinements, or designed developments in ground forms, rock groupings, or water patterns or features, all construction other than completely enclosed buildings or primarily utilitarian engineering structures such as retaining walls. Particular attention shall be given to providing walkways, patios or plazas that create linkages between buildings, uses and activity areas. These are all elements used to develop and refine space between, around, or within buildings and pedestrian and vehicular circulation elements.
 5. It is recognized that certain alteration of existing terrain and vegetation is usually necessary in order to create optimal site plans and building designs. The Facilities and Design Review Committee shall determine whether proposed alterations of terrain and vegetation are necessary, appropriate, compatible, and complimentary with neighboring buildings and activity areas, such as plazas. Any grade changes shall be in keeping with the general appearance of District and shall not create barriers to pedestrian circulation throughout the District.
 6. Landscaping is intended to provide a unifying image and flow throughout the District. Therefore, landscaping and plantings shall be provided in a coordinated manner without regard to specific property lines and in a manner fitting and attractive for the area. Trees and plantings shall be used to reinforce the visual image of pedestrian pathways and plazas, and to provide buffers for such

areas from parking and vehicular circulation activities. Planting or fencing may be required to screen particular activities from public view, or for security purposes. However, care should be taken so as to not create unnecessary barriers to appropriate pedestrian circulation.

7. Each new development or site development involving expansion or enlargement of existing buildings, structures, or parking shall be responsible for an equitable contribution towards the total landscaping of the District, plus appropriate on-site landscaping. It is intended that at least twenty (20) percent of the total land area of the District is to be landscaped with vegetative plants and trees, including highway frontage, common plazas, pathways, buffers, and building accent plantings.
 - a. Each development shall be responsible for at least ten (10) percent on-site landscaping, and shall further contribute an equal amount towards the total District landscaping.
 - b. The district landscaping can be either by actual installation or by cash contribution, or acceptable letter of credit to a Special District Trust Fund, administered by the City. However, if required off-site landscaping improvements are not made at the time of site development, a development agreement must be established with the City to ensure compliance with this section.
 - c. All landscaped areas shall be planted with at least an eighty (80) percent plant cover at maturity. It is the intent of this standard to avoid massive areas of bark dust or other non-living vegetative ground covers.
8. It is recognized that this District will likely remain in multiple ownership. Therefore development of a coordinated maintenance plan and schedule may be difficult to establish. For this reason, each owner and/or developer shall be required to establish a Development Agreement agreeing to participate and cooperate in the on going maintenance of the District landscaping, both on and off-site.

B. Access and Parking

1. Direct access to the Highway will be discouraged with consolidation of access points encouraged. Wherever possible, access is to be provided through internal connections rather than by curb cuts to the Highway. Therefore internal street connections must be provided via extensions of either Clark or Davis Streets (or both) through the District between 19th and 26th Avenues. Access management will be coordinated with ODOT to ensure maximum efficiency of highway lane capacity. The primary access points will be at the signalized intersections with the Highway.

2. If possible, bringing transit into, rather than just adjacent to, the District would be highly desirable. Allowing for such internal transit service must be carefully considered in site design and building orientation. Direct pedestrian linkages from transit stops to store entries must be provided. To facilitate both pedestrian and vehicular oriented arrivals, it may be necessary to provide multiple entry points to buildings.
3. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, shall be given to location and number of access points for normal use and for emergency vehicles, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe, convenient, but that do not detract from or conflict with safe and convenient pedestrian circulation to and between uses.
4. Pedestrian sidewalks or pathways shall be provided to each building with direct and convenient access from the nearest street and/or transit stop. Pathways shall also be provided to connect uses within the District. All pathways shall be designed with appropriate ramping for safe and convenient handicapped movement. Sidewalks adjacent to streets are expected to be setback from the curb, with landscaped buffers or parkways. However, at transit stops, the sidewalk shall be brought curb tight, with at least ten (10) feet of paved width for at least fifteen (15) feet in length.
5. Provision shall be made to care for increased volume of traffic resulting from the development. If streets adjacent to or serving the site are inadequate, widening, dedication of property for widening or street improvements may be required.
6. Off-Street Parking requirements shall be consistent with *Section 11.40.10*. However, adjustments may be granted for transit oriented developments, based on a detailed traffic analysis reviewed in coordination with ODOT and Tri-Met.
7. Provisions for secured bicycle parking adjacent to each building entry shall be provided at a ratio of one (1) space per ten (10) vehicle spaces.
8. Provisions for Vanpool parking adjacent to each building entry or employee entry shall be provided at a ratio of one (1) space per twenty-five (25) employees.
9. Provisions for designated handicapped parking adjacent to each main building entry shall be provided at a ratio of one (1) space per twenty-five (25) vehicle spaces. All such spaces shall be painted and signed consistent with ADA requirements.
10. In the longer term as the intensity of uses increases, it may be economically possible, and clearly desirable to provide shared structured parking within the District. Floor area ratios for surface

parking will be one-half (.5). This ratio could be increased up to two (2.0) with structure parking.

- C. Screening and Outdoor Storage
 - 1. Pathways should be buffered from the street, on-site auto circulation and parking with landscaping.
 - 2. Except for industrial uses, outdoor storage shall be prohibited. Commercial outdoor displays or retail activities and uses, such as sidewalk vendors and associated plaza activities may be authorized by a special use permit issued by the Community Development Director. Such uses shall be limited to specific areas designed and designated for such use, and shall be maintained and managed in a manner that does not create conflicts with pedestrian movements throughout the district.
 - 3. For industrial uses, where exposed storage areas, utility buildings, machinery are necessary appropriate screening and security fencing shall be provided. Service and truck loading areas, solid waste disposal cans, containers and other structures, and other potentially unsightly accessory uses and structures shall be adequately set back and screened from view from pedestrian pathways, plazas, parking lots, and from the street.

- D. Lighting. Adequate exterior lighting shall be provided to promote public safety, to illuminate pedestrian pathways and parking areas, and shall be designed to avoid unnecessary or undesirable glare into the street or upon other properties, particularly those outside of the District..

- E. Objectionable Uses. Odor, dust, smoke, fumes, noise, glare, heat and vibration from commercial or industrial uses which might create a nuisance or be offensive to other uses in the District or be incompatible with such other uses shall be adequately eliminated or controlled.

- F. Signs. All signs shall conform to the standards found in *Section 11.40.50.*, except as follows or and approved Master Sign Program:
 - 1. Address. Each building shall be clearly marked with its designated address, as assigned by the Building Official, Suites shall also be clearly identified.
 - 2. Address letters shall be a minimum of four (4) inches and maximum of six (6) inches with contrasting background so they are legible from the nearest street or internal drive.
 - 3. Address signage shall not be counted towards other allowed sign area.

(Sections 11.720 through 11.738, inclusive amended and renumbered to Sections 11.20.60 through 11.20.65., inclusive by Ordinance No. 810, May 1, 2000)

11.20.70 GENERAL INDUSTRIAL ZONE, M-1

20.71 Purpose. The purpose of the General Industrial or M-1 zone is to provide for various industrial activities which require processing, fabrication and storage, including outdoor storage areas, heavy equipment storage and other uses not compatible in the Commercial or Residential zones.

20.72 Permitted Uses. In a M-1 zone the following uses shall be permitted outright, provided that all operations are conducted within an enclosed structure:

- A. General uses involving manufacturing, processing, or storage.
- B. Automobile, truck, marine, motorcycle, motors, machine or appliance service and repair, provided that all operations, other than storage, are conducted within an enclosed structure, and there shall be no retail sales, except as may be allowed under *Section 11.20.73.I*.
- C. Cabinet shop, light metal fabrication shop, machine shop, but not including retail sales of finished products except if located on an arterial street as designated in the comprehensive plan.
- D. Research and Development Facilities
- E. Other similar uses as may be approved by the Planning Commission.
- F. New general commercial office improvements shall be permitted without the need for direct arterial access, provided that such use, including required parking, does not exceed twenty-five (25) percent of the total site area, and providing that all other Code requirements are met. Total site area shall be defined by existing Tax Lots and/or lots under contiguous ownership.
- G. Existing non-conforming residential structures may be converted to general commercial office use without the need for direct arterial access, provided all other code requirements are met, and provided the conversion complies with all applicable building code requirements.

20.73 Conditional Uses Permitted. The following uses shall be permitted as a conditional use subject to the standards contained in *Section 11.20.76.*, and *Section 11.30.30., Conditional Uses Permitted.* In a M-1 zone the following uses

and their accessory uses may be permitted when in accordance with *Section 11.30.30*.

- A. A planned commercial and industrial park, as provided under *Section 11.30.40*
- B. Any conditional use allowed in a commercial zone, except residential.
- C. A mobile structure used as a construction and/or security office during site development.
- D. Parks, Open space, Recreation Areas.
- E. Cellular Transmission Towers.
- F. Administrative, Educational or other activities subordinate to a permitted use on the same premise as the principal use.
- G. Request to exceed the maximum building height.
- H. Above ground utility yard and above ground storage tanks.
- I. General Retail shall only be permitted as approved by the Planning Commission where retail sales are in conjunction with and/or directly associated with products manufactured on site. The retail sales shall be subordinate to the primary industrial use approved for the site.

20.74 Prohibited Uses:

- A. General Retail, except as identified as a Conditional Use in *Section 11.20.73*.
- B. No residential use shall be permitted, except as a non-conforming structure and/or use.

20.75 Development Requirements:

- A. Lot Size. In a M-1 zone there is no minimum lot size, save and except that the lot must be large enough to accommodate the proposed use, including all design standards and functional requirements related to the use.
- B. Setback Requirements. In a M-1 zone the following setbacks shall be the minimum required. The approval authority may require greater setbacks for uses allowed under *Section 11.20.73*., based on the approval

criteria in *Section 11.30.30.*, the base standard, however, the review body may require a greater or lesser setback based on the design review criteria set forth in this chapter:

1. The front yard shall be twenty (20) feet, except that:
 - a. Parking shall not be allowed within five (5) feet of the front property line.
 - b. Where an industrial use abuts a residential zone there shall be:
 - (1). A front yard setback of twenty-five (25) feet.
 2. No side or rear yard shall be required, except:
 - a. Fifteen (15) feet when the side yard abuts public street.
 - b. Twenty-five (25) feet when abutting any residential zone, except that parking shall not be allowed within ten (10) feet of the side or rear property line.
- C. Height of Building. No building shall exceed a height of thirty five (35) feet, unless approved by the Planning Commission.

20.76 Performance Standards. In a M-1 zone no land or structure shall be used or occupied unless there is continuing compliance with the following standards:

- A. Design review approval. All design review requirements and conditions of approval, including all prior attached conditions shall be satisfied.
- B. Environmental standards. All uses shall comply with the required air, land, and water quality standards set forth by all state, federal and local jurisdictions (i.e. Department of Environmental Quality, Cleanwater Services, and Metro).
 1. Vibration. No vibration other than that caused by highway vehicles or trains shall be permitted which is discernable without instruments at the property line of the use concerned.
 2. Odors. The emission of odorous gases or matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited.
- C. Heat and glare.
 1. Except for exterior lighting, operations producing heat or glare shall be conducted entirely within an enclosed structure, such that glare is not visible from a public street or adjacent property.
 2. Exterior lighting shall be designed such that glare is directed away from public streets or adjacent properties .
- D. Insects and rodents. Materials including wastes shall be managed

and stored, and grounds shall be maintained in a manner that will not attract or aid the propagation of insects or rodents or create a health hazard.

- E. Outside storage. Outside storage shall be appropriately screened consistent with *Section 11.20.77.F.1*.

20.77 Development Standards. In a M-1 zone no new use or occupation of land or a structure or a new structure and no change of use of land or a structure shall be permitted unless there is continuing compliance with the following standards:

A. Landscape Plan.

1. For all uses in a M-1 zone, the first five (5) feet of lineal street frontage on the subject site shall be landscaped (exclusive of frontage trees), prior to occupancy, in accordance with the approved site plan and the standards set forth herein
2. At least eighty (80) percent of the landscape area shall be covered by plant material, lawn, and trees when the plantings are at maturity. The remaining area may be covered in non-vegetative ground cover.
3. Frontage Trees. Frontage trees shall be required and shall be selected from the approved public works street tree list. The total number of trees shall be determined by dividing the total lineal footage of the site, which abuts a public street, by fifty (50). The location of the trees shall be determined through design review. And, the following standards shall apply:
 - a. Trees shall be located at least five (5) feet from a utility pole, fire hydrant, driveway, crosswalk, or utility easement, except as may be approved by the public works director; and at least twenty (20) feet from an overhead street light.
 - b. There shall be no impervious material within one and one-half (1 1/2) foot radius around the tree trunk.
 - c. Trees at the time of planting shall have a minimum height of six (6) feet from ground level, and shall be at least two (2) inch in caliper (d.b.h.).
 - d. Trees shall not cause any vision impairment to vehicular traffic.
 - e. Installation of required landscaping may be deferred for up to six (6) months, provided that the owner posts with the city a cash deposit or irrevocable letter of credit assigned to the city, for an amount equal to one hundred and fifty (150) percent of the estimated cost of the landscaping materials and installation by a qualified contractor.

B. Vehicular Access, Internal Circulation and Clear Vision Areas.

1. Where possible, vehicular access to industrial developments shall be from abutting arterial or collector streets, and shall be shared with adjacent properties to minimize multiple curb cuts. Access to individual lots from T.V. Highway shall be approved by ODOT, with secondary access from adjacent collectors or minor local streets where possible. Except in the case of a multi-building complex, direct lot access to an arterial shall not be permitted, unless there is no viable alternative, and direct access to a local street shall only be allowed as permitted by the review body.
 2. The minimum public street width for industrial development shall be:
 - a. Collector. Sixty (60) feet of right-of-way and thirty-six (36) feet of pavement curb to curb. Additional street width for turn lanes may be required if warranted by traffic volumes generated by the development.
 - b. Local. Fifty (50) feet of right-of-way and twenty-eight (28) feet of pavement curb to curb.
 3. Internal Access. All internal roadways and drives shall be paved and maintained by the owner in accordance with city standards. No entrance or exit shall be located closer than one hundred (100) feet to any intersection of a public street, unless there is no reasonable alternative. They shall have the following minimum pavement width:
 - a. Two-way traffic 24 feet
 - b. One-way traffic 20 feet
 4. Internal sidewalks or pathways shall be provided to ensure safe and convenient pedestrian circulation throughout the development.
 5. Clear vision areas shall be provided at all roadway and driveway intersections in accordance with the vision clearance standards set forth in *Section 11.40.27*.
- C. Access Streets Sidewalks - Drainage.
1. All streets shall be designed in accordance with standards set forth in the subdivision code and public works standards.
 2. All driveways for new construction shall have minimum pavement width twenty-four (24) feet and shall not be more than forty-five (45) feet in width at the curb, unless specifically approved by the review body to meet unusual requirements of a particular use. Each driveway shall have a concrete curb apron designed to comply with public works standards.
 3. Cul-de-sacs shall serve no more than four (4) separate uses and shall have a minimum turning radius of fifty (50) feet measured to the front edge of the curb.
 4. Sidewalks and improvements.

- a. For all new construction curbs, gutters, and a minimum six (6) foot wide sidewalk, with eight (8) foot at a bus stop, shall be provided along the entire lot frontage, and shall meet ADA accessibility standards.
 - b. Site Design Review Type II requests for remodels, alterations and/or additions to an existing building shall require a sidewalk, if one does not exist, the driveway apron and paved driveway shall be constructed to City standards. Commercial sidewalks shall be curb tight, unless otherwise approved by the review body
 5. Storm drainage shall be managed through a system of underground drainage lines and catch basins, which convey storm water off the site to a public storm system, and shall comply with Cleanwater Services (CWS) standards for water quality and quantity.
- D. Lighting Streets. Streets and walkways shall be lighted during the hours of darkness in accordance with Public Works standards.
- E. Mailboxes. Except for in-fill partitioning, clustered mailboxes shall be provided, consistent with the locational criteria set by the Post Master. They shall be of uniform style.
- F. Screening.
1. Sight obscuring screening shall be provided for all garbage and trash collection areas, and for any approved outdoor storage, or parking lots abutting a residential development. Such screening shall be a minimum six (6) feet in height, and shall consist of a wall of brick, stone, or other substantial material; or a densely planted evergreen hedge and chain link fencing. Such screening shall be provided to a height sufficient to block the view of materials stored as viewed from the sidewalk on the opposite side of the street from the screen wall.
 2. The reviewing body may require non-sight obscuring screening and/or fencing of parking lots abutting property lines, front yards abutting a public street, or other yards abutting a residential development.
- G. Parking and Loading Space.
1. Off-street Parking: Parking shall be provided as set forth in *Section 11.40.10*.
 2. Paving and Design: Off-street parking and maneuvering areas shall be paved with asphalt or concrete and designed in

accordance with the standards of the off-street parking regulations of zoning ordinance.

3. Parking lot landscaping: There shall be a five (5) foot landscaped buffer at the perimeter of all parking lot areas. The parking area shall be screened with evergreen plant material maintained at minimum of thirty-six (36) inches in height. Parking lots shall be designed and landscaped so as to breakup large paved areas with landscaped islands, every ten (10) parking spaces.

20.78 Signs. Signs within the M-1 zone may be allowed consistent with *Section 11.40.50*.

(Sections 11.762 through 11.770, inclusive amended and renumbered to Sections 11.20.70 through 11.20.78., inclusive by Ordinance No. 810, May 1, 2000)

(Sections 11.20.73, 11.20.74 and 11.20.75 amended by Ordinance 841, July 21, 2003)

11.20.80 Main Street District and Zones, MS

20.81 Purpose. The MS Main Street District, MS Zones and Zoning Map together implement the Cornelius Main Street Plan. The Main Street Plan expresses the community's vision of an urban town center, with an active commercial and civic district; walkable, stable, and diverse residential neighborhoods surrounding it; pedestrian friendly streetscapes; and easy access by a variety of transportation choices, including transit, bicycling, and walking.

The Main Street District contains four (4) Main Street land use zones: Retail Commercial (MSR), Mixed Use (MSM), General Employment (MSG), and Civic (MSC). Definitions and standards common to all the Main Street zones are contained in this Chapter, followed by each of the zone standards.

20.82 Standards. The following standards are generally applicable throughout the Main Street District, except where specific standards are found in the Main Street Zone chapters below.

- A. Off-Street Parking Requirements. All land uses in the Main Street District shall provide off-street parking in accordance with the standards in *Section 11.40.10.*, as adjusted by the following provisions:
 1. On-street parking spaces adjacent to the street frontage of a building or tenant lease space shall be counted toward meeting the off-street parking requirement.
 2. Minimum off-street parking requirements (*see Section 11.40.10*) may be reduced by up to twenty-five (25) percent:
 - a. at locations within four hundred (400) feet of public parking lots,
 - b. at locations where a high shared parking ratio will likely occur, based on available parking spaces, private shared parking agreements, and the existing or planned mix of land uses within four hundred (400) feet of each other.
 3. The maximum number of on-site parking spaces allowed shall comply with *Section 11.40.10., Off-Street Parking Standards*.
- B. Pedestrian Design
 1. The following streets are pedestrian-oriented commercial streets:

- a. Adair Street between 10th and 14th Avenues.
 - b. Baseline Street between 10th and 14th Avenues.
 - c. 10th Avenue between Union Pacific Railroad and Portland Western Railroad.
 - d. 19th & 20th Avenues between Union Pacific Railroad and Portland Western Railroad.
2. The following standards apply to pedestrian-oriented commercial streets:
 - a. At least fifty (50) percent of the first floor façade shall consist of windows and/or entrances along the street frontage. For purposes of this standard, the first floor refers to the area calculated by multiplying the length of the building façade at the ground floor by ten (10) feet.
 - b. Building facades facing the street shall incorporate variations in building materials, or horizontal projections, recesses, or offsets, at least every thirty (30) feet along the facade.
 3. The right-of-way mid-block between Adair and Baseline running east-west between 14th and 10th Avenues will be improved as a pedestrian only street, except for service vehicles. The same standards 2a and b (above) apply to this street.

11.20.80RC Main Street Retail Commercial, MSR

20.81RC. Purpose.

The MSRC Main Street Retail Commercial zone is primarily a commercial retail zone, but also allows office and service commercial uses when conducted wholly within an enclosed building. Upstairs office and residential uses are allowed, but not required. Outdoor display, storage, and patron seating (such as for a sidewalk cafe) are only allowed within designated special outdoor use areas designed specifically to support their intended function while maintaining an attractive visual environment, as approved in accordance with the standards in this Chapter or temporarily as defined in this Code.

20.82RC. Permitted Uses. The following uses, their accessory uses, and uses of the same character are permitted outright:

- A. Retail store or shop.
- B. Commercial amusements, including but not limited too, pool hall, internet & video game center, dance hall or theater, when enclosed in a building.
- C. Bakery, primarily for retail sale.
- D. Barber or beauty shop.
- E. Bank or other financial institution.
- F. Bicycle sales, service or repair.
- G. Blueprinting, Photostatting, printing, lithographing, or other reproduction process.

- H. Business machine sales, service or repair.
- I. Catering establishment.
- J. Laundry or cleaning establishment.
- K. Inn, hostel or bed & breakfast
- L. Locksmith or gunsmith.
- M. Magazine or newspaper distribution agency.
- N. Office, business, professional, medical/dental.
- O. Pawn shop.
- P. Restaurant, eating and drinking establishments without drive-in service.
- Q. Scientific or professional instrument sales or repair.
- R. Electronics or video rental or repair.
- S. Studio; including music, art, dancing, photography, or health.
- T. Theater, except drive-in.
- U. Antique or upholstery shop.
- V. Watch and clock repairs.
- W. Residential dwelling units located above ground floor commercial uses meeting the requirements of this Chapter.
- X. Outdoor patron seating areas. Administrative review and issuance of an outdoor use area permit is required for designation of proposed outdoor seating areas, to ensure that the standards in this Chapter are met and that public safety and access for pedestrians, persons with disabilities, and emergency response personnel will not be compromised.
- Y. Veterinarian's office and/or animal hospital, including indoor animal boarding.

20.83RC. Conditional Uses Permitted. The following uses and their accessory uses are permitted when in accordance with *Section 11.30.30.*:

- A. Cultural and educational resource facilities.
- B. Health care and social service offices.
- C. Government structure or use including but not limited to public and private park, playground, library, museum, fire station, community center, non-commercial recreational facilities.
- D. A Planned Unit Development conditional use as provided under *Section 11.30.40.*
- E. Building height in excess of forty (40) feet in height.
- F. Outdoor display and storage areas appurtenant to a permitted or conditional use.
- G. Sidewalk or plaza vendors. Conditional use permits for such uses shall include approval conditions clearly specifying the location, merchandise or activity, and hours of operation with which the vendor shall comply.
- H. First floor residential.
- I. Home occupation consistent with *Section 11.20.08.*
- J. Church, and associated church activities, except commercial day care.
- K. Parking lot or garage, preferably with retail business at ground level facing street.

20.84RC. Prohibited Uses. In the MSR Zone the following uses are not allowed:

Only uses specifically listed in 20.82RC and 20.83RC, and uses similar to these, are permitted in this District. The following uses are expressly prohibited: Industrial uses; automobile drive-up, drive-in and drive-through uses; automobile, truck, recreational vehicle storage, repair, fuel and/or sales.

20.85RC. Development Requirements.

- A. Lot Size. No minimum lot size is required. All lots must be functional and meet the minimum setback and parking requirements.
- B. Setback Requirements. The orientation of buildings within the MSR zone to Adair Street, the mid-block pedestrian street and Baseline Street is critical to the objective of maintaining a cohesive, pedestrian-oriented character along those streets. Front orientation of buildings directly onto the sidewalks of Adair and Baseline is preferred; however, at some locations a side orientation will offer a practical alternative consistent with the objectives of this Chapter. Until adequate on-street and shared off-street parking facilities are available, primary entrances may be oriented toward existing parking, if a future primary entrance oriented toward the street is designed into the building and opened when such facilities are available. The following standards apply to their respective streets.
 - 1. Front Orientation and Setbacks: Adair and Baseline Streets and the mid-block pedestrian street between 10th and 14th Avenues.
 - a. Buildings shall have their primary entrance door in the wall Facing these east-west streets or at a building corner adjacent to these street sidewalks. For buildings containing multiple tenant lease spaces, any lease space with frontage on these streets shall maintain at least one public entrance on these streets or share such entrance with an adjacent use.
 - b. Newly constructed buildings shall be designed to occupy the full width of each parcel's frontage on Adair and Baseline Streets, so as to occupy cumulatively a minimum of sixty (60) percent of the parcel frontage along these streets. Up to forty (40) percent of the frontage along Adair and Baseline Streets may be devoted to pedestrian plazas and gardens or accessways that may provide a mid-block pedestrian connection between buildings to the back of the block. No vehicular parking or vehicular access to or through a pedestrian plaza or accessway is permitted, except

- emergency access by police and emergency response vehicles.
- c. For a minimum of eighty (80) percent of the total building frontage within each block, the front setback shall be zero (0), i.e., buildings located immediately adjacent to the street sidewalk, or graduated between zero setback and the setback of an adjacent sound “period” building facing the street.
 - d. The setback may be increased to a maximum of thirty (30) feet to accommodate an entry plaza if buildings on both sides exist at zero setback. No vehicular parking, or vehicular access to or through a pedestrian plaza or accessway is permitted, except emergency access by police and emergency response vehicles.
 - e. Entry plazas may be used for patron seating areas appurtenant to a permitted or conditional use, with issuance of an outdoor use area permit. Entry plazas may be used for outdoor display or storage only as approved through the Conditional Use permit process, and with issuance of an outdoor use area permit or Temporary Use permit.
 - f. An arcade may extend from the front of one (1) or more buildings over the sidewalk. The arcade must be open to pedestrian access from the front and sides. Minimum clear width for pedestrian circulation, such as between support columns, shall be six (6) feet. No part of the arcade shall extend to within two (2) feet of the edge of the curb.
2. Front Orientation and Setbacks: North-South-Oriented Streets.
- a. The front building setback shall be a minimum of zero (0) and a maximum of ten (10) feet.
 - b. At corner locations, the Adair or Baseline Street frontage shall be deemed the front, and the principal public entrance door shall be located in the front wall facing the street or at the corner of the block adjacent to the sidewalk except for existing buildings facing the side street.
 - c. At non-corner locations, the principal public entrance door shall be located in the front wall facing the street, at a building corner adjacent to the sidewalk, or within twenty (20) feet of the sidewalk edge in a side wall or as close as possible for existing buildings.
 - d. A minimum of fifty (50) percent of the total primary street frontage along each block shall be occupied by buildings meeting the setback and orientation requirements in one (1) above.
 - e. Entry plazas may be used for patron seating areas appurtenant to a permitted or conditional use, with issuance of an outdoor use area permit. Entry plazas may be used for

outdoor display or storage only as approved through the Conditional Use permit process, and with issuance of an outdoor use area permit.

- f. Doors shall not open onto public right-of-way (i.e. sidewalk).
3. Side Setbacks. The minimum building setback at a side lot line shall be zero (0). At corner locations, the maximum building setback at a side lot line with frontage on a public street shall be ten (10) feet, except for structurally sound period cottages. No vehicular parking, storage, access or other use is permitted within the side setback along a public street frontage.

C. Height of Buildings

1. Buildings may be a maximum of forty (40) feet in height.
2. Along Adair and Baseline Streets between 10th and 14th Avenues, front facades on new buildings that are less than 16 feet in height require a design review approval to show enclosure compatible with adjacent and planned structures along the streets.
3. Taller buildings and shorter facades may be approved by the Planning Commission as a conditional use; permit approval conditions may include specific adjustments to setbacks and limitations on building volume, particularly for upper stories.

11.20.80MU. Main Street Mixed Use, MSM

20.81MU. Purpose.

The Main Street Mixed Use zone is designed to encourage a vertical mix of limited retail, office, and residential uses. Commercial uses are limited to convenience retail, service, and professional offices. Building heights are limited to three (3) stories, with second-floor offices and second- and third-floor residences. Compliance with these standards is required in the MSMU-zoned areas along both sides of 10th Avenue and on both sides of 19th Avenue.

20.82MU. Vertical Structure of Land Uses

The design and functioning of the areas in the Mixed Use zone are specifically intended to achieve a vertical structure of activity relative to the primary streets forming the central corridor of each area, i.e., 10th and 19th Avenues. The following broad categories describe the desired overall character of this vertical structure.

- A. First floor uses shall be primarily small retail and service businesses and offices. The dominant orientation of doors and windows shall be toward the primary streets central to the Mixed Use zone areas, i.e., 10th and 19th Avenues. Individual or shared entrances for upstairs residential units may be located at the first floor level, with parking garage access at the side or rear,

away from 10th and 19th Avenues. Plazas may be located adjacent to the primary streets.

- B. Second floor uses shall be limited to offices and residential dwelling units, including home occupations. Balconies, decks, and rooftop gardens are encouraged.
- C. Third floor uses should be limited to residential dwelling units, including home occupations. Balconies, decks, and rooftop gardens are encouraged.

20.83MU Permitted Uses. The following land uses and uses of the same character are permitted outright when conducted entirely within an enclosed building and in accordance with the vertical structure of land uses and activities described in Section 11.20.82MU above:

- A. Barber or beauty shop.
- B. Commercial School.
- C. Club or lodge hall.
- D. Commercial hospitality facility, including hotel, motel, and meeting or convention center, if parking is located behind the street-oriented building.
- E. Convenience retail or general retail.
- F. Banks, financial services, insurance, real estate brokerages and agency offices.
- G. Government office.
- H. Grocery store as a stand-alone use, or within a mixed-use building with residential or office development on one (1) or more upper floors.
- I. Locksmith. Studio, including music, art, dance, photography, or health.
- J. Newsstand.
- K. Outdoor patron seating areas. Administrative review and issuance of an outdoor use area permit is required for designation of proposed outdoor seating areas, to ensure that the standards in this Chapter are met and that public safety and access for pedestrians, persons with disabilities, and emergency response personnel will not be compromised.
- L. Pharmacy.
- M. Research, testing, experimental, photographic, or other laboratory suitable for retail and office locations, i.e., operating completely indoors and producing no noise, vibration, odor, glare, smoke, or other noxious or disturbing impact at the property line based on Department of Environmental Quality standards.
- N. Multi-family dwelling units, such as apartments and condominiums.
- O. Restaurant, deli, catering, or other prepared food service with no automobile drive-through service.
- P. Retail bakery.
- Q. Retail image and document reproduction services, including photographic processing, printing, photocopying, and other services.
- R. Sales, service, and repair of business machines, computers, scientific and technical equipment, small appliances, tools, clocks, watches, and other

business, household, and personal electrical, electronic, and mechanical devices commonly found in residential and office locations.

- S. Sales, rental, tailoring, alterations, repair, and care of apparel, shoes, and accessories such as purses and luggage, including laundry, dry cleaning, shoe repair, and related services.
- T. Sales, service, and repair of non-motorized sporting equipment, such bicycles, skis, snowboards, skates, and general sporting goods. For purposes of this provision, "motorized" refers to powered vehicles and does not include stationary exercise machines that incorporate motors, such as treadmills.
- U. Theater, except drive-in.

20.84MU. Conditional Uses Permitted. The following uses and their accessory uses are permitted when in accordance with *Section 11.30.30.*:

- A. Planned Unit Development conditional use as provided under *Section 11.30.40.*
- B. Permitted or conditional uses at locations or in configurations that deviate from the vertical structure and organization of uses and activities described in *Section 11.20.82MU.* above.
- C. Building height in excess of forty (40) feet.
- D. Automobile drive-through service facilities in conjunction with any listed outright permitted or conditional use.
- E. Churches/Classrooms.

20.85MU. Prohibited Uses. In the MSM Zone the following uses are not allowed:

Only uses specifically listed in 20.83MU and 20.84MU, and uses similar to these, are permitted in this District. (The following uses are expressly prohibited: Industrial uses; automobile, truck, recreational vehicle storage, repair, fuel and/or sales.)

20.86MU. Development Requirements.

- A. Lot Size. No minimum lot size is required. All lots must be functional and meet the minimum setback and parking requirements.
- B. Setback Requirements
 - 1. Front Orientation and Setbacks on 10th and 19th Avenues
 - a. The front building setback shall be a minimum of zero (0) and a maximum of ten (10) feet.
 - b. At corner locations, the 10th Avenue or 19th Avenue frontage shall be deemed the front, and a principal public entrance door shall be located in the front wall facing the street or at the corner of the block adjacent to the sidewalk.
 - c. At non-corner locations, the principal public entrance door

shall be located in the front wall facing the street, at a building corner adjacent to the sidewalk, or within twenty (20) feet of the sidewalk edge in a side wall.

- d. A minimum of fifty (50) percent of the total primary street frontage along each block shall be occupied by buildings meeting the setback and orientation requirements in one (1) above.
 - e. Plazas may be used for patron seating areas appurtenant to a permitted or conditional use, when such outdoor use area designation is approved in accordance with the conditional use permit standards in this Chapter.
 - f. Doors shall not open onto public right-of-way (i.e. sidewalks).
 - g. Until adequate on-street and shared off-sight parking facilities are available, primary entrances may be oriented toward existing parking, as long as a future primary entrance oriented toward the street is designed into the building and opened when such facilities are available.
2. Side Setbacks. The minimum building setback at a side lot line shall be zero (0). At corner locations, the maximum building setback at a side lot line with frontage on a public street shall be ten (10) feet. No vehicular parking, storage, access or other use is permitted within the side setback along a public street frontage.
 3. Rear Setback. The minimum building setback at a rear lot line shall be zero (0); however, no building or associated parking and loading areas shall be permitted to encroach within or otherwise limit off-street vehicular circulation via shared drive aisles approved in conjunction with submitted development plans.
- C. Height of Buildings
1. Buildings may be a maximum of forty (40) feet in height.
 2. Taller buildings may be approved by the Planning Commission as a conditional use; permit approval conditions may include specific adjustments to setbacks and limitations on building volume, particularly for upper stories.
- D. Lot Coverage. Buildings shall not occupy more than fifty-five (55) percent of the area of the lot on which they are located. For purposes of this calculation, a building containing multiple residential or mixed-use units attached along property lines shall be measured against the total area of all the lots on which the building is located, which shall be known as "the associated land area." A minimum of ten (10) percent of each lot, or the associated land area of a multi-unit building, shall be landscaped and maintained free of buildings, pavement, or any other form of impermeable cover.

11.20.80GE. Main Street General Employment, MSGE**20.81GE. Purpose.**

The Main Street General Employment zone allows general commercial and service uses, where the principle uses are both pedestrian and auto oriented. This zone also allows a limited range of light industrial uses, such as research and development, distribution, and warehousing, but requires such uses to meet design and performance criteria. Building heights are generally limited to two stories, although taller buildings may be approved by the Planning Commission.

20.82GE. Permitted Uses. The following uses and uses of the same character and their accessory uses, provided that all operations are conducted within an enclosed structure and unless limited by 20.83GE Conditional Use requirements, are permitted outright:

- A. General Retail
- B. Service Commercial, including barber, banks, service stations and fuel distribution, provided storage tanks are underground.
- C. Automobile, truck, marine, motorcycle, appliance and/or parts sales, service, repair, rental, and including custom vehicle assembly, provided that all operations other than storage are conducted within an enclosed structure.
- D. Office, including professional, medical/dental.
- E. Indoor amusement or entertainment and restaurants, including fast food with drive-up window.
- F. Motel, motor courts, hotel, inns or bed and breakfasts.
- G. Small engine or equipment repair shop.
- H. Multi-family dwelling units, consistent with A-2 Standards.
- I. Single family dwelling units as a secondary or accessory use to commercial.
- J. Other similar uses as may be approved by the Planning Commission.
- K. Single family residences existing at the time of adoption. See *Section 11.30.90.*, Nonconforming Use.

20.83GE Conditional Uses Permitted. The following uses and their accessory uses are permitted when in accordance with *Section 11.30.30.*:

- A. Research and development. Distribution.
- B. Warehousing.
- C. Light industrial uses.
- D. Building height in excess of forty (40) feet.
- E. A Planned Unit Development conditional use as provided under *Section 11.30.40.*
- F. Automobile drive-through service facilities in conjunction with any listed outright permitted or conditional use.
- G. Park

- H. Public and/or private recreation facilities
- I. Outdoor storage and/or display of merchandise, materials, goods, and equipment, or any other outdoor activity.

20.84GE. Prohibited Uses.

Only uses specifically listed in 20.82GE and 20.83GE, and uses similar to these, are permitted in this District. (The following uses are expressly prohibited: Industrial uses; automobile, truck, recreational vehicle storage and/or sales.)

20.85GE. Development Requirements.

- A. Lot Size. No minimum lot size is required. All lots must be functional and meet the minimum setback and parking requirements.
- B. Setback Requirements
 - 1. Front Orientation and Setbacks
 - 2. There shall be no minimum front building setback.
 - a. At Baseline Street corner locations, the Baseline Street frontage shall be deemed the front, and the principal public entrance door shall be located in the front wall facing the street or at the corner of the block adjacent to the sidewalk.
 - b. At non-corner locations, the principal public entrance door shall be located in the front wall facing the street, at a building corner adjacent to the sidewalk, or within twenty (20) feet of the sidewalk edge in a side wall or as close as possible for existing buildings.
 - c. Plazas may be used for outdoor display areas or patron seating areas appurtenant to a permitted or conditional use, when such outdoor use area designation is approved in accordance with the conditional use permit standards in this Chapter.
 - d. Doors shall not open onto the public right-of-way (i.e. sidewalks).
 - 2. Side Setbacks. The minimum building setback at a side lot line shall be zero (0). At corner locations, the maximum building setback at a side lot line with frontage on a public street shall be ten (10) feet. No vehicular parking, storage, access or other use is permitted within the side setback along a public street frontage.
 - 3. Rear Setback. The minimum building setback at a rear lot line shall be zero (0), except where an easement exists the setback shall be five (5) feet.

- C. Height of Buildings
 - 1. Buildings may be a maximum of forty (40) feet in height.
 - 2. Taller buildings may be approved by the Planning Commission as a conditional use; permit approval conditions may include specific adjustments to setbacks and limitations on building volume, particularly for upper stories.

- D. Lot Coverage. A minimum of ten (10) percent of each lot, or the associated land area of a multi-unit building, shall be landscaped and maintained free of buildings, pavement, or any other form of impermeable cover. However, if a minimum of fifty (50) percent of the total primary street frontage along each block is occupied by buildings with a front building setback that is a minimum of zero (0) and a maximum of ten (10) feet the percentage shall be reduced to five (5) percent.

11.20.80C. Main Street Civic, MSC

20.81C Purpose.

The Main Street Civic zone is designed to provide for governmental, public service, and educational uses, such as City Hall, library, fire and police stations, schools, and public parking. Limited commercial uses may also be allowed as a conditional use. Building heights are generally limited to forty (40) feet in height, although taller buildings may be approved by the Planning Commission.

20.82C. Permitted Uses. The following uses and uses of the same character and their accessory uses are permitted outright:

- A. Government office, library, police station, and similar functions performed by governments and governmental agencies.
- B. When located within a larger building that houses other permitted or conditional uses, small retail, food service, or personal service shops of less than 1,000 square feet shall be considered accessory uses. Examples include coffee shop, printing and photocopying, newsstand, and snack shop or deli.
- C. Post office, school, city hall, fire station or other similar institution.
- D. Community center & park.

20.83C. Conditional Uses Permitted. The following uses and their accessory uses are permitted when in accordance with *Section 11.30.30.*:

- A. Retail and other uses listed as permitted uses in the MSR zone, if located along Adair Street
- B. Existing family housing north of lots facing Adair on the north.
- C. Drive-in and drive-through facilities.

- D. Outdoor restaurant patron seating within a plaza.
- E. A Planned Unit Development conditional use as provided under *Section 11.30.40.*:
- F. Public and/or private park, playground, recreation building.

20.84C. Prohibited Uses.

Only uses specifically listed in 20.82C and 20.83C, and uses similar to these, are permitted in this District. (The following uses are expressly prohibited: Industrial uses; automobile, truck, recreational vehicle storage, repair, fuel, and/or sales.

20.85C. Development Requirements.

- A. Lot Size. No minimum lot size is required. All lots must be functional and meet the minimum setback and parking requirements.
- B. Setback Requirements.
 1. Front Orientation and Setbacks applying to development adjacent Adair and Baseline Streets:
 - a. The front building setback shall be a minimum of zero (0) and a maximum of ten (10) feet.
 - b. At corner locations, the principal public entrance door shall be located in the front wall facing the street or at the corner of the block adjacent to the sidewalk.
 - c. At non-corner locations, the principal public entrance door shall be located in the front wall facing the street, at a building corner adjacent to the sidewalk, or within twenty (20) feet of the sidewalk edge in a side wall, or as close as possible for existing buildings.
 - d. A minimum of fifty (50) percent of the total primary street frontage along each block shall be occupied by buildings meeting the setback and orientation requirements in *Section 11.20.85C.B.1.*
 - e. Plazas may be used for outdoor display areas or patron seating areas appurtenant to a permitted or conditional use, when such outdoor use area designation is approved in accordance with the conditional use permit standards in this Chapter.
 - f. Doors shall not open onto the public right-of-way (i.e. sidewalks).
 2. Side Setbacks applying to development adjacent Adair and Baseline Streets:

The minimum building setback at a side lot line shall be zero (0). At corner locations, the maximum building setback at a side lot line with frontage on a public street shall be ten (10) feet. No vehicular

parking, storage, access or other use is permitted within the side setback along a public street frontage.

3. Rear Setback. The minimum building setback at a rear lot line shall be zero (0). However, in order to maintain and extend alleyways, no building or associated parking and loading areas shall be permitted to encroach within or otherwise limit two-way vehicular circulation east and west through the center of a block.

C. Height of Buildings

1. Buildings may be a maximum of forty (40) feet in height.
2. Taller buildings may be approved by the Planning Commission as a conditional use; permit approval conditions may include specific adjustments to setbacks and limitations on building volume, particularly for upper stories.

- E. Lot Coverage. A minimum of ten (10) percent of each lot, or the associated land area of a multi-unit building, shall be landscaped and maintained free of buildings, pavement, or any other form of impermeable cover.

11.20.80DO Main Street Design Overlay, MSDO

20.81DO. Purpose.

The MSDO Main Street Design Overlay is a set of design guidelines that apply to a specific central area of the Main Street District which are in addition to the requirements and guidelines of parts of three Main Street District zones – MSR, MSM and MSG. These guidelines are intended to encourage the design of space, structure and activity within the core area of the District and build the unique “early 20th Century country town” theme described in the Main Street Plan, as revised and adopted.

These guidelines are intended to recognize separate yet connected land use clusters, such as historic commercial buildings at Baseline and 11th Avenue and the Hispanic service activities around 11th Avenue and Adair and ¾ century old cottages toward 14th Avenue. They also recognize the inherent differences in design needs of different land use and mixes, e.g., intensity of small retail business clusters in the MSR sub district vs. more auto oriented commercial uses in MSG sub district.

The unified design theme is intended to recognize the physical proximity and unity of the Main Street district along the length of Adair and Baseline from 10th to 14th Avenues. Design treatment consists of 1) a general design theme with which creative architectural treatment is encouraged, 2) common guidelines for setback, building height, materials and orientation, and 3) period (early 20th Century) street-scape and public right-of-way improvements throughout the

District. This dynamic recognizes the value of District special identity in successful development of a destination place of business.

20.82DO Architectural Style. Design of new buildings and renovation or expansion of existing buildings shall be drawn from the design of downtown buildings constructed in a small town during the period 1890 through 1930. This includes the several buildings along Adair and Baseline built during that period, including the houses. Existing houses that were built in or renovated in the style of the early 20th Century (“period cottages”) are acceptable in the Retail sub district if they are structurally sound and landscaped consistent with the other design features of the District.

New buildings shall be designed so that their facades define the street as if it were an outside room, creating interesting views for passersby, and maximize views of the street to increase neighborhood security. New facades shall be predominantly glass at the ground floor and be visually engaging.

Repetitive Building Elements, such as paving materials, lighting, continuous rain protection (awnings) and compatible exterior building materials and color at the ground level will be encouraged.

20.83DO Human Scale Features. Awnings, porches, stoops, ground level windows, benches, kiosks, cafe tables, places to sit, sidewalk merchandising, articulated building facades, pocket parks and plazas, and zero building setbacks (or improvement setback if in relation to an approved cottage building) shall all be used as the standard not the exception in the Main Street along Adair Street, 10th Avenue and 19th Avenue.

20.84DO Orientation. Buildings shall have their primary entrance door in the wall facing the street or at a building corner adjacent to two streets. For buildings containing multiple tenant lease spaces, any lease space with frontage on a street shall maintain at least one public entrance on the street or share such entrance with an adjacent use. Until there is no need for parking on the interior a block, structures on that block may have their primary entrance facing that parking, as long as the building is designed to include a future entrance facing the street.

20.85DO. Materials. Only materials commonly used during the period 1890 to 1930 may be used for the visible surfaces in major renovation and new construction. This includes, but not exclusively, wood lap board siding, brick and stone. This excludes more contemporary materials, such as sheet metal, aluminum siding, tinted glazing and plastic. Materials that clearly appear like period materials are acceptable.

20.86DO Building Base, Body and Head. New buildings shall either maintain the continuity of the height of prominent street walls and align with projecting

cornices of adjacent buildings or present an attractive graduation from adjacent building frontage toward the street right-of-way.

New buildings will be encouraged to be built at the street right-of-way or designated plaza edge with no setback or at a distance graduated from the setback of an existing structurally sound “period” cottage. Where buildings are not constructed at zero setback, landscaping or other design features shall be placed next to the public right-of-way to continue compatible urban enclosure. Any object (sign, awning, etc.) overhanging into ODOT right of way shall be in compliance with ODOT standards.

At street corners, when possible, the highest point of a building’s street facade should be within twenty-five (25) feet of the corner.

20.87DO Signage. Signs shall be oriented toward both pedestrians and vehicles and be integrated into the ground level of the project. Signage projecting into ODOT right of way will be discouraged and subject to ODOT standards.

- (a) Sign Area. Pedestrian oriented signs shall be no more than eight square feet and automobile oriented signs shall be no more than eighteen (18) square feet.
- (b) Sign Height. No freestanding, projecting or awning sign, including supporting structures, shall be more than sixteen (16) feet in height.
- (c) Projecting Signs. Signs shall project no more than two (2) feet out from the building facade, or twelve (12) inches into pedestrian space (sidewalks, courtyards, etc.)
- (d) Sign Lettering. Letter height shall be no more than (12) inches.
- (e) Outdoor Displays. Movable outdoor displays shall be limited to business hours only, and subject to special permits.

20.88DO Plazas, Parks and Open Spaces. Plazas, parks and open spaces shall maximize public use. These spaces shall be well defined, create a secure environment, oriented to receive sunlight, work well with pedestrian circulation patterns, and accommodate special events.

20.89DO Special Theme Areas. Strong landmarks and special features will be encouraged and enhanced. Landmarks, which can be built or expanded upon, include Old Fire Hall, Centro Cultural and the Cornelius Central Station community center. Development will be encouraged to incorporate small-scale features that accentuate identity and ambiance, build character and respect traditions.

(Sections 11.20.80-82, .80RC-.85RC, .80MU-.86MU, .80GE-.85GE, .80C-.85C, .80DO-.89DO, inclusive – Main Street District adopted by Ordinance 835, July 30, 2002)

11.20.90 Floodplain District, FP**20.91 Purpose**

- A. The floodplain district overlay zone is established as those areas subject to inundation by the base flood and coincides with the floodplain.
- A. The purpose of the Floodplain District is to protect the public health, welfare, and safety in areas subject to periodic inundation due to flooding. Recognizing the need for drainage channels to periodically carry more than the normal flow of water, the purpose of this zone is to restrict the uses and regulate building in the floodplain, so the hazards to property are minimized. The Floodplain District, FP is defined as the flood level to which the property is likely to be subjected at a frequency of once in one hundred (100) years. This determination will be based on U.S. Army corps of Engineers definitions and standards, the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), Flood Insurance Study, and on available local information.
- B. The Federal Emergency Management Agency (FEMA) of the Federal Insurance Administration has prepared a Flood Insurance Rate Map (FIRM) with an effective date of January 6, 1982, and a Flood Insurance Study dated July 6, 1981. In addition to FEMA, the U.S. Army Corps of Engineers has also developed definitions and standards for flood hazard areas. Copies of these documents are on file in the office of the Community Development Department. FIRM is the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city of Cornelius. The Flood Insurance Study is the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Flood Way Map and the water surface elevation of the base flood. Notwithstanding the provisions of the Flood Insurance Map, Flood Insurance Study, and the definitions and "area of special flood hazard" shall be defined and implemented as provided above.
- C. The zone designation for any parcel located in the floodplain district shall include the designation for the primary zone followed by the notation (FP). (Example: Low-Density Residential, R-7(FP)).
- D. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Large floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from

flooding or flood damages. This ordinance shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

20.92 Development in the Floodplain.

- A. All uses allowed in the base zone are allowed in the floodplain. Such uses are allowed only if the proposed development meets the requirements from those federal, state, or local governmental agencies from which prior approval is required.
- B. Application for Development Permit. A request for a development permit may be initiated by a property owner or his authorized agent by filing an application with the Community Development Department on forms prescribed by the Community Development Director. The application request shall include a service provider letter from the Cleanwater Services (CWS) specifying the requirements necessary to comply with all applicable CWS rules and regulations.
- C. The Community Development Director shall review all applications for development permits to determine that the permit requirements of this code have been satisfied. The Community Development Director shall determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required. A development permit shall not be issued unless the Community Development Director first determines that the proposed development will be in conformity with all applicable ordinances, codes, rules, regulations, and laws.
- D. A structure or use regulated by this section that does not comply with any regulation provided by this ordinance for the primary zone in which it is located shall be considered nonconforming in those particulars only and shall be treated in a manner consistent with the provisions of Section 11.30.90, Nonconforming Structures and Uses.
- E. All development approvals shall comply with all requirements and standards identified in the Unified Building Code (UBC), Unified Plumbing Code (UPC), and state electrical code. Habitable floor area shall be at least two (2) feet above the floodplain.
- F. Any development proposed within the one hundred (100) year floodplain shall provide documentation of balanced cut and fill per CWS standards that are implemented by the City.

- G. Contained and uncontained areas of hazardous materials as defined by the Department of Environmental Quality.

20.93 Violation and Penalties. Violations of the provisions of *Section 11.20.90.*, inclusive, by failure to comply with any of its requirements or prohibitions shall constitute a misdemeanor. Any person, firm or corporation who violates any of these provisions contained in *Section 11.20.90.*, inclusive, shall, upon conviction therefor, be fined not more than \$10,000 for each violation and in addition shall pay all costs and expenses incurred by the city in the prosecution of said violation. Nothing herein contained shall prevent the city from taking such other lawful action as necessary to prevent or remedy any violation.

(Sections 11.776 through 11.790, inclusive amended and renumbered to Sections 11.20.90 through 11.20.93 by Ordinance No. 810, May 1, 2000)

11.20.100 Natural Resources Overlay (NRO)

20.101 Purpose

- A. The purpose of the Natural Resources Overlay is to protect the significant natural resources identified in the City's Natural Resources Inventory and Map. The Natural Resources Overlay shall protect resources and functional values that have been identified by the City and State as providing benefits to the public. The Natural Resources Overlay complies with the direction of the Comprehensive Plan and State Planning Goal 5.
- B. Natural Resources Overlay (NRO) is applicable to the resource sites and abutting properties identified in the Natural Resources Inventory & Map, the Goal 5 ESEE analysis and to future lands annexed into the City that are identified as Goal 5 resources.
- C. The National Resource Overlay shall encourage coordination between City, county, state, regional, state and federal agencies concerned with natural resources.
- D. Uses shall comply with requirements and regulations of all jurisdictional agencies including but not limited to Oregon Department of Fish & Wildlife, Oregon Department of Forestry, Division of State Lands and Cleanwater Services.
- E. All significant natural resources shall be delineated and applicable protection setbacks and requirements shall be determined from Table A in the Natural Resource Protection Plan and implemented.

20.102 Permitted Uses

The following uses are permitted outright in the Natural Resources Overlay:

- A. Resource enhancement and restoration activities.
- B. Land Divisions per *Section 11.30.20*
- C. Removal of non-native or invasive vegetative species.
- D. Dedication of right-of-ways.
- E. Temporary emergency procedures necessary for the protection of property.
- F. Actions taken by the City to correct or abate a nuisance.

- G. Approved stormwater discharge.
- H. Existing lawn within the riparian area may be maintained, but not expanded into the resource area.
- I. Existing utility lines.
- J. Existing legal non-conforming structures. Replacement of non-conforming structures shall comply with *Section 11.30.90*.

20.103 Administrative Review Approval

The following uses are permitted in the Natural Resources Overlay, subject to a Type I Design Review approval, including compliance with other natural resource agencies:

- A. Repair, maintenance and replacement of existing utility lines.
- B. Fencing.
- C. Removal of a hazardous tree.
- D. Maintenance of streambank stabilization and flood control structures.
- E. ESEE Analysis Findings and Conclusion – The ESEE Analysis Findings and Conclusions identified in the Natural Resource Protection Plan provide site specific exceptions to protection measures based on conflicting uses and mitigating consequences of implementation. The sites are specific to the 2002 Natural Resources Inventory and Map.

20.104 Conditional Uses

The following uses are permitted in the Natural Resources Overlay, subject to approval of a Conditional Use Permit, *Section 11.30.30* :

- A. Streets, roads, recreational trails and paths in the riparian area.
- B. Fill, grading and/or alteration of topography in the riparian area.
- C. New drainage facilities, utilities and pump stations.
- D. Water related recreational facilities.
- E. New construction or expansion of streambank stabilization and flood control structures.

- F. New Development on property with significant natural resources per *Planned Unit Development, Section 11.30.40. and Resource Protection Exception Process, Section 11.20.106*
- G. Resource Protection Exception Process per *Section 11.20.106*

20.105 Prohibited Uses

- A. New Development on significant natural resource sites and property, except as identified above.
- B. Removal of native vegetation from resource areas.

20.106 Resource Protection Exception Process

When planned development can occur that provides for the protection of the resource and permitted use through increased densities, clustered development or the transfer of development rights a plan shall be reviewed by the Planning Commission as a Type III review.

- A. New Residential, commercial and industrial development or substantial re-development requests involving deviation of Natural Resource Protection requirements shall be reviewed through the Conditional Use Permit – Planned Unit Development process.
- B. Transfer of Development Rights (TDR) may be applied for as a Conditional Use Permit – Planned Unit Development (PUD). Development rights shall only be transferred between residential zones within the City.
- C. Proportional increase in density on an individual parcel. Increased density requests shall provide for a development equal or better than required by the base zone.
 - 1. Residential PUD - If a parcel loses between 10-50% of it's area to natural resource protection setbacks, then the developer may apply for a Conditional Use Permit – Planned Unit Development (PUD) :
 - a. Meet the required setback and develop to the existing development standards and lot sizes of the underlying zone; or
 - b. Meet the required setback and decrease the minimum lot size by 10-50%. The reduction in lot size, at a maximum shall be equivalent to percentage of the site lost to the natural resource protection setback.

For Example: R-7 zone - 5 acre site, loses 1 acre to natural resource protection setback = 20% loss. The applicant may propose a development with lots 20% smaller than the R-7 lot size OR $6,534 \times .80 = 5,227$ sq. ft. lot size; and

- c. If a parcel loses more than 50% of it's area to natural resource protection setbacks, then the developer shall only decrease the minimum lot size by a maximum of 50%.

For Example: R-7 zone - 5 acre site, loses 3 acres to natural resource protection setback = 60% loss. The applicant shall only be permitted a development with lots 50% smaller than the R-7 lot size OR $6,534 \times .50 = 3,267$ sq. ft. lot size.

2. Commercial or Industrial PUD – Natural resource protection setbacks may be applied to meet private landscaping requirements. New development or substantial re-development of properties where natural resource protection setbacks are required may request approval of a Conditional Use Permit (CUP) and/or a Planned Unit Development (PUD) to permit a 1:1 ratio exchange for square footage of native landscaped protection setback area in-lieu of required private on site landscaping.

For Example: A proposed industrial development property has 350 feet of street frontage, which requires 5 feet of landscaped area along the frontage or 1750 square feet of landscaping. The industrial lot also abuts a significant natural resource for 35 lineal feet and is required to provide a 50 foot setback, which equals 1750 square feet of natural resource protection. The applicant would be able to request the use of the natural resource protection setback area in-lieu of the required private landscaping requirement through the Conditional Use Permit process.

(Sections 11.20.100 – 11.20.106 inclusive adopted by Ordinance 837, March 17, 2003)

TYPES OF PERMITS, APPLICATIONS AND REQUESTS

SECTION 11.30.00

11.30.10 SITE DESIGN REVIEW

30.11 Purpose.

The Council finds that projects involving building design and development of land should have special review in order to promote and protect the public health, safety, and welfare of the City, to promote orderly growth of the community, to enhance aesthetic values, to assure development which is suitably related to its environment, to prevent both extremes of monotonous uniformity and substantial dissimilarity, and to conform with the comprehensive plan of development of the City, and, that to promote and implement these policies requires consideration of the particular character and impact of new development over and above that included in the zoning, subdivision and building code, ordinances and regulations.

- A. Purposes and Objectives. The council declares that the purposes and objectives of site development requirements and the site design review procedure are to:
1. Encourage originality, flexibility, and innovation in site planning and development, including the architecture, landscaping, and graphic design of said development.
 2. Discourage monotonous, drab, unsightly, dreary, bright, showy, gaudy or cheaply ornate, and inharmonious development.
 3. Conserve and enhance the City's natural beauty, visual character, and charm by insuring that structures, signs, and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention be given to exterior appearances of structures, signs, and other improvements.
 4. Protect neighboring owners and users by assuring that reasonable provisions have been made for such matters as surface water drainage, suitable sound and sight buffers, the preservation of views, light and air, and those other aspects of design included under the zoning provisions of this code which may have substantial effects on neighboring land uses.
 5. Ensure timely, orderly, and efficient administration of development permits.
- B. Professional Quality Design Required. All development plans shall be designed and drawn by a person trained, skilled, and knowledgeable in site planning and development. Such plans shall be of typical architectural, engineering, or drafting quality and accuracy as to scale and design detail.

30.12 Authority. Facilities & Design Review Committee

- A. The City Manager shall establish a Facilities & Design Review Committee (the Committee) consisting of at least four (4) City staff members, authorized consultants, or other agency staff, each with appropriate expertise, to properly evaluate proposed development plans. The Committee at a minimum shall include representatives from the following departments: Planning, Public Works, Building and Fire. The Committee shall review all Type II and Type III requests. Within three (3) working days of acceptance of a complete application the Community Development Director shall forward copies to the Committee. The Committee members shall individually or collectively critique and comment on the plans relative to applicable code criteria and requirements. Thirty days prior to the Planning Commission hearing the applicant shall have the opportunity to meet with the Committee and review the Committee's recommendation of the request. The Community Development Director shall consider the Committee comments and prepare a preliminary staff report for review by the applicant and interested parties pursuant to *Section 11.10.31.B*.
- B. Jurisdiction and Powers. Except for Type I review, until an application has been reviewed by the Committee and approved by the Community Development Director through Type II review, or the Planning Commission through a Type III review.
1. The Community Development Director may make an initial determination whether a proposed project requires an application for site design review or whether the project is exempt under this section. Nothing in this section shall be construed to require the design review approval of ordinary repair, maintenance or replacement of any part of a building, structure, or landscaping. For purposes of this section, the term "major remodeling" means any work that substantially changes the exterior appearance of a building or structure.
 2. Plans submitted for Planned Unit Developments shall be subject to design review of site plans, which shall include any and all information describing the proposed lot and street layout, relationship to adjacent properties, and major road systems, locations of building masses (size, type, and function) and building design. Open spaces, parks and greenways, as well as any recreation facilities, shall be specified.
- C. The provisions of Design Review shall pertain and conform to the following activities and standards specified in *Sections 11.30.13.A., B., C. and 11.30.14*. No permit for building or site development shall be issued until the plans and other documents required by this ordinance have been reviewed, approved and found to be in conformity with these standards.

Design Review Type I requests shall be processed per *Section 11.10.31.A., Type I Administrative Review*. Design Review Type II requests shall be processed per *Section 11.10.31.B., Type II Administrative Review*. Design Review Type III requests shall be processed per *Section 11.10.31.C., Type III Commission Review*.

- D. Cumulative Action. As of the date of this ordinance Cumulative Design Review actions shall be considered the sum total percent of proposed change(s) to already approved plans. Where applicable:
1. Design Review Type I actions that propose to exceed a sum total of ten (10) percent change(s) to an approved plan shall be processed as a Design Review Type II request. The appropriate City application and fee shall be required.
 2. Design Review Type II actions that propose a sum total of fifty (50) percent or more change to an approved plan shall be processed as a Design Review Type III request. The appropriate City application and fee shall be required.

30.13 Types of Applications.

- A. Design Review Type I actions are minor changes to plans already approved by the Facilities & Design Review Committee or Community Development Director. Design Review Type I actions include:
1. Site clearing, fill and grading involving more than twenty (20) and less than fifty (50) cubic yards, prior to the issuance of a development permit.
 2. Site plans for single family dwellings, duplex dwellings and accessory dwelling units.
 3. Acceptance or rejection, upon final inspection of all architectural and site development improvements in accordance with approved plans.
 4. Moving of residential and other structures.
 5. Remodeling that changes by twenty (20) percent or more the exterior appearance of the building or structure elevations.
 6. All fences that are non-residential or require a building permit shall be reviewed relative to screening, buffering, safety, building code and security.
 7. Change in use or business that does not meet the threshold for a Type II or III review, but is identified as a different use by the Off-Street Parking Standards or as a change of occupancy as defined by the State Building Code.
- B. Design Review Type II Actions are changes to previously approved design review plans or other moderate changes to structures or sites, which meet certain thresholds. Type II actions include:

1. Increases in building area of between ten (10) and fifty (50) percent when materials substantially match the originals.
 2. Addition or subtraction of similar or compatible approved parking spaces between ten (10) and fifty (50) percent.
 3. Addition or subtraction of similar or compatible approved landscape area between ten (10) and fifty (50) percent.
 4. Modification of loading facilities.
 5. Resubmittal of Type III plans which have expired pursuant to *Section 11.30.16.A.*, and are being resubmitted within one (1) year of expiration and exactly as originally approved.
 6. Review of minor development modifications to previously approved Master Plans/Planned Unit Developments.
 7. Site clearing, fill and grading involving fifty (50) cubic yards or more, prior to the issuance of a development permit.
 8. Other moderate changes to structures or sites.
- C. Design Review Type III Actions are those which are major and include:
1. Review of major development revisions to previously approved Master Plans, Planned Unit Developments.
 2. General Site Plans for new development or substantial redevelopment.
 3. New development, buildings or structures not part of a previously approved Master Plan.
 4. Variances proposed with a Design Review request.
 5. Building additions with an increase of over fifty (50) of the existing building area.
 6. Addition of approved parking over fifty (50) percent of the existing area.
 7. Addition of approved landscape area over fifty (50) percent of the existing area.

30.14 Approval Criteria. In addition to the other requirements of the zoning code and other City ordinances, a project submitted for design review shall comply with the standards and criteria in *Sections 11.30.14.A and B*; all applications for a sign permit subject to the provisions of the *Sign Code, Sections 11.40.50*, inclusive, and shall comply with the rules and regulations of the Committee adopted under the provisions of *Section 11.30 of the Zoning and Development Code* and other applicable provisions of the City of Cornelius Code.

- A. Technical Standards. Where applicable, required off site improvements shall be based on proportional analysis.
1. Facilities and Services. The public and private facilities and services provided by the development are adequate as to location, size, design and timing of construction in order to serve the

residents or establishments to be accommodated and meet City standards and the policies and requirements of the comprehensive plan. The service provider is presumed correct in the evidence which they submit;

2. Traffic Generation. Based on anticipated vehicular and pedestrian traffic generation and the standards and policies of the Comprehensive Plan, adequate right-of-way and improvements to streets, pedestrian ways, bikeways, transitways and other ways are provided by the development in order to promote safety, reduce congestion, conserve energy and resources, and encourage transit use, bicycling and walking. Consideration shall be given to the need for constructing, widening and/or improving, to the standards of the Comprehensive Plan and this code, public streets, bicycle, pedestrian, and other ways in the area of the proposed development impacted by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, transit facilities, street drainage facilities, traffic calming devices, and other facilities needed because of anticipated vehicular, transit, bicycle, and pedestrian traffic generation. In lieu of actual construction of off-site improvements, the Committee may accept written waivers of remonstrance to the formation of local improvement districts for the purpose of providing the needed off-site improvements or cash payment to the City in an amount equal to the estimated cost of said off-site improvements;
3. Dedication. Adequate dedication or reservation of real property for public use, as well as easements and right of entry for construction, maintenance and future expansion of public facilities and services, shall be required to protect the public from any potentially deleterious effects resulting from the proposed use, to fulfill the need for additional, improved services, whether on or off site, created by the proposed use, and to effect the implementation of the standards and policies of the Comprehensive Plan;
4. Internal Circulation. There is a safe and efficient circulation pattern within the boundaries of the site. Consideration shall include the layout of the site with respect to the location, number, design and dimensions of vehicular, transit, and pedestrian access, exits, drives, walkways, bikeways, transit stops and facilities, building location and entrances, emergency equipment ways and other related on-site or off-site facilities. That there are adequate off-street parking and loading-unloading facilities provided in a safe, well designed and efficient manner. Consideration shall include the layout of parking, storage of all types of vehicles and trailers,

shared parking lots and common driveways, garbage collection and storage points, as well as the surfacing, lighting, screening, landscaping, concealing and other treatment of the same;

5. Maintenance of Private Facilities. Adequate means are provided to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage storage areas and other facilities not subject to periodic maintenance by the City or other public agency;
8. Public Facilities. The structures and public facilities and services serving the site are designed and constructed in accordance with adopted codes and/or City standards at a level which will provide adequate fire protection and protection from crime and accident, as well as protection from hazardous conditions due to inadequate, substandard or ill-designed development. Security, adequate facilities shall be provided to prevent unauthorized entries to the property, facilitate the response of emergency personnel, and optimize fire protection for the building and its occupants. Adequate facilities may include, but not be limited to, the use of lighted house numbers and a project directory for multi-family projects of three (3) or more units. (Section 11.175 amended by Ord. No. 588, 2, Dec. 7, 1981.)
9. Grading. The grading and contouring of the site takes place and site surface drainage and on-site storage of surface waters facilities are constructed so there is no adverse affect on neighboring properties, public right-of-way or the public storm drainage system; and that said site development work will take place in accordance with the City site development code;
10. Utilities. Electric, telephone, and other utility service to new development shall be located underground. New utilities for re-developed parcels shall be located underground from the right-of-way to the re-developed parcels.
11. Accessibility. Access and facilities for physically handicapped people are incorporated into the site and building design, with particular attention to providing continuous, uninterrupted access routes.
12. Bicycle Lanes and Sidewalks. Where street improvements on arterials and collectors are required as a condition of development

approval, they shall include bicycle lanes and sidewalks constructed in accordance with City standards.

B. Design Standards.

1. Relation of Building to Site. The proposed structures shall be related harmoniously to the terrain and to existing buildings which have a visual relationship to the proposed structure. Building height, bulk, lot area, coverage, setbacks, and scale should be particularly considered with regard to achieving compatible relationships. Screening, except in the industrial zone, exposed storage areas, utility buildings, machinery, service and truck loading areas, solid waste disposal cans, containers and other structures, and other accessory uses and structures, shall be adequately set back and screened. (Section 11.174 amended by Ord. No. 588, 1, Dec. 7, 1981.).
2. Trees and Vegetation. The development has been designed to, where possible, incorporate and preserve existing trees or vegetation of significant size and species. Consideration shall be given to whether habitat, survival of the tree species, and aesthetics can best be achieved by preserving groves or areas of trees as opposed to only individual trees;
3. Historic Structures. Consideration is given to the effect of the proposed development on historic buildings or features both on the site and within the immediate area.
4. Grading and contouring of the site shall take place with particular attention to minimizing the possible adverse effect of grading and contouring on the natural vegetation and physical appearance of the site;
5. Landscaping. The quality, location, size, structural and aesthetic design of walls, fences, berms, traffic islands, median areas, hedges, screen planting and landscape areas are such that they serve their intended purposes and have no adverse effect on existing or contemplated abutting land uses;
6. Lighting. Adequate exterior lighting shall be provided to promote public safety, and shall be designed to avoid unnecessary glare upon other properties.
7. Solar Access. In determining the appropriate relation of the building or structure to the site, the committee shall require that the building or structure be located on the site in a location and

direction that will maintain, where feasible, solar access for adjacent properties and buildings or structures within the site.

30.15 Special Conditions.

- A. Open Space, Parks and Recreation Areas. Major residential developments, twenty (20) units or more, shall include park and recreation areas, or both. In all multi-family projects, the required park and recreation area shall include a children's play area and play equipment for the use of residents and occupants of the multi-family project. The Community Development Director shall have the power to approve plans for these recreation areas. (Section 11.176 amended by Ord. No. 588, 3, Dec.7, 1981.)
- B. Objectionable Uses. Odor, dust, smoke, fumes, noise, glare, heat, and vibration from commercial and industrial uses, or both which might create a nuisance or be offensive to other uses in the area or be incompatible with such other uses shall be adequately eliminated or controlled by authorized measures.

30.16 Compliance with Approvals.

- A. Time Limit on Approval. Site design review approvals shall be void after two(2) years unless a building permit has been issued and substantial construction pursuant thereto has taken place.
- B. Certificate of Occupancy. In order to assure completion of the work in the manner and at the time approved, the premises shall not be used or occupied for the purposes set forth in the application until the City has completed a final inspection or issued a certificate of occupancy following completion of the work in substantial conformance to the approved plan. Prior to the final completion of all work, a certificate of occupancy or approval to occupy may be issued for a portion of the premises or conditioned upon further work being completed by a date certain.
- C. Revocation of Approval. The Community Development Director may, upon reasonable notice to the applicant and an opportunity for him to be heard revoke design review approval previously given and may revoke a certificate of occupancy for any of the following reasons:
 - 1. Material misrepresentation of fact in the application or in testimony or evidence submitted, whether the misrepresentation is intentional or unintentional.

2. Failure to complete work within the time and in the manner approved without obtaining an extension of time or modification of plans.
 3. Failure to maintain and use the property in accordance with the approved plans and conditions.
- D. Violation. It shall be unlawful to use or occupy premises for which design review approval is required, or to perform work for which design review approval is required, without complying with the provisions of *Section 11.30.10* It shall be unlawful to willfully violate any term or condition of an approved design review.

(Sections 11.150 through 11.190, inclusive, added by Ordinance No. 665, _1, December 15, 1987.)

(Sections 11.150 through 11.190, inclusive amended and renumbered to Sections 11.30.10 through 11.30.16., inclusive by Ordinance No. 810, May 1, 2000)

(Section 11.30.13 amended by Ordinance 841, July 21, 2003)

11.30.20 LAND DIVISIONS.

30.21 Purpose. The purpose of these regulations is to establish procedures and standards for the division of lands within the City of Cornelius.

- A. Authority.
 - 1. No person shall subdivide or partition land without first complying with the provisions of this ordinance and the laws of the State of Oregon.
 - 2. The creation of all streets shall be in conformance with requirements for a subdivision or a partition except, however, the Community Development Director may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions or partitions provided one (1) of the following conditions exists:
 - a. The establishment of the street is initiated by the City Council; and
 - b. The street is declared essential for the purpose of complying with the Comprehensive Plan, or necessary for adequate traffic circulation; or
 - c. The partitioning of land is an incidental effect rather than the primary objective of the street.

- B. Types of Applications. There are four (4) types of Land Divisions, which are subject to different criteria and procedural requirements:
 - 1) Lot Line Adjustments,
 - 2) Partitions,
 - 3) Subdivisions,
 - 4) Fee Ownership Subdivisions.

30.22 Lot Line Adjustments.

- A. Procedure Type
 - 1. The Community Development Director shall review the request for a lot line adjustment to determine compliance with the standards in *Section 11.30.22.C*. The Community Development Director shall approve or deny the request in writing based on the criteria in *Section 11.30.22.C.*, within forty five (45) days of submittal of the request.

2. If the applicant disagrees with the decision of the Community Development Director, an appeal shall be filed in accordance with *Section 11.10.39.A.*, of this ordinance within ten (10) days.
- B. Application Requirements. The Community Development Director shall provide forms that specify the information required for submission of lot line adjustments. The applicant shall prepare a map together with other supplementary material as may be required and shall submit the necessary number of copies to the Community Development Director.
- C. Approval Criteria. A request for a lot line adjustment must meet all of the following criteria:
1. An additional lot is not created by the lot line adjustment and the existing parcel reduced in size by the adjustments is not reduced below the minimum lot size established by the approved zoning for that district.
 2. By reducing the lot size, the lot or structures(s) on the lot will not be in violation of the site development regulations for that district.
- D. Appeal of a Decision. Any person receiving notice who disagrees with the Community Development Director's interpretation may appeal that interpretation to the Planning Commission at its next appropriate regularly scheduled meeting. Any party to the proceeding disagreeing with the Planning Commission interpretation may appeal that interpretation to the City Council at its next appropriate regularly scheduled meeting.

(Sections 11.30.21 through 11.30.22, inclusive added by Ordinance No. 810, May 1, 2000)

30.23 LAND PARTITIONING.

- A. Requirements for Land Partitioning Actions.
1. No person shall partition an area, parcel or tract of land without the approval of the Planning Commission or the Community Development Director in accordance with the standards and regulations contained in *Section 11.30.23*.
 2. The standards and regulations of *Section 11.30.23*, shall apply to major partitions of land and minor partitions of land as those terms are identified in ORS 92.010(2) and (4).
 3. The Community Development Director shall coordinate and assemble through the Facilities & Design Review process the reports and data submitted by the applicant, affected City departments and any governmental agencies having an interest in partitions. The Community Development Director shall determine whether the partition meets the criteria in *Section 11.30.23.C*.

4. The Community Development Director shall approve, approve with conditions or deny the proposed partition in writing based on the criteria of *Section 11.30.23.C.*, within forty five (45) days of its submittal.
 5. Notice and Review of the Community Development Director's decision shall be pursuant to *Section 11.10.33*
 6. If the area or tract of land to be partitioned exceeds two (2) acres, and within one (1) calendar year is being partitioned into more than two (2) parcels, any one (1) of which is less than one (1) acre, full compliance with all requirements for subdivision may be required if the Community Development Director or Planning Commission determines that the entire parcel being partitioned is in the process of being divided into lots or tracts which would otherwise be subject to subdivision regulations if the partitioning did not occur within one (1) calendar year.
- B. Application Requirements. The Community Development Director shall provide forms that specify the information required for submission of lot line adjustments. The applicant shall prepare a map together with other supplementary material as may be required and shall submit the necessary number of copies to the Community Development Director.
- C. Approval Criteria. A request to partition land must meet all of the following criteria:
1. The proposal conforms with the City's Comprehensive Plan; and
 2. The proposal complies with all applicable statutory and ordinance requirements and regulations; and
 3. Adequate public facilities are available to serve the proposal; and
 4. All proposed lots conform to the size and dimensional requirements of this ordinance; and
 5. All proposed improvements meet City standards.
- D. Required Improvements. For any partitioning of land, where applicable, the following design and development standards and requirements may apply to partitions. These standards shall apply at the point of construction of improvements and/or land developments. The Community Development Director shall have the authority to impose any such standards or requirements as conditions of approval.
- E. Streets. The location, width and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by such streets. Where location is not shown in the Comprehensive Plan, the arrangement of the streets in a land division shall either:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
2. Conform to standards adopted by the City.

All streets and alleys within the development and those adjacent streets which directly serve the development shall be fully improved, including grading, base grade, paving, and installation of curbs, all constructed to design specifications as approved by the City Engineer. All streets to be constructed and/or improved shall comply with the minimum street improvement standards contained in this ordinance. In cases where physical conditions warrant it, special soils analysis or engineering designs may be required by the City Engineer. In addition, where a proposed partition abuts a substandard arterial or collector street, the developer shall provide to the Community Development Director prior to final plat approval, adequate guarantees that within one (1) year from the issuance of a building permit for construction within the development, such abutting arterial or collector street or streets shall be improved in a manner which is compatible with the standards for streets contained in this ordinance. Adequate guarantee shall consist of formation of a local improvement district, or provision of a security in an amount sufficient to cover the estimated actual improvement cost, plus fifteen (15) percent.

F. Easement.

1. Utility lines. Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be dedicated. Easements on interior lot lines shall be twenty (20) feet in width, the center line of which shall be the lot lines. Easements along exterior lot lines shall be twenty (20) feet in width, except no easement will be required for those lot lines paralleling a street or other public way. Tie-back easements shall be six (6) feet wide and twenty (20) feet long along lot side lines at change of direction points of the lot lines.
2. Water courses. Where a land division is traversed by a water course, drainage way, channel, or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width as will be adequate for the purpose may be required. Streets or parking ways parallel to water courses may be required. Water course easements and drainage right-of-ways shall be consistent with Cleanwater Services (CWS).

G. Lot size and shape. Lot size, width, shape and orientation shall conform to the requirements of this ordinance for the applicable zoning district.

H. Access. Each lot shall abut upon a public street, for a distance of at least twenty (20) feet.

- I. Dedications. Public streets, sidewalks, pedestrian ways, bike paths, parks, open space, and other public rights-of-way required by or reasonably related to the development shall be dedicated or otherwise conveyed to the City or the appropriate jurisdiction for maintenance. Further, any park or open space proposed may be required to be dedicated if it is designated on the City's Comprehensive Plan. Dedication must be approved by the jurisdiction to whom the park or open space is being dedicated prior to final plat approval.
- J. Utilities. All utilities shall be placed underground per standards identified by the City Engineer.
- K. Street Trees. Trees shall be installed along street frontages in accordance with the approved Public Works Street Tree List and based upon a standard of one (1) tree per thirty (30) lineal feet of street frontage. Actual location and spacing of trees shall be at the discretion of the City.
- L. Compliance with Approvals.
 - 1. Requirements Prior to Commencement of Work. Prior to any construction, improvements or land development, the developer shall perform the following:
 - a. The developer shall file detailed plans and specifications for all public improvements or land development together with a detailed cost estimate and an estimate of time reasonably necessary to complete such improvements for approval by the City Engineer or designee.
 - b. The developer shall enter into a contract with the City of Cornelius to make, install and complete within the time fixed, but in no case more than two (2) years from the date of execution of said contract without written approval by the City Engineer and Community Development Director, all improvements and/or land development in accordance with the approved plans. The developer shall cause to be filed with the City Recorder a security acceptable to the Community Development Director payable to the City of Cornelius in a principal sum determined from the approved estimate of the costs of said improvements, and/or land development of this section. The security shall assure the performance of the said contract and the completion of the said improvements, or land development, free of liens.
 - c. In cases where both land development and public improvements are to be made, the security required shall be cumulative.
 - d. The amount of the security shall be based on an estimate of the cost of the work approved by the City Engineer in accordance with the following schedule:

- (i) Public Improvements = 150% of cost estimate.
- (ii) Land Development = 150% of cost estimate.

2. Improvement Procedures. All improvements shall conform to the requirements of this ordinance and any other improvements standards or specifications adopted by resolution of the City Council and shall be installed in accordance with the following procedure:
 - a. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the land division proposal, such plans may be required before approval of the final plat.
 - b. Improvement work shall not be commenced until the developer has secured the appropriate development permit. If work has been discontinued for any reason, it shall not be resumed until the City has been notified and consented in writing.
 - c. All required improvements shall be constructed under the inspection and to the specifics of the City Engineer and City Code. The City may require changes in typical sections and details if unusual conditions arise during construction to warrant such change in the interests of the City or the developer. Upon acceptance of the required improvements, the City Engineer shall notify the developer that the improvements are acceptable as per Cornelius Code. Acceptance shall be in writing.
 - d. All underground utilities, sanitary sewers, storm drains and cable communication system facilities installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities, sanitary sewers and cable communication system facilities shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.
 - e. A map showing all public improvements as built shall be filed with the City Engineer upon completion of said improvements.
3. Improvement Requirements. Improvements to be installed at the expense of the developer are as follows:
 - a. Streets
 - (i) All streets, including alleys
 - (ii) Streets adjacent but only partially within the partition or subdivision.

- (iii) The extension of the land division streets to the intercepting paving line of existing streets with which the land division streets intersect.
- (iv) Arterial or collector streets which intersect with streets within the development that provide ingress or egress to the development or on which there are traffic impacts reasonably related to the development.
- (v) All streets shall be built to City standards.
- b. Catch basins. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways.
- c. Monuments and bench mark. At each beginning point only.
- d. Surface drainage and storm sewer system. Drainage facilities shall be provided within the land division to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage shall be in accordance with the standards established by the City Engineer and shall allow for the extension of the system to serve other areas.
- e. Sanitary sewers. Sanitary sewers shall be installed to serve the land division and to connect the land division to existing mains.
- f. Water system. Water lines with valves and fire hydrants serving the land division, connecting the land division to City mains, shall be installed in conformance with the City specifications. The design and construction by the developer shall take into account provisions for extension beyond the land division and to adequately grid the City system.
- g. Street Trees. Street trees shall be planted along street frontages in accordance with the following:
 - (i) For Single-family Residential land divisions, the Developer shall pay a per tree security to the City. The surety bond shall be based upon a standard of one (1) tree per thirty (30) lineal feet of street frontage, with standard rounding methods applied for fractions thereof. The security to be charged and collected shall be established and from time to time amended by Resolution of the City Council.
 - (ii) For all other land divisions, trees shall be planted in accordance with an approved street tree plan.
 - (iii) Trees shall be planted in accordance with the City's approved street tree list.
- h. Bike and pedestrian ways. Bike and pedestrian ways shall be constructed according to City engineering specifications.

- i. Other improvements reasonably related to the impacts of the development which may be required at the partial or total expense of the developer.
 - (i) Improvement of arterial and collector streets providing primary access to land division streets.
 - (ii) Signals, traffic control devices, and traffic calming devices.
 - (iii) Intersection improvements.
 - (iv) Parks and open space shall be improved as required by the City and appropriate jurisdiction.
 - j. Street Lights. Street lights shall be installed in accordance with City standards.
 - k. Curb cuts and driveway installations are not required of the developer but, if installed, shall be according to standards.
4. Final Plat Approval. The Community Development Director shall review the final plat for compliance with the approved preliminary plat. If the Community Development Director determines that the final plat conforms to the approved preliminary plat, the Community Development Director shall so certify and sign the final plat. If the final plat does not conform, it shall be returned to the developer to correct the deficiencies and must be resubmitted for approval within the time established by the Community Development Director.
5. Filing of Final Plat. Approval of the final plat by the City as provided by this regulation shall be conditioned on its prompt recording. The developer shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within 30 days after the date the last required approving signature has been obtained. Prior to issuance of any development permits the applicant shall provide to the Planning Department one copy of the recorded final plat signed by all public officials.
- M. Time Limit on Approvals.
- 1. The developer shall submit a plat, including a survey, within twelve (12) months after approval of the partition.
 - 2. The Community Development Director may grant time extensions allowing up to twelve (12) additional months for platting of the partition if justifiable cause is shown; however, a time extension cannot be granted to allow platting to be submitted more than two (2) years from the date the partition was approved.
 - 3. If the developer wishes to proceed with the partition and has not submitted the plat within the required time or approved extensions

of time, the developer shall resubmit the preliminary plat to the Community Development Director with appropriate information and a fee for reprocessing the request according to the provisions for partition approval in effect at the time of resubmission.

- N. Appeal of a Decision. Any person receiving notice who disagrees with the Community Development Director's interpretation may appeal that interpretation to the Planning Commission at its next appropriate regularly scheduled meeting. Any party to the proceeding disagreeing with the Planning Commission interpretation may appeal that interpretation to the City Council at its next appropriate regularly scheduled meeting.

[Section 11.502(2) repealed by Ordinance No. 664, _1, December 15, 1987.]

[Section 11.502(3) repealed by Ordinance No. 664, _1, December 15, 1987.]

(Sections 11.502 through 11.506 inclusive amended and renumbered to Section 11.30.23 inclusive by Ordinance No. 810, May 1, 2000)

(Section 11.30.23 amended by Ordinance 841, July 21, 2003)

30.24 SUBDIVISIONS.

- A. Procedure Type - Preliminary Plats. The Community Development Director shall coordinate and assemble through the Facilities & Design Review process the reports and data submitted by the applicant, affected City departments and any governmental agencies having an interest in subdivisions. The Community Development Director shall determine whether the subdivision meets the criteria in *Section 11.30.24.C*. The Community Development Director or the Planning Commission shall have the authority to approve, approve with conditions or deny the proposed preliminary plat in writing based on the criteria of *Section 11.30.24.C*, within forty five (45) days of its submittal.

(Section 11.30.24., inclusive added by Ordinance No. 810, May 1, 2000)

- B. Scope of Regulations.
1. *Section 11.30.24.*, shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of Ordinance No. 428 except, where there is proposed a replatting or modification of lot sizes or the layout and construction of streets or other land improvements requiring a replatting or survey recording. Nor are *Section 11.30.24.*, intended to repeal or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically repealed by Ordinance No. 428, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the city is a party. However, where *Section 11.30.24.*, impose a greater restriction upon the land than is imposed or required by existing provisions of law, ordinance, contract or deed, *Section 11.30.24.*, shall control.
 2. Where an application involves no variance request(s) and/or where modifications to the standards specified in this ordinance have been previously approved by the Planning Commission through the Planned Unit Development process, the Community Development Director may take action to approve or deny the land division pursuant to the Type II procedure provided in *Section 11.10.27.A.2*.
 3. In cases where applications involve a Variance requiring a public hearing, the Planning Commission shall make the decision regulating land divisions that the Community Development Director would otherwise make. The Community Development Director shall prepare a report summarizing the factors involved including proposed findings, reasons, conclusions and recommendations, and shall place the report on the Planning Commission's agenda in

a manner consistent with the Planning Commission's adopted rules for public hearings. If the materials do not meet the applicable requirements, the Community Development Director shall advise the applicant of the deficiencies and submit the report to the Planning Commission with a recommendation for denial.

4. Neighborhood Review Meeting. Prior to submitting a land division application that is subject to a variance request, the applicant shall conduct a neighborhood review meeting regarding the proposed land division application.
5. The applicant may withdraw the application at any time.

(Section 11.526 inclusive renumbered to Section 11.30.24.B., inclusive by Ordinance No. 810, May 1, 2000)

- C. Approval Criteria. In order to approve a preliminary plat, findings of fact shall be made to support the following conclusions:
 1. The proposal conforms with the City's Comprehensive Plan; and
 2. The proposal complies with all applicable statutory and ordinance requirements and regulations; and
 3. Adequate public facilities are available to serve the proposal; and
 4. All proposed lots conform to the size and dimensional requirements of this ordinance; and
 5. All proposed improvements meet City standards.
 6. That the phasing plan, if requested, can be carried out in a manner which meets the objectives of the above criteria and provides necessary public improvements for each phase as it develops.
- D. Special Conditions.
 1. No preliminary plat of a subdivision shall be approved which bears a name using a word which is the same as, similar to, or pronounced the same as a word in the name of any other subdivision in Washington County, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the plat of the same name last filed.
 2. No preliminary plat shall be approved unless it bears the signature of the Chairman of the Planning Commission and/or the Community Development Director.
 3. Streets. No preliminary plat for a proposed subdivision shall be approved unless:
 - a. General. The location, width and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety,

- and to the proposed use of the land to be served by such streets. Where location is not shown in the Comprehensive Plan, the arrangement of the streets in a division shall either:
- (i) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - (ii) Conform to standards adopted by the City.
- b. Reserve strips. Reserve strips or street plugs controlling the access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights, and in such cases they may be required. The control and disposal of the land composing of such strips shall be placed within the jurisdiction of the City under conditions approved by the Community Development Director.
 - c. Alignment. As far as practical, all streets other than minor streets or cul-de-sacs shall be in alignment with existing streets by continuations of the center lines thereof.
 - d. Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall extend to the boundary of the land division, and the resulting dead-end street may be approved with a temporary design. Reserve strips including street plugs may be required to preserve the objectives of street extensions.
 - e. Intersection angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practical except where topography requires a lesser angle, such as for special intersection design.
 - f. Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of land division.
 - g. Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the land division when in conformity with the other requirements of these regulations, and when the Community Development Director finds it will be practical to require the dedication of the other half when the adjoining property is divided. The Community Development Director may require up to an additional ten (10) feet of right-of-way and improvements to provide for a safe travel surface. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half streets.
 - h. Cul-de-sacs. All cul-de-sacs which are proposed for approval following the effective date of this ordinance shall be as short as possible and shall not be more than two

hundred (200) feet long, except for the modified infill design cul-de-sac which shall not be more than one hundred and fifty (150) feet long, as measured along the center line of the roadway from the near side right-of-way of the nearest through traffic intersecting street to the farthest point of the cul-de-sac right-of-way, or as approved by the Fire Chief, whichever is longer. All cul-de-sacs shall terminate with a circular turn around. For cul-de-sacs in residential developments, Street Design Standards shall apply. In proposed development or where redevelopment potential exists, and a street connection is not proposed, one (1) or more accessways may be required to connect a cul-de-sac to public streets, to other accessways, or to property lines to allow for future connections. Redevelopment potential exists when assessed building value per square foot is less than fifty (50) percent of the mean value per square foot of surrounding buildings on lots within a five hundred (500) feet distance as measured from any point of the property line. An accessway will not be required where the impacts from new development, redevelopment or both are low and do not provide reasonable justification for the estimated costs of such accessway.

- (i) Accessways linking cul-de-sacs shall be as short as possible and, wherever practical, straight enough to allow one (1) end of the path to be seen from the other.
 - (ii) Accessways linking cul-de-sacs shall be lighted to a minimum level of one-half (0.5) foot-candle. Lighting shall have cut-off fixtures so that no glare is emitted beyond the accessway and onto adjacent properties.
- i. Grades and curves. Grades shall not exceed six (6) percent on major or secondary arterials, ten (10) percent on collector streets, or twelve (12) percent on any other street. In flat areas, allowance shall be made for finished street grades having a minimum slope of one-half (0.5) percent.
 - j. Lots abutting arterial streets. Where a land division abuts or contains an existing or proposed arterial street, the Community Development Director may require frontage roads, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or such other treatment as may be part of an approved street design plan or may be necessary for adequate protection of residential properties, to provide separation of through and local traffic, and be aesthetically pleasing.

- k. Trees. Trees shall be installed along street frontages in accordance with the approved city street tree list, based upon a standard of one (1) tree per thirty (30) lineal feet of street frontage. Actual location and spacing of trees shall be at the discretion of the City.
 - l. The streets and roads shall be named in accordance with standards and plans established by the Planning Commission.
 - m. Street widths shall not be less than as follows:
 - (i) Residential local streets, including cul-de-sacs shall be developed with not less than a forty-six (46) foot wide right-of-way, with at least twenty-eight (28) feet of pavement width inside finished curbing.
 - (ii) Residential collector streets, as may be designated on the circulation plan set forth in the comprehensive plan, shall be developed with not less than a sixty (60) foot wide right-of-way, with at least thirty-six (36) feet of pavement width inside finished curbing.
 - (iii) Major collector streets are designated on the circulation plan set forth in the comprehensive plan, shall be developed with not less than a sixty (60) foot wide right-of-way with at least thirty (36) feet of pavement width inside finished curbing.
 - (iv) All other street widths designed for commercial, industrial or arterial circulation shall be determined by the Planning Commission upon review of a traffic analysis based on providing capacity for safe traffic flow without congestion in excess of level of service "D" defined in the Highway Capacity Manual published by the National Highway Research Board, but in no event shall be less than a sixty (60) foot right-of-way, with at least thirty-six (36) feet of pavement width inside finished curbing. [Section 11.562(2)(f)(i)(ii) amended by Ordinance No. 695, and (iii)(iv) added by Ordinance No. 695, Si, January 2, 1990.] The City and the Planning Commission shall consider in their traffic analysis, congestion management solutions as mandated by Title 6 of the Metro's Urban Growth Management Functional Plan.
4. Blocks. The lengths, widths, and shapes of blocks shall be designed with due regard to providing adequate building sites suitable to the special needs of the type of use contemplated, needs for convenient access circulation, control and safety of street traffic, and limitations and opportunities of topography. Where streets are required to provide access, blocks which are proposed for approval following the effective date of this ordinance shall not

exceed five hundred and thirty (530) feet in length between intersecting streets as measured from the near side right-of-way line except where physical or natural constraints preclude a street connection. Application of conditions in subsections a., b. and c., below, shall be reviewed and may be approved by the City.

- a. Physical or topographic conditions make an accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, slopes in excess of City standards for maximum slopes, wetlands or other bodies of water which make provision of a connection impracticable;
- b. Existing buildings or other development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
- c. Where accessways would violate provisions of leases, easements, covenants, or restrictions written and recorded as of May 1, 2000.
- d. Exemptions: Exceptions to block length, street or accessway requirements may be approved by the City, subject to these criteria and *Section 11.30.50.*, Variance.
- e. An accessway will not be required where the impacts from new development, redevelopment or both are low and do not provide reasonable justification for the estimated costs of such accessway

5. Easement.

- a. Utility lines. Easements for sewers, drainage, water mains, electric lines, or other public utilities shall be dedicated. Easements on interior lot lines shall be twenty (20) feet in width, the center line of which shall be the lot lines. Easements along exterior lot lines shall be twenty (20) feet in width, except no easement will be required for those lot lines paralleling a street or other public way. Tie-back easements shall be six (6) feet wide and twenty (20) feet long along lot side lines at change of direction points of the lot lines
- b. Water courses. Where a land division is traversed by a water course, drainage way, channel, or stream, a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width as will be adequate for the purpose may be required. Streets or parking ways parallel to water courses may be required. Water course easements and drainage right-of-ways shall be consistent with Cleanwater Services (CWS) standards.

6. Accessways. Except as otherwise provided in this section, accessways shall be dedicated to the public or reserved as a permanent easement or right of way or otherwise open to public use. They shall include a walkway and additional land on either

side of the walkway to provide clearance and separation between the walkway and adjacent uses. Where accessways cross driveways, they shall be raised, paved or marked to indicate safe access for pedestrians.

- a. In development for which an application is received on or after the effective date of this ordinance, any block which is longer than seven hundred and fifty (750) feet or where indicated by the Comprehensive Plan, a paved accessway designed and constructed to City standards shall be provided through or near the middle of the block.
 - b. Block lengths shall not exceed twelve hundred (1200) feet.
 - c. The City may require accessways to connect from one (1) cul-de-sac to an adjacent cul-de-sac or public street or to pass through unusually shaped blocks. An accessway will not be required where the impacts from new development, redevelopment or both are low and do not provide reasonable justification for the estimated costs of such accessway.
 - d. Accessways shall be as short as possible and, wherever practical, straight enough to allow one (1) end of the path to be visible from the other.
 - e. Accessways shall be lighted either by street lights on adjacent streets or pedestrian scale lighting along the accessway. Lighting shall have cut-off fixtures so that no glare is emitted beyond the accessway and onto adjacent properties.
 - f. Exemptions: Exceptions to accessway requirements may be approved by the City subject to *Section 11.30.50.*, Variance of this Code.
7. Lot size and shape. Lot size, width, shape and orientation shall conform to the requirements of this ordinance for the applicable zoning district.
- a. Where a tract is subdivided into larger parcels than the minimum lot size under the city zoning regulations, such parcels shall be arranged so as to allow the opening of future streets and logical further resubdivisions.
8. Access. Each lot shall abut upon a public street.
9. Dedications. Public streets, sidewalks, pedestrian ways, bike paths, parks, open space, and other public rights-of-way required by or reasonably related to the development shall be dedicated or otherwise conveyed to the City or the appropriate jurisdiction for maintenance. Further, any park or open space proposed may be required to be dedicated if it is designated on the City's Comprehensive Plan. Dedication must be approved by the jurisdiction to whom the park or open space is being dedicated prior to final plat approval.

10. Utilities. All utilities shall be placed underground per standards identified by the City Engineer.
11. Street Trees. Trees shall be installed along street frontages in accordance with the approved Public Works Street Tree List and based upon a standard of one (1) tree per thirty (30) lineal feet of street frontage. Actual location and spacing of trees shall be at the discretion of the City.
12. Homeowners Associations and Declarations. When a Homeowner's Association Agreement or other restrictive covenants are to be recorded with the development, a copy of the appropriate documents shall be submitted for review by the City attorney prior to recordation of the final plat. The City shall review such documents to insure that common areas are properly maintained and that other restrictions required by the City are included.
13. Variances. The Planning Commission may authorize a variance from these regulations when, in its opinion, undue hardship may result from strict compliance. Application for a variance shall be submitted in writing by the subdivider at the time the preliminary plat is filed, for consideration by the Planning Commission. The variance request shall address the criteria found in *Section 11.30.50*. It should also state fully the grounds for the application and all the facts relied upon by the petitioner.
14. Planned Unit Development (PUD). A Planned Unit Development approved by the planning commission shall not be subject to the provisions of *Section 11.30.24*, except as identified in *Section 11.30.40., Planned Unit Development*.

E. Compliance with Approval

1. Requirements Prior to Commencement of Work. Prior to any construction, improvements or land development, the developer shall perform the following:
 - a. The developer shall file detailed plans and specifications for all public improvements or land development together with a detailed cost estimate and an estimate of time reasonably necessary to complete such improvements for approval by the City Engineer or designee.
 - b. These submitted plans shall include a plan for erosion control during construction, which conforms to the standards established by resolution of the city council. [Section 11.522.E.1.(a)(1) added by Ordinance No. 696, _2, December 19, 1989.]
 - c. The developer shall enter into a contract with the City of Cornelius to make, install and complete within the time fixed, but in no case more than two (2) years from the date of execution of said contract without written approval by the City Engineer and Community Development Director, all

- improvements and/or land development in accordance with the approved plans. The developer shall cause to be filed with the City Recorder a security acceptable to the City Manager payable to the City of Cornelius in a principal sum determined from the approved estimate of the costs of said improvements, and/or land development of this section. The security shall assure the performance of the said contract and the completion of the said improvements, or land development, free of liens.
- d. In cases where both land development and public improvements are to be made, the security required shall be cumulative.
 - e. The amount of the security shall be based on an estimate of the cost of the work approved by the City Engineer in accordance with the following schedule:
 - (i) Public Improvements = 150% of cost estimate.
 - (ii) Land Development = 150% of cost estimate.
 - f. Fees. The fees, deposits and charges to be paid by the subdivider may be established or amended by resolution of the council in accordance with the provisions of code *Section 11.10.08.*, Fees for Land Use Applications.
2. Improvement Procedures. All improvements shall conform to the requirements of this ordinance and any other improvements standards or specifications adopted by resolution of the City Council and shall be installed in accordance with the following procedure:
- a. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the City. To the extent necessary for evaluation of the land division proposal, such plans may be required before approval of the final plat.
 - b. Improvement work shall not be commenced until the developer has secured the appropriate development permit. If work has been discontinued for any reason, it shall not be resumed until the City has been notified and consented in writing.
 - c. All required improvements shall be constructed under the inspection and to the specifics of the City Engineer and City Code. The City may require changes in typical sections and details if unusual conditions arise during construction to warrant such change in the interests of the City or the developer. Upon acceptance of the required improvements, the City Engineer shall notify the developer that the improvements are acceptable as per Cornelius Code. Acceptance shall be in writing.

- d. All underground utilities, sanitary sewers, storm drains and cable communication system facilities installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities, sanitary sewers and cable communication system facilities shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.
 - e. A map showing all public improvements as built shall be filed with the City Engineer upon completion of said improvements.
3. Improvement Requirements. Improvements to be installed at the expense of the developer are as follows:
- a. Streets.
 - (i) All streets, including alleys
 - (ii) Streets adjacent but only partially within the partition or subdivision.
 - (iii) The extension of the land division streets to the intercepting paving line of existing streets with which the land division streets intersect.
 - (iv) Arterial or collector streets which intersect with streets within the development that provide ingress or egress to the development or on which there are traffic impacts reasonably related to the development
 - (v) All streets shall be built to City standards.
 - b. Catch basins. Catch basins shall be installed and connected to drainage tile leading to storm sewers or drainage ways.
 - c. Monuments and bench mark. At each beginning point only.
 - d. Surface drainage and storm sewer system. Drainage facilities shall be provided within the land division to connect the land division drainage to drainage ways or storm sewers outside the land division. Design of drainage shall be in accordance with the standards established by the City Engineer and shall allow for the extension of the system to serve other areas.
 - e. Sanitary sewers. Sanitary sewers shall be installed to serve the land division and to connect the land division to existing mains.
 - f. Water system. Water lines with valves and fire hydrants serving the land division, connecting the land division to City mains, shall be installed in conformance with the City specifications. The design and construction by the developer shall take into account provisions for extension beyond the land division and to adequately grid the City system.

- g. Street Trees. Street trees shall be planted along street frontages in accordance with the following:
 - (i) For Single-family Residential land divisions, the Developer shall pay a per tree security to the City. The surety bond shall be based upon a standard of one (1) tree per thirty (30) lineal feet of street frontage, with standard rounding methods applied for fractions thereof. The security to be charged and collected shall be established and from time to time amended by Resolution of the City Council.
 - (ii) For all other land divisions, trees shall be planted in accordance with an approved street tree plan.
 - (iii) Trees shall be planted in accordance with the City's approved Public Works Street Tree List.
- h. Bike and pedestrian ways. Bike and pedestrian ways shall be constructed according to City engineering specifications.
- i. Other improvements reasonably related to the impacts of the development which may be required at the partial or total expense of the developer.
 - (i) Improvement of arterial and collector streets providing primary access to land division streets.
 - (ii) Signals, traffic control devices, and traffic calming devices.
 - (iii) Intersection improvements.
 - (iv) Parks and open space shall be improved as required by the City and appropriate jurisdiction.
 - (v) Land parcels to be reserved for any special purpose, other than for sale, are to be distinguished from lots intended for sale.
- j. Street Lights. Street lights shall be installed in accordance with City standards.
- k. Curb cuts and driveway installations are not required of the developer but, if installed, shall be according to standards.
- 4. Preliminary Approval. After approval of the preliminary plat in the manner indicated in *Section 11.30.24.*, the subdivider may proceed with the final surveying, and preparation of the final plat.
- 5. Final Plat Approval. The Community Development Director shall review the final plat for compliance with the approved preliminary plat. If the Community Development Director determines that the final plat conforms to the approved preliminary plat, the Community Development Director shall so certify and sign the final plat. If the final plat does not conform, it shall be returned to the developer to correct the deficiencies and must be resubmitted for approval within the time established by the Community Development Director.
 - a. Supplemental Information - Final Plat. The following data shall accompany the final plat:

- (i) A preliminary lot, book title report issued by a title insurance company in the name of the owner of the land, showing all parties having any record title interest in the premises.
 - (ii) A copy of deed restrictions, including building setback lines, if any are applicable to the subdivision, and a copy of any dedication which required separate documents.
 - (iii) A certificate by the city engineer certifying that the subdivider has complied with one of the following alternatives:
 - (vi) All improvements have been installed in accordance with the requirements of these regulations and with the action of the Community Development Director or the Planning Commission giving tentative approval of the preliminary plat and a maintenance bond posted with the city as provided in *Section 11.30.24.E*.
 - (v) An agreement has been executed and assurance of performance posted with the city as provided in *Section 11.30.24.E*.
 - b. In subdivisions that are to be served by community water systems and/or community sewage collecting and treatment systems, a certificate from the Washington County Department of Public Health indicating that these systems have had the necessary official public health clearance and approval by the legally responsible regulating agency.
 - c. The following certificates, which may be combined where appropriate:
 - (i) The final plat shall contain a certificate signed and acknowledged by all parties having any record title interest in the land subdivided.
 - (ii) An affidavit signed by the engineer or the surveyor responsible for the survey and final map, the signature of such engineer or surveyor to be accompanied by his seal.
 - (iii) Provisions for all other certifications now or hereafter required by law.
6. Filing of Final Plat. Approval of the final plat by the City as provided by this regulation shall be conditioned on its prompt recording. The developer shall, without delay, submit the final plat for signatures of other public officials required by law. Approval of the final plat shall be null and void if the plat is not recorded within thirty (30) days after the date the last required approving signature has been obtained.

- a. Prior to issuance of any development permits the applicant shall provide to the Planning Department one (1) copy of the recorded final plat signed by all public officials.
- F. Modifications. Changes, alterations or enlargements to previously approved preliminary or final subdivision plats shall require a new request for approval through the Type II process.
- G. Time Limit on Approvals - Submission of Final Plat.
1. The developer shall submit a final plat, including a survey, within twelve (12) months after approval of the preliminary plat. The Community Development Director may grant time extensions allowing up to twelve (12) additional months for final platting if justifiable cause is shown.
 2. If the Community Development Director has authorized a time schedule for phasing the final platting, that schedule shall apply. The Community Development Director may grant time extensions allowing up to twelve (12) additional months for final platting of each phase if justifiable cause is shown; however, a time extension cannot be granted to allow final platting for any phase to be submitted more than five (5) years from the date the preliminary plat was approved.
 3. If the developer wishes to proceed with the land division and has not submitted the final plat within the required time or approved extensions of time, the developer shall resubmit the preliminary plat to the Community Development Director with appropriate information for reprocessing the request according to the provisions for preliminary plat approval in effect at the time of resubmission.
- H. Appeal of a Decision. Appeal of a decision shall be filed in accordance with *Section 11.10.39.*, of this ordinance, and the period for filing the appeal shall be ten (10) days.

[Section 11.530 repealed by Ordinance No. 664, 1, December 15, 1987.]

(Section 11.584 repealed by Ord. No. 745, _3, Feb. 7, 1994.][2/7/94)

(Sections 11.528 through 11.560 inclusive amended and renumbered to Section 11.30.24., inclusive by Ordinance No. 810, May 1, 2000)

(Section 11.30.24 amended by Ordinance 841, July 21, 2003)

30.25 Fee Ownership Subdivision

- A. Purpose. To encourage flexibility in building design, while providing for open space, adequate light, air and safety, development in the multi-family, commercial and industrial zones which features multiple units, spaces or dwellings may be divided by units to allow fee ownership of individual units.
- B. Procedure Type
1. The Community Development Director shall coordinate and assemble through the Facilities Review process the reports and data submitted by the applicant, affected city departments and any governmental agencies having an interest in fee ownership in the multi-family, commercial and industrial zones. The Community Development Director shall determine whether the request meets the criteria in *Sections 11.30.23 or 11.30.24*. The Community Development Director shall approve, approve with conditions or deny the request in writing based upon the criteria of *Sections 11.30.23 or 11.30.24.*, as appropriate, within forty-five (45) days of its submittal.
 2. Notice and review of the Community Development Director's decision shall be pursuant to *Section 11.10.31.B*.
- C. Application Requirements. The Community Development Director shall provide forms that specify the information required for review of a fee ownership subdivision. The applicant shall prepare a map together with other supplementary material as may be required and shall submit the necessary number of copies to the Community Development Director.
- D. Approval Criteria. The Community Development Director shall reduce the site development standards for lot area, lot dimension, building setbacks, building coverage, landscaping, parking and street frontage for the lot to allow fee ownership of the land on which the unit rests in the multi-family, commercial and industrial zones, provided the following criteria are met.
1. As a whole, the development of which the unit is a part meets ordinance criteria for lot area, lot dimensions, setbacks, parking, lot coverage, landscaping, public facilities and street frontage.
 2. The development as a whole, the unit for which fee ownership is desired and any unit affected by the division shall meet all building, plumbing and fire code standards.
 3. Ingress and egress is provided to all lots.
 4. Parking is provided in accordance with ordinance standard for the individual unit either on the new lot or through easements as described in subsection 6, below. If assigned parking is provided, it shall meet ordinance standards.

5. Adequate public facilities are provided to the new lot.
 6. The applicant provides deed covenants required that address: parking, maintenance of buildings and utilities, landscaping and common areas, ingress and egress. The deed covenants must be approved by the City Attorney and Community Development Director.
- E. Special Conditions. Applicant shall comply with application requirements for a subdivision request, *Section 11.30.24*.
- F. Compliance with Approved Plans. A final plat shall be required for the division of land involving four (4) or more lots and shall be in accordance with *Section 11.30.24.E.5. and 6*.
- G. Time Limit on Approvals.
1. The developer shall submit a final plat, including a survey, within twelve (12) months after approval of the preliminary plat. Community Development Director may grant time extensions allowing up to twelve (12) additional months for final platting if justifiable cause is shown.
 2. If the Community Development Director has authorized a time schedule for phasing the final platting, that schedule shall apply. The Community Development Director may grant time extensions allowing up to twelve (12) additional months for final platting of each phase if justifiable cause is shown; however, a time extension cannot be granted to allow final platting for any phase to be submitted more than five (5) years from the date the preliminary plat was approved.
 3. If the developer wishes to proceed with the fee ownership land division and has not submitted the final plat within the required time or approved extensions of time, the developer shall resubmit the preliminary plat to the Community Development Director with appropriate information for reprocessing the request according to the provisions for preliminary plat approval in effect at the time of resubmission.
- H. Appeal of a Decision. Appeal of a decision shall be filed in accordance with *Sections 11.10.39.*, of this ordinance, and the period for filing the appeal shall be ten (10) days.

(Section 11.30.25 added by Ordinance No. 810, May 1, 2000)

11.30.30 **CONDITIONAL USE PERMIT**

30.31 Purpose. Certain types of uses require special consideration prior to being permitted in a particular district. The reasons for requiring special consideration involves among other things, the size of the area required, the nature of the traffic problems, the effect such uses have on any adjoining land uses and on the growth and development of the community as a whole. The uses are listed in each use district as a Conditional Use.

30.32 Authority. The Planning Commission or may approve, approve with conditions, or deny the application for a Conditional Use Permit. In permitting a conditional use, the Planning Commission may impose conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the City as a whole. A Conditional Use Permit shall not grant variances to the regulations prescribed by this ordinance.

- A. Authorization to Grant or Deny Conditional Uses.
1. Uses designated in this ordinance as conditional uses permitted shall be permitted or enlarged or altered upon approval of the commission in accordance with the standards and procedures specified in *Sections 11.30.30*.
 2. The conditions may include, but are not limited to the following requirements:
 - a. Increasing the required lot size or yard dimensions;
 - b. Controlling the location and number of vehicular access points to the property;
 - c. Increasing street width;
 - d. Increasing the number of off-street parking or loading spaces required.
 - e. Limiting the number of signs;
 - f. Limiting the coverage or height of buildings because of obstruction to view or reduction of light or air to adjacent property;
 - g. Requiring sight-obscuring fencing and landscaping where necessary to reduce noise or glare or maintain the property in a character in keeping with the surrounding area; and
 - h. Requirements under which any future enlargement or alteration of the use shall be reviewed by the City and new conditions imposed;
 3. Change in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional existing prior to the effective date of this ordinance, shall conform to the regulations pertaining to conditional uses. If the site is found inappropriate for

the use requested, the commission may deny approval of the conditional use.

4. In addition to all other applicable standards and authority regulating the consideration of applications for a conditional use for home occupation, the following standards and conditions shall apply:
 - a. A conditional use permit for a home occupation shall be valid for a period of one (1) year following the effective date of the approval. No person operating an authorized home occupation shall have employees engaged in the home occupation on the premises other than members of the persons immediate family. See *Sections 11.20.08* and *Sections 11.20.18.*, for Home Occupation standards.
 - b. No signs, placards, notices or other materials advertising the home occupation shall be erected, placed or permitted to be affixed to the land or dwelling within which the home occupation is being conducted. See *Sections 11.40.50.*, for Sign Code standards.
 - c. A conditional use permit for home occupation can be renewed for an additional one (1) year period, without an additional application fee, if the application for renewal is filed not less than sixty (60) days prior to the expiration of the permit. The Planning Commission may impose additional conditions upon the permit upon renewal to carry out the purposes of the underlying zoning district.

[Section 11.902 amended by Ordinance No. 604, S2, January 3, 1983.]

30.33 Procedures.

- A. Application. A request for a conditional use or modification of an existing conditional use may be initiated by a property owner or his authorized agent by filing an application form prescribed by the Community Development Director and shall be filed with the Community Development Director.

[Section 11.905 added by Ordinance No. 640, _1, April 16, 1985.]

- B. Approval Criteria. The approval, approval with conditions or denial of an application for conditional use or to enlarge or to alter a conditional use shall be based on findings of fact with regard to each of the following approval standards:
 1. The proposed development will comply with the Comprehensive Plan.
 2. The applicable requirements of the zoning district are satisfied; and

3. That the location, size, design, and functional characteristics of the proposed use are such that it can be made reasonably compatible with and have a minimum impact on the livability and appropriate development of other properties in the surrounding neighborhood.
 4. The granting of the proposal will provide for a facility that is consistent with the overall needs of the city.
- C. **Modifications.** A request to substantially modify an existing Conditional Use Permit shall be processed in the same manner as a new request for a Conditional Use Permit. Minor modifications of an existing Conditional Use Permit may be approved by the Community Development Director. When an interpretation is discretionary, notice shall be provided in accordance with *Sections 11.10.30*.
- D. **Public Hearing Required.** A public hearing shall be scheduled for each application requiring action by the Planning Commission. The hearing shall be conducted within forty-five (45) days after perfection of a completed application. Notice of the time, place and purpose of the public hearing shall be given in accordance with the requirements of *Sections 11.10.33.*, of the Cornelius Code.
- E. **Notification of Action.** The Community Development Director shall notify the applicant of the conditional use decision rendered by the Planning Commission, in writing within five (5) days after the decision has been made.
- F. **Time Limit on Approvals.** A Conditional Use Permit shall become void two (2) years after the date of final approval or after such time less than two (2) years as may be specified as a condition of approval unless prior to that time a building permit has been issued for the project and substantial construction has taken place.
- G. **Special Conditions.**
1. The permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure unless otherwise specified in conditions attached to the permit.
 2. The applicant shall file a copy of the approved Conditional Use Permit with the Washington County Department of Records and Elections. Building permits shall not be issued until the applicant has provided evidence satisfactory to the City of compliance.

(Sections 11.902 through 11.910 inclusive amended and renumbered to Section 11.30.30 through 11.30.33., inclusive by Ordinance No. 810, May 1, 2000)

11.30.40 Planned Unit Development (PUD) Conditional Use

30.41 Purpose. It is the purpose of these provisions to allow a Planned Unit Development as a conditional use in any residential, commercial or industrial zoning districts. Uses or combinations of uses may be developed as a single, integral, functional unit or entity. The Planned Unit Development concept provides a growing urban area by encouraging a more creative approach in the development of land, while at the same time enhancing and preserving the value, spirit, character and integrity of surrounding areas which have developed or are developing under conventional district regulations. Deviations from specific site development requirements and a mixture of combinations of residential, commercial and industrial uses is allowable, subject to the provisions of the comprehensive plan, as long as the general purposes for the requirements are achieved and the general provisions of the zoning regulations are observed. It is further the purpose of authorizing Planned Unit Developments to take into account any or all of the following:

- A. Advances in technology and design;
- B. A comprehensive development equal to or better than that resulting from traditional lot-by-lot land use development, in which the design of the overall unit permits flexibility in the placement and uses of structures and the location of open spaces, circulation facilities, off-street parking areas and other facilities;
- C. The potential of site characterized by special features of geography, topography, size or shape; and
- D. The height and bulk characteristics of structures can vary as long as the ratio of site area to uses and openness of the site will be in harmony with the area in which the proposed development is located.

30.42 Development Requirements. The following standards and requirements shall govern the application of a Planned Unit Development and apply in a Planned Unit Development conditional use.

- A. A Planned Unit Development may include any uses and conditional uses permitted in any zone. Standards governing area, density, off-street parking, or other requirements may be guided by the standards of the zone that most nearly portrays the character of the zone in which the Planned Unit Development is proposed.
- B. Planned Unit Developments shall not be less than one (1) acre in area.
- C. Approval compliance, required by *Section 11.30.24.E.*, for subdivision improvements shall be required to insure that a development proposal, as submitted, is completed within the required time limit.

30.43 Procedures. The following procedures shall be observed in applying and acting on a Planned Unit Development request.

- A. Application Requirements.
1. The Community Development Director shall provide forms that specify the information required for submission of a Planned Unit Development (PUD). The applicant shall prepare site plan(s) with other supplementary material as may be required and shall submit the necessary number of copies to the Community Development Director.
 2. Applicability of Planned Unit Development Regulations. The requirements for a Planned Unit Development set forth in these sections are in addition to the Conditional Use Permit (CUP) procedures, authority and standards of *Section 11.30.30.*, of this ordinance. The applicant must submit a request for a PUD in conjunction with an application for a CUP.
 3. Plans submitted for Planned Unit Developments shall be subject to design review of site plans, which shall include any and all information describing the proposed lot and street layout, relationship to adjacent properties, and major road systems, locations of building masses (size, type, and function) and building design. The applicant may provide an alternative to the building design information by submitting a justification why it is necessary and appropriate to deviate from this requirement. Open spaces, parks and greenways, as well as any recreation facilities, shall be specified.
 4. An applicant shall submit the required documents as prescribed by the Community Development Director on the application checklist. Once the application is deemed complete the applicant will provide the necessary copies as determined by the Community Development Director for review by the Planning Commission. The preliminary plan shall include the following information.
 - a. Proposed land uses, building locations, and housing unit densities.
 - b. Proposed circulation pattern indicating the status of street ownership.
 - c. Proposed open space uses.
 - d. Proposed grading and drainage pattern.
 - e. Proposed method of water supply and sewerage disposal.
 - f. Economic and supporting data to justify any proposed commercial and industrial elements in an area not so zoned.
 - g. Relations of the proposed development to the surrounding areas and the comprehensive plan.
 5. Prior to the public hearing before the Planning Commission, the Community Development Director shall distribute copies of the

request to the Facilities & Design Review Committee to review and to prepare their recommendation to the Planning Commission.

- B. Approval Criteria. In order to approve a PUD, findings of fact shall be made to support the following conclusions:
1. There are special physical or geographic conditions or objectives of development which warrant a departure from the standard ordinance requirements.
 2. Resulting development will be consistent with overall planning and zoning objectives of the city.
 3. The area around the development can be planned to be in substantial harmony with the proposed plan.
 4. If the applicant is proposing phasing the project, then identify the schedule for phasing. If the applicant is not proposing to phase the project, then identify the time frame for completion.
 5. Provide findings that economically justify a proposed commercial or industrial development.
 6. The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.
 7. Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.
- C. Other Requirements.
1. The Planning Commission shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.
 2. Following this meeting, the applicant may proceed when approval is given by the Planning Commission.
 3. Conditions. In addition to the requirements of *Sections 11.30.40.*, the Planning Commission may attach conditions it finds are necessary to carry out the purposes, objectives and standards of the Planned Unit Development conditional use.
 4. Zoning Map. Planned developments shall be established as conditional uses with other regular zones, and an approved Planned Unit Development shall be identified on the zoning map or map amendments with the letters PD in addition to the abbreviated designation of the pre-established zoning.
 5. Availability of Plan. A certified print of the approved development plan shall be maintained without charge in the office of the city recorder.
 6. Building Permits. Building permits in a Planned Unit Development shall be issued only in accordance with the approved development plan. Any changes in the approved development plan shall be submitted to the Planning Commission for processing as an amendment to this ordinance.

- D. Approval of Plan and Time Limitation on Development.
1. Before a Planned Unit Development shall be approved by the Planning Commission, a preliminary subdivision plat shall be prepared to be considered in conjunction with the Planned Unit Development plan. This requirement shall not apply in the event subdivision of the land would not be required under the subdivision regulations of the City.
 2. If no construction has begun or no use established in the Planned Unit Development within one (1) year after approval of the final plan, the final plan shall lapse and be of no further legal effect. In its discretion and for finding of good cause, the Planning Commission may extend for one (1) year the period for beginning of construction or the establishment of use. The applicant shall present his case for cause before the Planning Commission at its regularly scheduled meeting.

(Sections 11.832 through 11.850 inclusive amended and renumbered to Section 11.30.40 through 11.30.43., inclusive by Ordinance No. 810, May 1, 2000)

11.30.50 VARIANCES

30.51 Authorization to Grant or Deny Variances. The Planning Commission may authorize variances from the requirements of this ordinance where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of this ordinance would cause an undue or unnecessary hardship, except that no variance shall be granted to allow the use of property for purposes not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or neighborhood and to otherwise achieve the purpose of this ordinance.

30.52 Procedures.

- A. **Application Requirements.** A request for a variance may be initiated by a property owner or his authorized agent by filing an application with the Community Development Department on forms prescribed by the Community Development Director or designee. The application shall include written analysis addressing the approval criteria. The application shall be accompanied by a base fee in accordance with *Sections 11.10.08*.
- B. **Approval Criteria.** No variance shall be granted by the Planning Commission unless it can be shown that all of the following conditions exist:
1. Special conditions exist, which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings, or structures in the same district.
 2. Strict interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 3. The authorization of the variance shall not be materially detrimental to the purposes of this ordinance, be injurious to property in the zone or vicinity in which the property is located, or be otherwise detrimental to the objectives of any City development plan or policy.
 4. The special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute pecuniary hardship or inconvenience.
 5. The variance requested is the minimum variance from the provisions and standards of this ordinance which will alleviate the hardship.

- C. **Public Hearing.** Before acting on a request for a variance, it shall be considered by the Planning Commission at a public hearing within 40 days after the filing of a complete application.
1. Notice of the time, place and purpose of the public hearing shall be given in accordance with the requirements of *Section 11.10.30.*, of the Cornelius Code.
 2. **Recess of Hearing by the Planning Commission.** The Planning Commission may recess a hearing on a request for a variance in order to obtain additional information or to serve further notice upon other property owners or persons who it decides may be interested in the proposed variance. Upon recessing for this purpose, the Planning Commission shall announce the time and date when the hearing will be resumed.
 3. **Action of the Planning Commission.** The Planning Commission may attach conditions to an authorized variance which it feels are necessary to protect the public interest and carry out the purpose of this ordinance. The Community Development Director shall notify the applicant in writing of the Planning Commission's action.
- D. **Time Limit on Approval.** Authorization of a variance shall be void after one (1) year or after such time less than two (2) years as may be specified as a condition of approval unless, when appropriate, a building permit has been issued and substantial construction has taken place.
- E. **Appeal of a Decision.** The applicant shall have the right to appeal or contest any decision of the Planning Planning Commission in the manner set forth in *Sections 11.10.39.*

(Sections 11.862 through 11.872 inclusive amended and renumbered to Section 11.30.50 through 11.30.52., inclusive by Ordinance No. 810, May 1, 2000)

11.30.60. TEMPORARY USE PERMITS

30.61 Purpose. The provisions of this subsection are established with the recognition that temporary uses serve a useful purpose in the life of the community. Such activity does not mandate application of the requirements relating to permanent activity, but there is the potential of adverse impact on surrounding property created by temporary activity, and therefore, specific requirements are necessary. These regulations are not intended to govern temporary uses in permanent buildings which meet all ordinance requirements.

30.62 Types of Applications. For the purpose of this subsection, temporary uses are defined below. The various uses are separated into three (3) types depending upon their respective impacts.

- A. Temporary Business/Event Permit. A person, firm, organization, group or corporation which intends to conduct an event and/or business within the city for a period not to exceed ninety (90) days in any twelve (12) month period.
- B. Temporary Buildings. The need for temporary space periodically arises for businesses and can be addressed through the use of temporary buildings. Examples include temporary space to supplement permanent structures, temporary real estate sales offices, temporary space while a permanent structure is being constructed, and construction offices for construction personnel equipment.
- C. Temporary Building Occupancy. Situations periodically arise where businesses need to occupy a building without bringing the site up to the specifications of the Development Code. A true hardship must exist when allowing occupancy without meeting all standards of the Development Code. Examples of a hardship can include damage or loss by fire, flooding, a business losing its lease, which is forced to move, or other hardships as determined by the Community Development Director, but may not include financial hardship.

30.63 Procedures. A request for a temporary use permit may be initiated by a property owner or his authorized agent by filing an application form prescribed by the Community Development Director and shall be filed with the Community Development Director. The Community Development Director shall have the initial authority to determine the type of all proposed temporary uses. Such a determination shall be based upon the general characteristics of the use as described for each type.

30.64 Temporary Business/Event Permit. Activities operating up to forty-five (45) days shall be approved by the Community Development Director. Permits issued for forty-five (45) days or fewer may be extended to a total of ninety (90) day's operation upon submission of a written request approved by the Community Development Director. In hardship situations the City may exempt Registered Non-Profit Organizations located within the City from the Temporary Use Permit fee. The applicant shall submit a written request for fee exemption with their application materials to be reviewed by the Community Development Director.

- A. Approval Criteria. The applicant shall demonstrate compliance with and are subject to the following requirements:
1. City Business License, if required.
 2. The proposed use must be in conformance with *Section 9.051, Temporary Business License* of the City Code.
 3. The use does not involve use of a permanent structure.
 4. Uses involving the sale of food products shall be licensed by the appropriate State and/or local agency.
 5. The site must be within any Commercial or Industrial Zone, or if located in a Residential Zone, the site must be developed as a non-residential use.
 6. All temporary activities shall be conducted at the particular location authorized.
 7. Temporary uses shall be conducted wholly on private property.
 8. No temporary use shall be permitted in the vision clearance area of an intersection as specified under *Section 11.40.27*.
 9. Signs shall be of the type and size specified by the sign standards of the City. They shall be sufficiently stable to resist movement by high winds, and be affixed to the ground or other non-movable object.
 10. The operator of a temporary use must have the permit available for inspection upon request by City personnel.
 11. The Community Development Director may impose additional conditions consistent with the scope and purpose of this ordinance necessary to safeguard the public health and safety and to minimize potential adverse impact created by the use on surrounding property and uses.
 12. Adequate parking and provisions for safe circulation must be provided. The applicant shall demonstrate that the site has adequate parking facilities to accommodate the anticipated needs. The Community Development Director may make such conditions as are necessary to ensure that adequate parking exists and that automobiles entering or exiting the site do not create a safety hazard.
 13. The property owners must give written authorization for the use of their property by the applicant for a temporary use.

14. The Community Development Director may require a cash deposit or other security intended to guarantee that any property used will be left after the use terminates in a neat and orderly condition.
15. Suitable receptacles for disposal of trash as defined by the City must be provided and maintained by the permittee on the site of the temporary use in sufficient numbers to accommodate all trash generated by the use. The permittee shall be responsible for disposal of trash accumulated in the receptacle and for clean-up of trash generated by the temporary use within twenty-five (25) feet thereof on at least a daily basis. The number of receptacles to be provided shall be determined by the Community Development Director as a condition of the permit.
16. Temporary uses shall not locate within a one hundred and fifty (150) foot radius of an established business of a similar nature unless the written permission of the established business is obtained. The one hundred and fifty (150) foot radius shall be measured from the perimeter of the proposed activity.

B. Time Limit on Approvals.

1. A permit for Temporary Business/Event Permit cannot exceed ninety (90) days total duration, with an approved extension.
2. A permit for Temporary Business/Event Permit for up to ninety (90) days may be issued without notice.
3. The Community Development Director is authorized to suspend or revoke any permit if the Director has probable cause to believe that the conditions of the permit or any provisions of this ordinance have been violated or that the use is causing a nuisance to the public or surrounding properties. In any case where the Director finds a serious danger to the public health or safety, the Director may suspend the permit without a hearing. In all other cases, the applicant may appeal the Director's decision of revocation per *Section 11.10.31.A.4.*, Administrative Action Appeals.

C. Appeal of a Decision. Pursuant to *Section 11.10.39.*

30.65 Temporary Buildings.

- A. Approval Criteria.** The applicant shall demonstrate compliance with and are subject to the following requirements:
1. For temporary space to supplement a permanent structure:
 - a. Temporary buildings are allowed for existing business activities located within the City, and not for new activities desiring to locate in the City.

- b. The temporary structure shall be located on the same lot or a lot immediately adjacent to the existing activity. If the adjacent lot is separately owned, written authorization from the owner must be provided.
 - c. Such request shall be reviewed by the Community Development Director in accordance with *Section 11.10.31.*, (Administrative Review).
 2. Temporary Buildings for real estate offices:
 - a. The office is located within the boundaries of the subdivision or tract of land for sale.
 - b. The property used for the temporary sales office shall not be permanently improved for that purpose provided, however, that a dwelling or structure designed primarily for other purposes may be used temporarily for a sales office.
 - c. Application for a temporary real estate office shall be approved by the Community Development Director.
 3. Temporary Buildings while permanent space is being constructed and construction offices:
 - a. A building permit has been issued for the permanent structure and the permit has not expired.
 - b. The temporary structure shall be located on the same lot or a lot immediately adjacent to the construction site. If the adjacent lot is separately owned, written authorization from the owner must be provided.
 - c. The request shall be approved by the Community Development Director.
 4. All temporary activities shall be conducted at the particular location authorized.
 5. Temporary uses shall be conducted wholly on private property.
 6. No temporary use shall be permitted in the vision clearance area of an intersection as specified under *Section 11.40.27.*
 7. Signs shall be of the type and size specified by the sign standards of the City. They shall be sufficiently stable to resist movement by high winds, and be affixed to the ground or other non-movable object.
 8. The operator of a temporary use must have the permit available for inspection upon request by City personnel.
 9. The Community Development Director may impose additional conditions consistent with the scope and purpose of this ordinance necessary to safeguard the public health and safety and to minimize potential adverse impact created by the use on surrounding property and uses.

10. Adequate parking and provisions for safe circulation must be provided. The applicant shall demonstrate that the site has adequate parking facilities to accommodate the anticipated needs. The Community Development Director may make such conditions as are necessary to ensure that adequate parking exists and that automobiles entering or exiting the site do not create a safety hazard.
11. The property owners must give written authorization for the use of their property by the applicant for a temporary use.
12. The Community Development Director may require a cash deposit or other security intended to guarantee that any property used will be left after the use terminates in a neat and orderly condition.

B. Time Limit on Approvals.

1. Permits shall be valid for up to six (6) months. An applicant may apply for one (1), sixty (60) day extension which shall be approved by the Community Development Director. An extension shall be allowed only when an applicant can demonstrate to the Community Development Director that permanent space will become available within the sixty (60) day limit through lease, rent or construction.
2. Temporary real estate sales permits shall only be valid for one (1) year. Upon re-application unlimited extensions for up to a year may be granted. However, each request shall be approved by the Community Development Director.
3. The temporary building may remain on the site until the permanent structure is completed or until the building permit expires, whichever occurs first.
4. The Community Development Director is authorized to suspend or revoke any permit if the Community Development Director has probable cause to believe that the conditions of the permit or any provisions of this ordinance have been violated or that the use is causing a nuisance to the public or surrounding properties. In any case where the Community Development Director finds a serious danger to the public health or safety, the Director may suspend the permit without a hearing. In all other cases, the applicant may appeal the Community Development Director's decision of revocation per *Section 11.10.31.A.4.*, Administrative Action Appeals

C. Appeal of a Decision. Pursuant to *Section 11.10.39.*

30.66 Temporary Building Occupancy.

- A. Approval Criteria. The applicant shall demonstrate compliance with and are subject to the following requirements:

1. The building meets all Building and Fire Code standards.
2. Within one hundred and twenty (120) days, the site can meet Ordinance criteria or assurance the business will vacate the site.
3. Documentation, as determined by the Community Development Director, of hardship.
4. Documentation, as determined by the Community Development Director, that a permanent solution can be found within one hundred and twenty (120) days from date of occupancy.
5. The site shall be vacated at the end of one hundred and twenty (120) day time limit if the building and/or the site does not conform to all standards of the Development Code. The applicant shall enter into such agreement as determined by the City Attorney and Community Development Director to ensure that this condition is met.
6. All temporary activities shall be conducted at the particular location authorized.
7. Temporary uses shall be conducted wholly on private property.
8. No temporary use shall be permitted in the vision clearance area of an intersection as specified under *Section 11.40.27*.
9. Signs shall be of the type and size specified by the sign standards of the City. They shall be sufficiently stable to resist movement by high winds, and be affixed to the ground or other non-movable object.
10. The operator of a temporary use must have the permit available for inspection upon request by City personnel.
11. The Community Development Director may impose additional conditions consistent with the scope and purpose of this ordinance necessary to safeguard the public health and safety and to minimize potential adverse impact created by the use on surrounding property and uses.
12. Adequate parking and provisions for safe circulation must be provided. The applicant shall demonstrate that the site has adequate parking facilities to accommodate the anticipated needs. The Community Development Director may make such conditions as are necessary to ensure that adequate parking exists and that automobiles entering or exiting the site do not create a safety hazard.
13. The property owners must give written authorization for the use of their property by the applicant for a temporary use.
14. The Community Development Director may require a cash deposit or other security intended to guarantee that any property used will be left after the use terminates in a neat and orderly condition.

B. Time Limit on Approvals.

1. The site shall be vacated at the end of one hundred and twenty (120) day time limit if the building and/or the site does not conform to all standards of the Development Code.
2. The Community Development Director is authorized to suspend or revoke any permit if the Community Development Director has probable cause to believe that the conditions of the permit or any provisions of this ordinance have been violated or that the use is causing a nuisance to the public or surrounding properties. In any case where the Community Development Director finds a serious danger to the public health or safety, the Director may suspend the permit without a hearing. In all other cases, the applicant may appeal the Community Development Director's decision of revocation per *Section 11.10.31.A.4.*, *.Administrative Action Appeals*

C. Appeal of a Decision. Pursuant to *Section 11.10.39.*

(Sections 11.928 inclusive amended and renumbered to Section 11.30.60 through 11.30.66., inclusive by Ordinance No. 810, May 1, 2000)

(Section 11.30.64 amended by Ordinance 841, July 21, 2003)

11.30.70 AMENDMENTS TO THE ZONING ORDINANCE

- A. Authorization to Initiate Amendments. An amendment to the text or the zoning map of this ordinance may be initiated by the City Council, by the Planning Commission, or by application of a property owner or his authorized agent. The Planning Commission shall, within forty (40) days after a hearing, recommend to the City Council approval, disapproval, or modification of the proposed amendment.
- B. Application Requirements. A request for a zone change may be initiated by a property owner or his authorized agent by filing an application with the Planning Department on forms prescribed by the Community Development Director or designee.
- C. Approval Criteria. The applicant shall demonstrate the request meets the following criteria:
1. The proposal conforms with the City's Comprehensive Plan.
 2. The permitted uses of the proposed new zone will not materially and/or adversely affect the character of the neighborhood.
 3. The proposal will place all property similarly situated in the area in the same zoning category or in appropriate complementary categories, without creating a "spot zone".
- D. Public Hearing. Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing. Notice of the time, place and purpose of the public hearing shall be given in accordance with the requirements of *Section 11.10.33.*, of the Cornelius Code. The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides maybe interested in the proposed amendment. Upon recessing for this purpose, the Planning Commission shall announce the time and date when the hearing will be resumed. After receipt of the report on the amendment from the Planning Commission, the City Council shall hold a public hearing on the amendment.
1. Hearing by City Council. A public hearing held by the council on the proposed amendment to the zoning ordinance shall be as provided in ORS ch. 227.
 2. Record of Amendments. The Community Development Director shall maintain a record of amendments to the text and map of this ordinance in a form convenient for the use of the public.
- E. Zoning of Annexed Areas. The provisions of *Section 11.30.70.*, regarding amendments to the zoning ordinance shall not apply to action authorized by this section but the Planning Commission shall proceed promptly to recommend a comprehensive zoning plan for the area in accordance with the provisions of *Section 11.30.70.*,. In order to afford zoning protection to

newly annexed areas prior to the time when a comprehensive zoning plan is adopted, interim zoning shall be established as follows:

1. An area annexed to the city which is not zoned shall be automatically classified as an R-7 zone.
2. Zoning regulations applicable to an area annexed to the city which is zoned by the county at the time of annexation shall continue to apply in accordance with ORS 227.310 unless, at the time of annexation or at a subsequent time, the City Council rezones the annexed area.

(Sections 11.832 through 11.894 inclusive and 11.818 inclusive amended and renumbered to Section 11.30.70., inclusive by Ordinance No. 810, May 1, 2000)

11.30.80 COMPREHENSIVE PLAN. Comprehensive Plan Adopted.

- A. The Cornelius Comprehensive Plan was adopted in May, 1978, revised in 1984, 1988 and 2000.
- B. The City Recorder shall endorse the number of Ordinance No. 808, and the date of its adoption upon a copy of the Comprehensive Plan, which shall be kept on file in the office of the Community Development Director as the official copy of the plan. All amendments to the plan shall be by ordinance, and the ordinances shall be endorsed upon the official comprehensive plan of development on file in the office of the city recorder.
- C. Amendment. The City Council shall adopt and may from time to time amend and revise the Comprehensive Plan for the use of some or all of the land within the city. The plan may be adopted and revised in whole or in part.
- D. Approval Criteria. No Comprehensive Plan Amendment shall be approved unless findings are made to support the following conclusions demonstrating conformance to State and Local Law.
 - 1. The proposed plan and amendments shall conform to the requirements of the Oregon Statewide Planning Goals, and applicable administrative rules of the state Land Conservation and Development Commission.
 - 2. The proposed amendments shall comply with all other applicable laws, rules and regulations of the state, city and other governmental agencies having jurisdiction over land use regulation within the City.
 - 3. The proposed amendment shall address the criteria identified in the Chapter 1 of the City Comprehensive Plan.

(Section 11.30.80.D.3., added by Ordinance No. 810, May 1, 2000)

- E. Amendment Procedures.
 - 1. An amendment to the text or the map of the Comprehensive Plan may be initiated by the City Council, the Planning Commission or by application of a property owner, or his or her authorized agent.
 - 2. Application for amendment by a property owner or his or her authorized agent shall be filed on forms prescribed by the Community Development Director and available from the Community Development Department. The application shall be accompanied by a fee for related services incurred by the City in the processing of the application.

3. The fees and deposits to be paid by the applicant requesting an amendment to the text or land use map of the Comprehensive Plan may be established or amended by resolution of the City Council.

F. Public Hearing.

1. Before taking final action on a proposed amendment to the Comprehensive Plan, the Planning Commission shall hold a public hearing. After the public hearing before the Planning Commission, the City Council shall hold a public hearing to consider the written report and recommendation of the Planning Commission relative to the proposed amendment to the Comprehensive Plan. Notice of the time, place and purpose of the public hearing shall be given in accordance with the requirements of *Section 11.10.33*.
2. The Planning Commission and the City Council may recess their hearing in order to obtain additional information or to provide for further notice of the proceedings. Upon recessing, the Planning Commission or the City Council shall announce the time and date when the hearing will be resumed. Any continued public hearing must be to a date certain and be not more than forty (40) days from the date on which the meeting was continued. The hearing before the City Council shall be not more than forty (40) days after the written report and recommendation of the Planning Commission is filed with the Community Development Director.

[Sections 11.082 through 11.090, inclusive, renumbered from Sections 11.482 through 11.490, inclusive, by Ordinance No.671, _1, December 15, 1987.]

(Sections 11.082 through 11.090 inclusive renumbered to Section 11.30.80., inclusive by Ordinance No. 810, May 1, 2000)

11.30.90 NONCONFORMING USES

30.91 Purpose. Within the districts established by this ordinance or amendments that may later be adopted there may exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the effective date of this ordinance, but which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but not to encourage their perpetuation. It is further the intent of this ordinance that nonconformities shall not be enlarged, expanded or extended, nor be used as grounds for adding other structures or uses not permitted elsewhere in the same district except as specifically provided elsewhere in this ordinance.

- A. Pending Building Permit. In order to avoid undue hardship, nothing in this ordinance shall require any change in the location, plans, construction, size, or designated use of any building, structure or part thereof, for which a required City building permit has been granted prior to the enactment of this ordinance, or which was lawfully permitted and for which the required building permit has been issued within an area annexed to the City prior to annexation thereof. If a building permit is revoked or for any reason becomes void, all rights granted by this subsection are extinguished and the project shall thereafter be required to conform to all the provisions of this ordinance.
- B. Validation of a legal nonconforming use, structure and/or use of a structure shall be reviewed, approved or denied as a Community Development Director's Interpretation, pursuant to Type I procedures set forth in Section 11.10.31.A..

30.92 Nonconforming Structures. Except as provided in *Section 11.30.91.A.*, where a lawful structure exists at the effective date of adoption or amendment of this ordinance, that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered in a way that will not change or will decrease its nonconformity;
- B. Restoration or Replacement of a damaged Nonconforming Structure.

1. A nonconforming single family dwelling unit may be replaced or restored to the original footprint in all residential zoning districts regardless of the extent of damage or destruction. Replacement shall begin within one year of the damage or destruction. If replacement begins more than one (1) year after the damage or destruction the structure shall conform to the regulations specified in this ordinance.
 2. Except as stated above in *Section 11.30.92.B.1.*, if a nonconforming structure is damaged or destroyed by any means to an extent not exceeding seventy (70) percent in value based on an insurance appraisal, the structure may be replaced or restored. If the extent of damage exceeds seventy (70) percent in value, the nonconforming structure shall not be replaced or restored, except in conformity with the provisions of this ordinance. Replacement shall begin within one (1) year of the damage or destruction. If replacement begins more than one (1) year after the damage or destruction the structure shall conform to the regulations specified in this ordinance.
- C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- D. Notwithstanding the provisions of *Section 11.30.92.A., B., and C.*, above any lawful nonconforming structure which would be destroyed as a result of an action by a governmental agency where the agency takes property through the exercise of its power of eminent domain or requires dedication of property for public purposes, may be moved or reconstructed on the same lot, and if necessary, may be extended to an abutting lot in the same ownership provided that the resulting placement of the structure does not increase the nonconformity of the structure. Such modification shall be subject to review by the Facilities and Design Review Committee and, if within its established jurisdiction, the Planning Commission. The request for such reviews shall be made prior to the destruction of the structure and if not made by such time the rights granted by this subsection shall be terminated.

30.93 Nonconforming Uses of Land. At the time of passage of this ordinance lawful use of land exists which would not be permitted by the regulations imposed by this ordinance, and where such use involves no individual structure other than small or minor accessory buildings, the use may be continued so long as it remains otherwise lawful, provided:

- A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
- B. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance;
- C. If any such nonconforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of land shall conform to the regulations specified by this ordinance for the district in which such land is located;
- D. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.
- E. Notwithstanding the provisions of *Section 11.30.93.A., B., C., and D*, above, any lawful nonconforming structure which would be destroyed as a result of an action by a governmental agency where the agency takes property through the exercise of its power of eminent domain or requires dedication of property for public purposes, may be moved or reconstructed on the same lot, and if necessary, may be extended to an abutting lot in the same ownership provided that the resulting placement of the structure does not increase the nonconformity of the structure. Such modification shall be subject to review by the Facilities and Design Review Committee and, if within its established jurisdiction, the Planning Commission. The request for such reviews shall be made prior to the destruction of the structure and if not made by such time the rights granted by this subsection shall be terminated.

30.94 Nonconforming Uses of Structures. Where a lawful use involving individual buildings or structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except to accommodate a changing of the use of the structure to a use permitted in the district in which it is located.

- B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- C. If no structural alterations are made, any nonconforming use of structure and premises may be changed to another nonconforming use provided that the Planning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this ordinance.
- D. When a nonconforming use of a structure and premises is discontinued or abandoned for one (1) year the structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- E. Where nonconforming use status applies to a structure and premises, removal or destruction of the structure shall eliminate the nonconforming use status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty (50%) of the replacement cost at time of destruction.
- F. Notwithstanding the provisions of *Section 11.30.94.A., B., C., D and E., ,* above, any lawful nonconforming structure which would be destroyed as a result of an action by a governmental agency where the agency takes property through the exercise of its power of eminent domain or requires dedication of property for public purposes, may be moved or reconstructed on the same lot, and if necessary, may be extended to an abutting lot in the same ownership provided that the resulting placement of the structure does not increase the nonconformity of the structure. Such modification shall be subject to review by the Facilities and Design Review Committee and, if within its established jurisdiction, the Planning Commission. The request for such reviews shall be made prior to the destruction of the structure and if not made by such time the rights granted by this subsection shall be terminated.

(Sections 11.822 through 11.828 inclusive amended and renumbered to Section 11.30.90 through 11.30.94., inclusive by Ordinance No. 810, May 1, 2000)

(Section 11.30.91 amended by Ordinance 841, July 21, 2003)

11.30.100 COMMUNITY DEVELOPMENT DIRECTORS INTERPRETATION

30.101 Purpose. To provide a process to interpret the language, terms, provisions, standards and requirements of the Development & Zoning Code that are not clearly delineated or when questions, conflicts and different interpretations occur.

30.102 Authority. The Community Development Director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of the Development & Zoning Code, Chapter 11.

30.103 Type of Application. Application for a Community Development Director's Interpretation shall be made pursuant to Type I procedures set forth in Section 11.10.31.A..

(Sections 11.30.100 – 11.30.103, inclusive adopted by Ordinance 841, July 21, 2003)

SPECIAL REGULATIONS

SECTION 11.40.00

11.40.10 Off-Street Parking and Loading**40.11 General Provisions.**

- A. The provision and maintenance of off-street parking and loading spaces are continuing obligations of the property owner. No building or other permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space as required by this ordinance. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by sections. Use of property in violation shall be a violation of this code. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this code to begin or maintain the altered use until the required increase in off-street parking or loading is provided.
- B. Unless otherwise provided, required parking and loading spaces shall not be located in a required yard.
- C. Owners of two (2) or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Community Development Director in the form of deeds, leases, or contracts to establish the joint use.
- D. A plan drawn to scale, indicating how the off-street parking and loading requirement is to be fulfilled, shall accompany the request for a building permit, site plan review, or certificate of occupancy. The plan shall show all those elements necessary to indicate that these requirements are being fulfilled and shall include but not be limited to:
1. Delineation of individual parking and loading spaces and their dimensions;
 2. Circulation area necessary to serve spaces;
 3. Access to streets, alleys and properties to be served;
 4. Curb cuts;
 5. Location and dimensions of all landscaping, including the type and size of plant material to be used, as well as any other non-living landscape material incorporated into the overall plan, excluding single and two-family residences;
 6. Specifications as to signs and bumper guards, excluding single and two-family residences.

- E. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Community Development Director, based upon the requirements of comparable uses listed.

40.12 Off-Street Parking.

- A. At the time of erection of a new structure or at the time of enlargement or change in use of an existing structure within any zone in the city, off-street parking spaces shall be provided in accordance with Section 11.40.13. If parking space has been provided in connection with an existing use or is added to an existing use, the parking space shall not be eliminated if elimination would result in less space than is specified in the standards of this section when applied to the entire use. In cases of enlargement of a building or use of land existing on the effective date of this ordinance, the number of parking spaces required shall be based only on floor area or capacity of such enlargement.
- B. Where square feet are specified, the area measured shall be the gross floor area primary to the functioning of the particular use of the property but shall exclude space devoted to off-street parking or loading. Where employees are specified, persons counted shall be those working on the premises during the largest shift at the peak season, including proprietors.
- C. In the Main Street District (MSD), change of use of an existing commercial structure will not require additional parking to be constructed. However, construction of a new building or addition to an existing building will require the provision of off-street parking as required in Section 11.40.13.
- D. If several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately with a reduction of ten (10) percent to account for cross-patronage and shared parking benefits. Where the peak hours of operation of two (2) or more uses do not substantially overlap, such uses may share off-street parking spaces as required by this ordinance.
- E. Parking Spaces in public streets or alleys shall not be eligible as fulfilling any part of the parking requirements, except as allowed in the MSD.
- F. Required parking spaces shall be available for the parking of operable motor vehicles for residents, customers patrons, and employees only, and shall not be used for the storage or sale of vehicles or other materials and

shall not be rented, leased or assigned to any other person or organization not using or being directly served by the use.

- G. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling, unless specified elsewhere in the Code.

40.13 Required Off-Street Parking Spaces.

- A. Off-street parking shall be provided based on the primary use of the site according to the following standards and regardless of the zone in which the use is located (See Map 1, Pg. SR-16).

Table 1 Minimum and Maximum Required Off-street Vehicle and Parking Requirements				
	Minimum Parking Standards	Maximum Parking Standards^[1]		
Land Use		Zone A	Zone B	Bicycle Parking Standards^[2]
RESIDENTIAL				
Household Living				
Single Units, Attached	See Multifamily	none	none	none
Single Units, Detached	1.0/DU	none	none	none
Duplexes	1.0/DU			none
Multifamily Units	DU<500 sq ft: 1.0/DU 1 bedroom: 1.25/DU 2 bedroom: 1.5/DU 3 bedroom: 1.75/DU	none		1.0/2 DUs except elderly, which is 1.0/20 DUs
Manufactured Units	1.0/DU	none		none
Mobile Home Parks	1.0/DU	none		none
Group Living	1.0/room 1.0/2.5 beds	none 2.7/1000		1.0/5 beds

Transitional Housing	1.0/2.5 beds	none		1.0/5 beds
Home Occupation	none	none		none
CIVIC				
Basic Utilities	none	none	none	none
Colleges	1.0/5 students/staff	1.0/3.3 students/staff	1.0/3.3 students/staff	1.0/3.0 students/staff
Community Recreation	2.0/1000	2.5/1000	4.0/1000	.3/1000
Cultural Institutions	2.5/1000	3.5/1000	4.5/1000	.5/1000
Medical Centers	2.0/1000	2.7/1000	3.2/1000	.2/1000
Motor Vehicle Related				
Motor Vehicle Sales/Rental	1.0/1000 but no less than 4	1.3/1000 but no less than 4	2.0/1000 but no less than 4	.2/1000 sales area
Motor Vehicle Servicing/Repair	2.0/1000 but no less than 4	2.3/1000 but no less than 4	2.6/1000 but no less than 4	0.2/1000
Vehicle Fuel Sales	3.0+2.0/service bay	4.0+2.0/service bay	4.0+2.0/service bay	0.2/1000
OFFICE	2.7/1000	3.4/1000	4.1/1000	0.5/1000
Self-Service Storage	1.0/4 storage units	1.0/4 storage units	1.0/2 storage units	1.0/40 storage units
Non-Accessory Parking	none	none	none	none
COMMERCIAL				
Commercial Lodging	1.0/room	1.2/room	1.4/room	1.0/10 rooms
Eating and Drinking Establishments	Fast Food: 9.9/1000 other: 15.3/1000	12.4/1000 19.1/1000	14.9/1000 23/1000	All: 1.0/1000
Entertainment Oriented				
Major Event Entertainment	1.0/3 seats or 1.0/6' bench	1.0/2.5 seats or 1.0/5' bench	1.0/2 seats or 1.0/4' bench	1.0/10 seats or 40' bench
Outdoor Entertainment	4.0/1000	4.5/1000	5.0/1000	.4/1000

Indoor Entertainment	4.3/1000 Theater:1.0/3 seats	5.4/1000 Theater: 1.0/2.5 seats	6.5/1000 Theater 1.0/2.0 seats	.5/1000 1.0/10 seats
Adult Entertainment	2.5/1000 1.0/3 seats	3.5/1000 1.0/1.25 seats	6.5/1000 1.0/2.0 seats	.5/1000 1.0/20 seats
GENERAL RETAIL				
Sales-Oriented	3.7/1000	5.1/1000	6.2/1000	.3/1000
Personal Services	2.5/1000 Bank with drive-in: 4.3/1000	3.0/1000 5.4/1000	4.5/1000 6.5/1000	1.0/1000 1.0/1000
Repair- Oriented	3.3/1000	4.0/1000	4.5/1000	.3/1000
Bulk Sales	1.0/1000 but no less than 10	1.3/1000	2.0/1000	.3/1000
Outdoor Sales	1.0/1000 sales area	1.3/1000 sales area	2.0/1000 sales area	0.1/1000 sales area
Animal- Related	3.3/1000	4.0/1000	4.5/1000	.3/1000
INDUSTRIAL				
Industrial Services	0.8/1000	1.2/1000	1.8/1000	0.1/1000
Manufacturing Production Light Industrial General Industrial Heavy Industrial	1.6/1000	none	none	0.1/1000
Research and Development	2.0/1000	3.0/1000	3.8/1000	0.5/1000
Warehouse/Freight Movement	<150,000 sq ft:0.5/1000 >150,000 sq ft:0.3/1000	0.8/1000 0.4/1000	1.2/1000 0.5/1000	0.1/1000
Waste Related	5	7	10	none
Wholesale Sales	0.8/1000	1.2/100	1.8/1000	0.1/1000
OTHER				
Agriculture/ Horticulture	2.5/1000 sales area but no less than 4.0	none	none	none

Cemeteries	exempt	exempt	exempt	none
Detention Facilities	1.0/2.5 beds	none	none	1.0/2.5 beds
Heliports	none	none	none	none
Wireless Communication Facility	none	none	none	none
Rail Lines/Utility Corridor	none	none	none	none
Postal Services	2.5/1000	3.0/1000.	4.5/1000	.3/1000
Public Support Facilities	none	none	none	none
Religious Institutions	1.0/4 seats in main assembly area	1.0/1.7 seats in main assembly area	1.0/3 seats in main assembly area	1.0/20 seats in main assembly area
Schools	Preschool: 5.0+1/classroom Elementary/JR: 2.0/classroom SR: 1.0/5 students/staff	Preschool: 7.0+1/classroom Elementary/JR: 2.5/classroom SR: 1.0/3.3 students/staff	Preschool: 10.0+1/classroom Elementary/JR: 3.5/classroom SR: 1.0/3.3 students/staff	Preschool: 1.0/classroom Elementary/JR: 6.0/classroom SR: 6.0/classroom
Social/Fraternal Clubs/Lodges	10.0/1000 main assembly area	12.0/1000 main assembly area	14.0/1000 main assembly area	2.0/1000 main assembly area

All uses providing drive-in service as defined by this ordinance shall provide on the same site a reservoir for inbound vehicles as follows:

Land Use	Reservoir Requirement
Drive-in Banks	5 spaces/service terminal
Drive-in Restaurants	10 spaces/service window
Drive-in Theaters	10% of theater capacity
Gasoline Service Stations	3 spaces/pump
Mechanical Car Washes	3 spaces/washing unit
Parking Facilities-Free Flow Entry	1 space/entry driveway
Ticket Dispense Entry	2 spaces/entry driveway
Manual Ticket Dispensing	8 spaces/entry driveway

40.14 Off-Street Loading.

- A. Buildings and structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading space as follows:

Table 2 Off-Street Loading Requirements		
Land Use	Loading Space Required	
Industrial		
<u>Floor Area</u>		
Under 25,000 square feet	1	
25,000 to 50,000 square feet	2	
50,000 to 100,000 square feet	3	
Commercial		
<u>Floor Area</u>		
Under 5,000 square feet	0	
5,000 to 25,000 square feet	1	
25,000 to 50,000 square feet	2	
50,000 to 100,000 square feet	3	
Table 3 Minimum Loading Berth Dimensions		
<u>Land Use</u>	<u>Length-Linear Feet</u>	<u>Width- Linear Feet</u>
All uses except wholesale and industrial	35	12
Wholesale storage and industrial	65	12

- B. Passengers. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than 25 students.
- C. Merchandise, materials or supplies. Buildings or structures to be built or substantially altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. If

loading space has been provided in connection with an existing use or is added to an existing use, the loading space shall not be eliminated if elimination would result in less space than is required to adequately handle the needs of the particular use.

- D. Any area to be used for the maneuvering of delivery vehicles and the unloading or loading of materials shall be separated from designated off-street parking areas and appropriately designed to prevent the encroachment of delivery vehicles into off-street parking areas or into a public street.
- E. The Facilities Review Committee may modify the off-street loading requirements as they apply to any individual case only for good cause shown, and it shall set reasonable safeguards and conditions to insure that any such modification conforms to the intent of this ordinance. Modification may be granted if it is demonstrated to the satisfaction of the committee that loading operations of the use or structure in question will not interfere with pedestrian or vehicular traffic on a public street.

40.15 Design and Maintenance Standards for Off-street Parking and Loading Facilities

- A. Except as otherwise defined in this code, "one standard parking space" means a minimum of a parking stall of nine (9) feet in width and twenty (20) feet in length. To accommodate compact cars more efficiently, up to twenty five (25) of the available parking spaces may have a minimum dimension of eight (8) feet in width and sixteen (16) feet in length, so long as they are identified as compact car stalls and are not readily accessible to large cars.
- B. Excluding single-family and duplex residences, groups of two (2) or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way would be required.
- C. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress consistent with *Section 11.40.27.*, and maximum safety of pedestrians and vehicular traffic on the site.
- D. Each parking and/or loading space shall be accessible from a street and the access shall be of a width and location as described in *Section 11.40.15.*, of this ordinance.

- E. Parking space configuration, stall and access aisles shall be of sufficient width for all vehicles turning and maneuvering, and according to the minimum standard as shown in *Figure 1 (Pg. SR-14)* and *Figure 2 (Pg. SR-15)*.
- F. Except for single and two-family residences, any area intended to be used to meet the off-street parking requirements as contained in this ordinance shall have all parking spaces clearly marked using a permanent paint. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.
- G. Except for single and two (2) family residences, all areas used for the parking and/or storage and/or maneuvering of any vehicles, boat and/or trailer shall be improved with asphalt or concrete surfaces according to the same standards required for the construction and acceptance of city streets. Off-street parking spaces for single and two (2) family residences shall be improved with an asphalt or concrete surface to specification as approved by the Building Official.
- H. Parking spaces along the outer boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks, shall be provided with a wheel stop at least four (4) inches high located three (3) feet back from the front of the parking stall as defined in *Figure 1, Pg. SR-14*, of this ordinance. The Facilities & Design Review Committee or the Planning Commission may approve parking spaces without wheel stops, provided the abutting sidewalk is increased by three (3) feet in width and/or the appropriate landscaping is planted where the bumper would overhang.
- I. Off-street parking and loading areas shall be drained in accordance with specifications approved by the City Engineer.
- J. Artificial lighting on all off-street parking facilities shall be designed to deflect all light away from surrounding residences and so as not to create a hazard to the public use of any road or street
- K. Signs which are provided on parking lots for the purpose of meeting this section of the zoning ordinance shall be as prescribed by the building official.
- L. All parking lots shall be kept clean and in good repair at all times. Breaks in paved surfaces shall be repaired promptly and broken or splintered wheel stops shall be replaced so that their function will not be impaired.

40.16 Landscaping Required.

- A. Purpose: The purpose of this section of the zoning ordinance is to improve the appearance of off-street parking and open lot sales and services areas in Cornelius and to protect and preserve the appearance, character, and value of the surrounding neighborhoods and thereby promote the general welfare by providing for installation and maintenance of landscaping for screening, buffering and aesthetic qualities, finding that the particular characteristics and qualities of Cornelius justify regulations to perpetuate its aesthetic appeal on a city-wide basis. It is also the purpose of this section to allow for increased seepage by providing openings in the impervious surface: increased safety by breaking up large expanses of pavement: and increased shading to reduce overheating of car interiors, and reduce glare and radiation from large numbers of vehicles.
- B. Minimum Requirements: All areas used for the display and/or parking of any and all types of vehicles, trailers, boats or heavy construction equipment, whether such vehicles, traverse the property as a function of the primary use, hereinafter referred to as "other vehicular uses" shall conform to the minimum landscaping requirements provided in this section. Activities that are of a drive-in nature such as, but not limited to, filling stations, grocery and dairy stores, banks, restaurants, and the like shall conform to the minimum landscaping requirements also. The following areas are not required to meet the landscaping standards:
1. Where all of the parking or other vehicular uses are located under, on or within buildings; and
 2. Parking areas serving single and two-family uses as normally such residential areas shall not be required to meet .
- C. Installation: All landscaping shall be installed in a sound workmanship like manner and according to accepted good planting procedures with the quality of plant materials as herinafter described. All elements of landscaping exclusive of plant material except hedges shall be installed so as to meet all other applicable ordinances and code requirements. Landscaped areas shall require protection from vehicular encroachment as herein provided in *Section 11.40.15.H*. The Community Development Director or the Building Official shall inspect all landscaping and no Certificates of Occupancy or similar authorization will be issued unless the landscaping meets the requirements herein provided.

- D. Maintenance: The owner, tenant and their agent, if any, shall be jointly and severally responsible for the maintenance of all landscaping which shall be maintained in good condition so as to present a healthy, neat and orderly appearance and shall be kept free from refuse and debris.
- (i) All plant growth in interior landscaped areas shall be controlled by pruning, trimming or otherwise so that:
 - (ii) It will not interfere with the maintenance or repair of any public utility;
 - (iii) It will not restrict pedestrian or vehicular access: and
 - (iv) It will not constitute a traffic hazard because of reduced visibility.

40.17 Parking Lot Design Standards.

- A. Required Landscaping Adjacent to Public Right-Of-Way--A strip of land at least five (5) feet in width located between the abutting right-of-way and the off-street parking area or vehicle use area which is exposed to an abutting right-of-way, except in required vision clearance areas as provided in *Section 11.40.27*.
- B. Perimeter Landscaping Relating to Abutting Properties--On the site of a building or structure or open lot use providing an off-street parking area or other vehicular use area, where such areas will not be entirely screened visually by an intervening building or structure from abutting property, a five (5) foot landscaped strip shall be between the common lot line and the off-street parking area or other vehicular use area exposed to abutting property.
- C. Where the boundary of a parking lot in a non-residential zone adjoins a residential district, a ten (10) foot landscaped strip shall be provided along the entire length abutting the residential zone, and shall be landscaped with evergreen plant material and maintained at a minimum height of thirty-six (36) inches.
- D. Parking Area Interior Landscaping: Landscaped islands shall be provided a minimum of every ten (10) parking spaces with a depth equivalent to the depth of the adjacent parking spaces and a minimum width of six (6) feet to break up large expanses of pavement, improved the appearance and climate of the site, improve safety, and delineate pedestrian walkways and traffic lanes. Except for industrial development within industrial zones, the following interior landscaping shall be met:

- E. Sight Distance for Landscaping at Points of Access: When an accessway intersects a public right-of-way or when the subject property abuts the intersection of two or more public rights-of-way, all landscaping within vision clearance areas pursuant to *Section 11.40.27.*, shall provide unobstructed cross-visibility at a level between three (3) feet and ten (10) feet above the curb line provided; however, visibility area shall be allowed, provided they are so located so as not to create a traffic hazard. Landscaping except required grass or groundcover shall not be located closer than three (3) feet from the edge of any accessway pavement.

40.18 Drainage of Off-street Parking and Loading Facilities.

- A. Except single and two-family residences, off street parking and loading facilities shall be drained to avoid flow of water across public sidewalks.

40.19 Security Required.

- A. Completion time for parking lots. Required parking spaces shall be improved and available for use before the final inspection. An extension of time may be granted by the Community Development Director, provided a security equal to one hundred and fifty (150) percent of the cost of the parking lot is posted with the City of Cornelius and the parking space is not required for immediate use. If the parking improvements are not completed within six (6) months, the City shall have access to the security to complete the installation and/or revoke occupancy. Upon completion of the installation, any portion of the remaining security shall be returned to the owner. Costs in excess of the posted security shall be assessed against the property and the City shall thereupon have a valid lien against the property, which shall become due and payable.

[Sections 11.792 through 11.796., inclusive, amended and renumbered to Sections 11.40.10 through 11.40.19., inclusive by Ordinance No. 810, May 1, 2000]

(Section 11.40.13 amended by Ordinance 841, July 21, 2003)

FIGURE 1, Parking Stalls

Figure 2, Parking Lot Layout

Off-street Parking Map

11.40.20. SPECIAL USE REGULATIONS

40.21 Accessory Uses and Structures.

- A. Uses and structures normal, incidental and subordinate to the uses allowed as permitted uses in any zone are allowed as accessory uses and structures subject to the provisions of this section.
- B. Accessory uses and structures for conditional uses shall be allowed only after approval has been granted through the Conditional Use Permit process.
- C. All accessory structures must comply with the following provisions:
 - 1. They shall have no more than four hundred and fifty (450) square feet of floor area if incidental to residential structures;
 - 2. They shall not exceed one (1) story, a maximum of twelve (12) feet;
 - 3. They shall not be allowed in a required front yard;
 - 4. They shall not be located within eight (8) feet of main building or other accessory building unless attached to that building;
 - 5. They shall be located no closer than three (3) feet to any lot line nor built over an easement, whichever is the most restrictive;
 - 6. They shall cause no encroachment upon or interference with the use of any adjoining property or public right-of-way;
 - 7. They shall be built in accordance with building codes.
- D. Accessory structures that do not comply with the above provisions are subject to Conditional Use Permit approval. See *Section 11.30.30*.

40.22 Fences.

- A. Regardless of the front, side or rear yard requirements of the zone, fences and hedges may be located within yards as follows:
 - 1. Adequate sight distances shall be maintained and unobstructed at street intersections and driveways.
 - 2. Fences and hedges up to six (6) feet in height may be located within the side or rear property line.
 - 3. Fences and hedges up to four (4) feet in height may be located within the front yard within six (6) inches of a sidewalk, or if no sidewalk exists, where the sidewalk would be constructed.
- B. Fences and hedges up to six (6) feet in height may be located within a side or rear yard facing a street, provided that adequate sight distances are maintained and unobstructed at street intersections and driveways.

- C. All non-residential fences shall be subject to design review relative to screening, buffering, safety and security.

[Section 11.804 amended by Ordinance No. 709, _2, February 4, 1991]

[Section 11.805 added by Ordinance No. 638, _1, March 19, 1985.]

40.23 General Provisions Regulating Satellite Dishes. Applicability and Administration:

- A. The approval standards contained within this section apply to satellite dishes over four (4) feet in diameter. Satellite dishes four (4) feet or less in diameter shall be subject to the provisions of *Section 11.40.21, Accessory Uses*.
- B. A satellite dish shall be a use permitted outright in any zone provided the approval standards within this section are satisfied.
- C. Notwithstanding any other provision of the code, the provisions of this section shall be administered and enforced by the Community Development Director.
- D. Any decision of the Community Development Director relating to the landscaping requirements of the section may be appealed by the applicant to the Planning Commission. The applicant shall file a notice of appeal of the Community Development Director's decision with the Community Development Director not more than ten (10) days after the date of the Community Development Director's decision. The appeal shall be scheduled on the agenda of the Planning Commission within forty-five (45) days of the date the notice of appeal is filed with the Community Development Director. The decision of the Planning Commission may be appealed to the City Council in accordance with the provisions and procedure of *Section 11.10.39*.
- E. Approval Standards. No satellite dish shall be located within:
 - 1. Any required yard area within any zone; and
 - 2. A front yard or street side yard in any residential zone.
- F. When a satellite dish is placed within the front yard or a street side yard in a non residential zone, the dish shall be screened by landscaping materials selected by the Community Development Director from a landscaping materials list adopted by the City Council to be used in connection with the administration and enforcement of this section. The materials at the time of planting shall be at least four (4) feet in height above the ground level, shall be fully branched and shall be planted at such distance apart as to create a sight obscuring screen. The owner of the property or the person or entity having the use and possession of the

property shall be required to maintain the landscaping materials so that the same are living, free from disease and provide the screening in conformance with the standards of this section.

- G. Exception. A landscaping screen shall not be required in situations where the satellite dish is screened from view from adjoining properties by an existing fence, hedge or landscaping screen.
- H. Enforcement. Failure to replace diseased or dead plant material which screens a satellite dish shall be a violation of this ordinance and shall require the removal of the satellite dish from the front yard area.

40.24 Projections from Buildings. Cornices, eaves, canopies, sunshades, gutters, chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other similar architectural features may project not more than two (2) feet into a required yard or into required open space as established by coverage standards.

40.25 General Exception to Building Height Limitations. The following types of structures or structural parts are not subject to the building height limitations of this ordinance: chimneys, tanks, spires, belfries, domes, monuments, fire and hose towers, observation towers, masts, antennas, aerials, ventilators, cooling towers, elevator shafts, transmission towers, smokestacks, flagpoles, and other similar projections.

40.26 Uses Requiring Special Regulation. In addition to other standards and requirements by this ordinance, all uses included in this section shall comply with the provisions stated herein. Should a conflict arise between the requirements of this section and other requirements of this ordinance, the more restrictive provision shall control.

- A. Kennels, Riding Academies and Stables. Kennels, riding academies and stables shall be located not less than two hundred (200) feet from any lot line. Applications for such use when required by this ordinance shall include information which describes the applicant's intended actions to insure that odors, dust, noise, and drainage from the use will not create a nuisance, hazard or health problem to adjoining property uses.
- B. Nursery Schools, Day or Child Care Facilities. Nursery schools and day or child care facilities shall provide and thereafter maintain outdoor play areas with a minimum area of one hundred (100) square feet per one-third (1/3) the total licensed capacity of children. The Community Development Director may approve reduction of this requirement if the facility cares only

for infants up to six (6) months in age. In all districts, a fence of at least five (5) feet but not more than six (6) feet in height shall be provided separating the outdoor play area from abutting lots.

Facilities licensed for forty (40) or more children may be required to have a driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children. The Facilities Review Committee shall determine whether the special driveway design is required.

If a Conditional Use Permit is required, in addition to that normally required for a Conditional Use Permit the following information shall also be supplied:

1. The maximum number of children the facility is proposed to be licensed to care for;
2. Ages of the children to be cared for;
3. List of any exceptions to the rules governing standards for day care facilities the applicant will be applying for to the Children's Services Division.

- C. Drop Boxes. Recycling receptacles or charity drop boxes shall not be located in any residential district or in any public right-of-way. Recycling receptacles or charity drop boxes are permitted in any commercial or industrial zone. Recycling receptacles and charity boxes proposed for a mixed-use zone (i.e. Main Street Plan) shall apply for the appropriate permits to authorize placement.
- D. Park'n Ride Facilities. A Park'n Ride facility is a parking facility near a transit station or stop for the purpose of parking motor vehicles by transit riders. Approved off-street parking lots connected with a non-residential use may be used jointly as park'n ride lots if, by determination of the Facilities & Design Review Committee, the Park'n Ride use will not conflict with the parking needs of the site's principal use both in terms of traffic volume and hours of use, and as long as there are no specific conditions placed on the site by Facilities & Design Review, the Planning Commission, or the City Council which would preclude such use. Park'n Ride lots as principal uses are permitted in those zones allowing parking structures and surface parking lots.

40.27 Clear Vision Areas. Except in the Main Street District, a clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad, or a driveway providing vehicular access to public street.

- A. On corner lots in any zone, no fence, berm, wall, hedge or other planting or structure that will impede visibility between a height of thirty (30") inches and ten (10) feet above the centerline grades of the intersecting streets shall be erected, planted, placed or maintained, and no vehicle, fence, wall, hedge or other planting or structure so impeding visibility shall be placed within the triangular area formed by the right-of-way lines at such corner lots and a straight line adjoining said right-of-way lines at points which meet the distance from the intersection of the right-of-way lines and measured along such lines as specified in diagram below. If the relation of the surface of the lot to the streets is such that visibility is already obscured, nothing shall be done to increase the impediment to visibility within the vertical and horizontal limits set forth above.

Clear Vision Area Diagram

- B. A private access shall be treated as a public street for the purpose of this section. The edge of the paved surface area of the private access, be it roadway, curb or sidewalk, shall be treated as the right-of-way line in determining the vision clearance area.
- C. The requirements of visibility at intersections in the Main street District shall be determined on a case by case basis by the Facilities and Design Review Committee in accordance with traffic and transportation engineering standards.

(Sections 11.804 through 11.805 inclusive and Sections 11.808 through 11.816 inclusive amended and renumbered to Section 11.40.20 through 11.40.27., inclusive by Ordinance No. 810, May 1, 2000)

11.40.30 SOLAR ACCESS FOR NEW DEVELOPMENT

40.31 Purpose. The purpose of *Section 11.40.30* are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

40.32 Applicability. The solar design standard in *Section 11.40.30* shall apply to applicants for a development to create lots in all single-family residential zones and for single family detached dwellings in any zone, except to the extent the approval authority finds that the applicant has shown one (1) or more of the conditions listed in *Section 11.40.30* exist, and exemptions or adjustments provided for therein are warranted.

- A. Design Standard. At least eighty (80) percent of the lots in a development subject to *Sections 11.40.30. through 11.40.32.*, shall comply with one (1) or more of the options in this section.
1. Basic Requirement (see Figure 9, Pg. SR-38E). A lot complies *with Section 11.40.30* if it:
 - a. Has a north-south dimension of ninety (90) feet or more; and
 - b. Has a front lot line that is oriented within thirty (30) degrees of a true east-west axis.
- B. Protected Solar Building Line Option (see Figure 10, Pg. SR-38E). In the alternative, a lot complies with *Section 11.40.30.*, if a solar building line is used to protect solar access as follows:
1. A protected solar building line for the lot to the north is designated on the plat, or documents recorded with the plat; and
 2. The protected solar building line for the lot to the north is oriented within thirty (30) degrees of a true east-west axis; and
 3. There is at least seventy (70) feet between the protected solar building line on the lot to the north and the middle of the north-south dimension of the lot to the south, measured along a line perpendicular to the protected solar building line; and
 4. There is at least forty-five (45) feet between the protected solar building line and the northern edge of the buildable area of the lot, or habitable structures are situated so that at least eighty (80) percent of their south-facing wall will not be shaded by structures or non-exempt vegetation.
- C. Performance Option. In the alternative, a lot with *Section 11.40.32.A.*, if:
1. Habitable structures built on that lot will have their long axis oriented within thirty (30) degrees of a true east-west axis and at least eighty (80) percent of their ground floor south wall protected from shade by structures and non-exempt trees; or

2. Habitable structures built on that lot will have at least thirty-two (32) percent of their glazing and five hundred (500) square feet of their roof area which faces within thirty (30) degrees of south and is protected from shade by structures and non-exempt trees.
- D. Exemptions from Design Standard. A development is exempt from *Section 11.40.30*, if the Planning Commission finds the applicant has shown that one (1) or more of the following conditions apply to the site. A development is partially exempt from *Section 11.40.30* to the extent the Planning Commission finds the applicant has shown that one (1) or more of the following conditions apply to a corresponding portion of the site. If a partial exemption is granted for a given development, the remainder of the development shall comply with *Section 11.40.30*.
1. Slopes. The site, or a portion of the site for which the exemption is sought, is sloped twenty (20) percent or more in a direction greater than forty-five (45) degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor.
 2. Off-site shade. The site, or a portion of the site for which the exemption is sought is within the shadow pattern of off-site features, such as, but not limited to, structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.
 - a. Shade from an existing or approved off-site dwelling in a single family residential zone and from topographic features is assumed to remain after development of the site.
 - b. Shade from an off-site structure in a zone other than a single family residential zone is assumed to be the shadow pattern of the existing or approved development thereon or the shadow pattern that would result from the largest structure allowed the closest setback on adjoining land, whether or not that structure now exists.
 - c. Shade from off-site vegetation is assumed to remain after development of the site if: the trees that cause it are situated in a required setback; or they are part of a developed area, public park, or legally reserved open space, or they are in or separated from the developable remainder of a parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law.
 - d. Shade from other off-site sources is assumed to be shade that exists or that will be cast by development for which applicable local permits have been approved on the date a complete application for the development is filed.
 3. On-site shade. The site, or a portion of the which the exemption is requested, is:

- a. Within the shadow pattern of on-site features such as, but not limited to, structures and topography which will remain after the development occurs; or
 - b. Contains non-exempt trees at least thirty (30) feet tall and more than six (6) inches in diameter measured four (4) feet above the ground which have a crown cover over at least eighty (80) percent of the site or relevant portion. The applicant can show such crown cover exists using scaled survey or an aerial photograph. If granted, the exemption shall be approved subject to the condition that the applicant preserve at least fifty (50) percent of the trees that cause the shade that warrants the exemption. The applicant shall file a note on the plat or other documents in the office of the County Recorder binding the applicant to comply with this requirement. The City shall be made a part of any covenant or restriction created to enforce any provision of this code. The covenant or restriction shall not be amended without written city approval.
- E. Adjustments to Design Standard. The Planning Commission shall reduce the percentage of lots that must comply with *Section 11.40.30* to the minimum extent necessary if it finds the applicant has shown one (1) or more of the following site characteristics apply.
- 1. Density and cost. If the design standard in *Section 11.40.30* is applied, either the resulting density is less than that proposed, or on-site development costs (e.g. grading, water, storm drainage and sanitary systems, and roads) and solar related off-site development costs are at least five (5) percent more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with *Section 11.40.30* would reduce density or increase per lot costs in this matter. The applicant shall show which if any of these or other similar site characteristics apply in an application for a development.
 - a. The portion of the site for which the adjustment is sought has a natural grade that is sloped ten (10) percent or more and is oriented greater than forty-five (45) degrees east or west of true south based on a topographic survey of the site by a professional land surveyor.
 - b. There is a significant natural feature on the site, identified as such in the comprehensive plan or development code that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.
 - c. Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given

streets or lots in the development from being oriented for solar access.

- c. An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

Development amenities. If the design standard in *Section 11.40.30* applies to a given lot or lots, significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with *Section 11.40.30* is relevant to whether a significant development amenity is lost or impaired.

- 2. Existing shade. Non-exempt trees at least thirty (30) feet tall and more than six (6) inches in diameter measured four (4) feet above the ground have a crown cover over at least eighty (80) percent of the lot and at least fifty (50) percent of the crown cover will remain after development of the lot. The applicant can show such crown cover exists using a scaled survey of non-exempt trees on the site or using an aerial photograph.
 - a. Shade from non-exempt trees is assumed to remain if: the trees are situated in a required set back; or they are part of an existing or proposed park, open space, or recreational amenity; or they are separated from the developable remainder of their parcel by an undevelopable area or feature; or they are part of landscaping required pursuant to local law; and they do not need to be removed for a driveway or other development.
 - b. Also, to the extent the shade is caused by on-site trees or off-site trees on land owned by the applicant, it is assumed to remain if the applicant files in the office of the county recorder a covenant binding the applicant to retain the trees causing the shade on the affected lots.

F. Protection from Future Shade. Structures and non exempt vegetation must comply with *Sections 11.40.33 through 11.40.35* (Solar Balance Point for existing lots) if located on a lot that is subject to the solar design standard in *Section 11.40.30* or if located on a lot south of and adjoining a lot that complies with *Section 11.40.30*. The applicant shall file a note on the plat or other documents in the office of the county recorder binding the applicant and subsequent purchasers to comply with the future shade protection standards in *Section 11.40.30*. The city shall be made a party of any covenant or restriction created to enforce any provision of this ordinance. The covenant or restriction shall not be amended without written city approval

G. Application. An application for approval of a development subject to *Section 11.40.30* shall include:

1. Maps and text sufficient to show the development complies with the solar design standard of *Section 11.40.30*, except for lots for which an exemption or adjustment from *Section 11.40.30* is requested, including at least:
 - a. The north-south lot dimension and front lot line orientation of each proposed lot.
 - b. Protected solar building lines and relevant building site restrictions, if applicable.
 - c. For the purpose of identifying trees exempt from *Section 11.40.32.E*, a map showing existing trees at least thirty (30) feet tall and over six (6) inches diameter at a point four (4) feet above grade, indicating their height, diameter and species, and stating that they are to be retained and are exempt.
 - d. Copies of all private restrictions relating to solar access.
 2. If an exemption or adjustment to *Section 11.40.32.A* is requested, maps and text sufficient to show that given lots or areas in the development comply with the standards for such an exemption or adjustment in *Section 11.40.32.D or E*.
- H. Process Compliance with the standards in *Section 11.40.30* shall be determined using a Type III procedure specified in *Section 11.10.31.C*

(Sections 11.300 through 11.314 inclusive renumbered to Section 11.40.30 through 11.40.32., inclusive by Ordinance No. 810, May 1,2000)

11.40.33 SOLAR BALANCE POINT

40.34 Purpose. The purposes of *Section 11.40.33* is to promote the use of solar energy, to minimize shading of structures by structures and accessory structures, and, where applicable, to minimize shading of structures by trees. Decisions related to *Section 11.40.33* is intended to be ministerial.

40.35 Applicability. This ordinance applies to an application for a building permit for all structures in all single family zones and for detached single-family structures in any zone, except to the extent the approval authority finds the applicant has shown that one (1) or more of the conditions listed in *Section 11.40.35.C or D.*, exist and exemptions or adjustments provided for there are warranted. In addition, non-exempt vegetation planted on lots subject to the provisions of *Section 11.40.32.E* shall comply with the shade point height standards as provided in *Section 11.40.35.B. and 11.40.35.C*

- A. **Solar Site Plan Required.** An applicant for a building permit for a structure subject to *Section 11.40.35.B. and 11.40.35.C.*, shall submit a site plan that shows the maximum shade point height allowed under *Section 11.40.35.B.*, and the allowed shade on the proposed structure's solar features as provided in *Section 11.40.35.E.* If applicable, the site plan also shall show the solar balance point for the structure as provided in *Section 11.40.35.F.*
- B. **Maximum Shade Point Height Standard.** The height of the shade point shall comply with either subsection 1 or 2 below.
1. **Basic Requirement.** The height of the shade point shall be less than or equal to the height specified in Table A or computed using the following formula. If necessary interpolate between the five (5) foot dimensions listed in Table A.

$$H = \frac{(2 \times \text{SRL}) - N + 150}{5}$$

- Where:
- H = the maximum allowed height of the shade point (see Figures 4 and 5).
 - SRL = shade reduction line (the distance between the shade point and the northern lot line, see Figure 6); and
 - N = the north-south lot dimension, provided that a north-south lot dimension more than ninety (90) feet shall use a value of ninety (90) feet for this section. And, provided the maximum allowed height of the shade point may be increased one (1) foot above the amount calculated using the formula or Table A for each foot that the average grade at the rear property line exceeds the average grade at the front property line.

**TABLE A
MAXIMUM PERMITTED SHADE POINT HEIGHT (In Feet)**

Distance to Shade 100+ 40 Reduction Line from northern lot line (in feet)	North-south lot dimension (in feet)											
	95	90	85	80	75	70	65	60	55	50	45	
70	40	40	41	42	43	44						
65	38	38	39	40	41	42	43					
60	36	36	37	38	39	40	41	42				
55	34	34	35	36	37	38	39	40	41			
50	32	32	33	34	35	36	37	38	39	40	41	
45	42	30	31	32	33	34	35	36	37	38	39	
40	40	28	29	30	31	32	33	34	35	36	37	
35	38	26	27	28	29	30	31	32	33	34	35	
30	36	24	25	26	27	28	29	30	31	32	33	
25	34	22	23	24	25	26	27	28	29	30	21	
20	32	20	21	22	23	24	25	26	27	28	29	
15	30	18	19	20	21	22	23	24	25	26	27	
10	28	16	17	18	19	20	21	22	23	24	25	
5	26	14	15	16	17	18	19	20	21	22	20	
	24											

(2) Performance Option. The proposed structure, or applicable non-exempt vegetation, will shade not more than twenty (20) percent of the south-facing glazing of existing habitable structure(s), or, where applicable, the proposed structure or non-exempt vegetation comply with *Section 11.40.32.A*. If *Section 11.40.32.B.*, Protected Solar Building Line is used, non-exempt trees and the shade point of

structures back from the protected solar building line two and one-half (2.5) feet for every one (1) foot of height of the structure or of the mature height of non-exempt vegetation over two (2) feet.

- C. Exemption from the Maximum Shade Point Height Standard. The Community Development Director or his designee shall exempt a proposed structure or non-exempt vegetation from *Sections 11.40.35.A and B*, if the applicant shows that one (1) or more of the conditions in this section exist, based on plot plans or plats, corner elevations or other topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.
1. Exempt Lot. When created, the lot was subject to *Sections 11.40.31 – 32* and was not subject to the provisions of *Section 11.40.32.E*.
 2. Pre-exist Shade. The structure or applicable non-exempt vegetation will shade an area that is shaded by one (1) or more of the following:
 - a. An existing or approved building or structure;
 - b. A topographic feature;
 - c. A non-exempt tree that will remain after development of the site. It is assumed a tree will remain after development if it: is situated in a building setback required by this code; is part of a developed area or landscaping required by this code, a public park or landscape strip, or legally reserved open space; is in or separated from the developable remainder of a parcel by an undevelopable area or feature; or is on the applicant's property and not affected by the development. A duly executed covenant also can be used to preserve trees causing such shade.
 3. Slope. The site has an average slope that exceeds twenty (20) percent in a direction greater than forty-five (45) degrees east or west of true south topographic survey by a licensed professional land surveyor.
 4. Insignificant Benefit. The proposed structure or non-exempt vegetation shades one (1) or more of the following:
 - a. An undevelopable area; or
 - b. The wall of an unheated space, such as a typical garage; or
 - c. Less than twenty (20) square feet of south-facing glazing.
 5. Public Improvement. The proposed structure is a publicly owned improvement.
- D. Adjustments to the Maximum Shade Point Height Standard. The Community Development Director shall increase the maximum permitted height of the shade point determined using *Section 11.40.35.B* to the extent it finds the applicant has shown one (1) or more of the following conditions exist, based on plot plans or plats, corner elevations or other

topographical data, shadow patterns, suncharts or photographs, or other substantial evidence submitted by the applicant.

1. Physical Conditions. Physical conditions preclude development of the site in a manner that complies with *Section 11.40.35.B* due to such things as a lot size less than 3000 square feet, unstable or wet soils, or a drainage way, public or private easement, or right of way.
 2. Conflict between the Maximum Shade Point Height and Allowed Shade on the Solar Feature Standards. A proposed structure may be sited to meet the solar balance point standard described in *Section 11.40.35.A*. or be sited as near to the solar balance point as allowed by *Section 11.40.35.F.*, if:
 - a. When the proposed structure is sited to meet the maximum shade point height standard determined using *Section 11.40.35.B* its solar feature will potentially be shaded as determined using *Section 11.40.35.E.* and
 - b. The application includes a form provided by the City that:
 - (i) Releases the applicant from complying with *Section 11.40.35.B* and agrees that the proposed structure may shade an area otherwise protected by *Section 11.40.35.B*
 - (ii) Releases the City from liability for damages resulting from the adjustment; and
 - (iii) Is signed by the owner(s) of the properties that would be shaded by the proposed structure more than allowed by the provisions of *Section 11.40.35.B*
 - c. Before the City issues a permit for a proposed structure for which an adjustment has been granted pursuant to *Section 11.40.35.D* the applicant shall file the form provided for in *Section 11.40.35.D* above in the office of the county recorder with the deeds to the affected properties.
- E. Analysis of Allowed Shade on Solar Feature.
1. The applicant is exempt from *Section 11.40.35.E.*, if the lot(s) south of and adjoining the applicant's property is exempt from *Section 11.40.35.B.*
 2. Applicants shall be encouraged to design and site a proposed habitable structure so that the lowest height of the solar feature(s) will not be shaded by buildings or non-exempt trees on lot(s) to the south. The applicant shall complete the following calculation procedure to determine if the solar feature(s) of the proposed structure will be shaded. To start, the applicant shall choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:

- a. Existing structure(s) or non-exempt trees; or
 - b. The maximum shade that can be cast from future buildings or non-exempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension shall be assumed to be the minimum lot width required for a new lot in that zone.
3. The height of the lowest point of any solar feature of the proposed structure shall be calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.
 4. The applicant shall determine the height of the shadow that may be cast upon the applicant's solar feature by the source of shade selected in *Section 11.40.35.E.4.* by using the following formula or Table B.

$$\text{SFSH} = \text{SH} - (\text{SGL} / 2.5)$$

Where:

SFSH = the allowed shadow height on the solar feature (see Figure 8, Pg. SR-38D).

SH = the height of the shade at the northern lot line of lot(s) to the south as determined in *Section 11.40.35.E.*

SGL = the solar gain line (the distance from the solar feature to the northern lot line of adjacent lot(s) to the south, see Figure 7, Pg. SR-38D)

**TABLE B
MAXIMUM PERMITTED HEIGHT OF SHADOW AT SOLAR FEATURE (In Feet)**

Allowed Shade Height at Northern Lot Line of Adjacent Lot(s) to the South (In Feet)

Distance from
Solar Gain Line
to lot line (in Feet)

	<u>22</u>	<u>21</u>	<u>20</u>	<u>19</u>	<u>18</u>	<u>17</u>	<u>16</u>	<u>15</u>	<u>14</u>	<u>13</u>	<u>12</u>
50	2	1									
45	4	3	2	1							
40	6	5	4	3	2	1					
35	8	7	6	5	4	3	2	1			
30	10	9	8	7	6	5	4	3	2	1	
25	12	11	10	9	8	7	6	5	4	3	2
20	14	13	12	11	10	9	8	7	6	5	4
15	16	15	14	13	12	11	10	9	8	7	6
10	18	17	16	15	14	13	12	11	10	9	8
5	20	19	18	17	16	15	14	13	12	11	10

Table C may be used to determine (SH) in the above formula.

TABLE C

North-south lot

dimension of adjacent lot(s) to the south	100	95	90	85	80	75	70	65	60	55	50	45	40
Allowed shade height at the north property line of adjacent lot(s) to south	12	12	12	13	14	15	16	17	18	19	20	21	22

- If the allowed shade height on the solar feature calculated in *Section 11.40.35.E* is higher than the lowest height of the calculated in

Section 11.40.35.E the applicant shall be encouraged to consider any changes to the house design or location which make it practical to locate the solar feature so that it will not be shaded in the future.

- F. Solar Balance Point. If a structure does not comply with the maximum shade point height standard in *Section 11.40.35.B.* and the allowed shade on a solar feature standard in *Section 11.40.35.E.*, then the solar balance point of the lot shall be calculated (see Figure 8, Pg. SR-38D). The solar balance point is the point on the lot where a structure would be the same from complying with both of these standards.
- G. Yard Setback Adjustment. The City shall grant an adjustment to the side, front, and/or rear yard setback requirement(s) by up to fifty (50) percent if necessary to build a proposed structure so it complies with either the shade point height standard in *Section 11.40.35.B.*, the allowed shade on a solar feature standard in *Section 11.40.35.E.*, or the solar balance point standard in *Section 11.40.35.A.* (see Figure 8). This adjustment is not intended to encourage reductions in available solar access or unnecessary modification of setback requirements, and shall apply only if necessary for a structure to comply with the applicable provisions of *Section 11.40.33.* [The following list illustrates yard adjustments permitted under this section:]
1. R-7 Zone:
 - a. A front yard setback may be reduced to not less than ten (10) feet.
 - b. A rear yard setback may be reduced to not less than three (3) feet.
A side yard setback may be reduced to not less than three feet.
 2. R-10 Zone:
 - a. A front yard setback may be reduced to not less than thirteen (13) feet.
 - b. A rear yard setback may be reduced to not less than thirteen (13) feet.
 - c. A side yard setback may be reduced to not less than five (5) feet.
- H. Review Process. Compliance with the standards in *Section 11.40.33.* shall using a Type I procedure specified in *Section 11.10.31.A.*

(Sections 11.320 through 11.338 inclusive renumbered to Section 11.40.33 through 11.40.35., inclusive by Ordinance No. 810, May 1, 2000)

11.40.36 SOLAR ACCESS PERMIT

40.37 Purpose. The purpose of *Section 11.40.36* is to protect solar access to solar features on lots designated or used for a single family detached dwelling under some circumstances. It authorizes owners of such lots to apply for a permit that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site.

40.38 Applicability. An owner or contract purchaser of property may apply for and/or be subject to a solar access permit for a solar feature if that property is in an R-7 or R-1O zone, or is or will be developed with a single family dwelling. The city's decision whether or not to grant a solar access permit is intended to be ministerial.

- A. Approval Standards for a Solar Access Permit. The Community Development Director or his designee shall approve an application for a solar access permit by a Type I procedure if the applicant shows:
1. The application is complete;
 2. The information it contains is accurate; and
 3. Non-exempt vegetation on the applicants property does not shade the solar feature.
- B. Duties Created by Solar Access Permit.
1. A party to whom the City grants a solar access permit shall:
 - a. Record the permit, legal descriptions of the properties affected by the permit, the solar access height limit, and the site plan required in *Section 11.40.38.C.3.*, with such modifications as required by the Community Development Director in the office of the County Recorder with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and pay the fees for such filing;
 - b. Install the solar feature in a timely manner as provided In *Section 11.40.38.F.*; and
 - c. Maintain non-exempt vegetation on the site so it does not shade the solar feature.
 2. An owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping non-exempt vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the site plan required in *Section 11.40.38.C.3.*, vegetation an owner shows was in the ground on the date an application for a solar access permit is filed, and solar friendly vegetation are exempt from the solar access permit.

- C. Application Contents. An application for a solar access permit shall contain the following information:
1. Unless part of a proposed subdivision, a legal description of the applicant's lot and a legal description, owners' names, and owners' addresses for lots all or a portion of which are within one hundred and fifty (150) feet of the applicant's lot and fifty-four (54) degrees east and west of true south measured from the east and west corners of the applicant's south lot line. The records of the Washington County Department of Assessment and Taxation shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected.
 2. A scaled plan of the applicant's property showing:
 - a. Vegetation in the ground as of the date of the application if, when mature, that vegetation could shade the solar feature.
 - b. The approximate height above grade of the solar feature, its location, and its orientation relative to true south.
 3. A scaled plan of the properties on the list required in *Section 11.40.38.C.1.* above showing:
 - a. Their approximate dimensions; and
 - b. The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property.
 4. For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit (see Figure 11, Pg. SR-38F). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five (5) foot increments at an angle to the south not less than 21.3 degrees from the horizon and extend not more than fifty-four (54) degrees east and west of true south. Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow non-exempt vegetation on that lot whose height causes not more shade on the benefitted property than could be caused by a structure that complies with *Section 11.40.33.* Solar Balance Point Ordinance, for existing lots.
 5. A fee as required by resolution of the City Council. If reviewed in conjunction with a proposed subdivision no additional fee shall be charged, and the application will be processed consistent with subdivision regulations.
 6. If available, a statement signed by the owner(s) of or all of the property(ies) to which the permit will apply if granted verifying that the vegetation shown on the plan submitted pursuant to *Section 11.40.38.C.3.*, above accurately represents vegetation in the ground

on the date of the application. The City shall provide a form for that purpose. The signed statements provided for herein are permitted but not required for a complete application.

D. Application Review Process.

1. Unless waived by the Community Development Director, prior to filing an application for a solar access permit, an applicant's representative shall pay the required application fee and meet with the Community Development Director to discuss the proposal and the requirements for an application. If a meeting is held, the Community Development Director shall convey a written summary of the meeting to the applicant by mail within five (5) calendar days of the meeting.
2. After the pre-application meeting is held or waived, the applicant may file an application containing the information required in *Section 11.40.38.C*.
3. Within five (5) working days after an application is filed, the Community Development Director shall determine whether the application is complete and if it is not complete, notify the applicant in writing, and specify what is required to make it complete.
4. Within fourteen (14) calendar days after the responsible official decides an application for a solar access permit is complete, the Community Development Director shall issue a written decision tentatively approving or denying the request, together with reasons therefore, based on the standards of *Section 11.40.38.A*.
 - a. If the tentative decision is to deny the permit, the responsible official shall mail a copy of the decision to the applicant.
 - b. If the tentative decision is to approve the permit, and the owners of all affected properties did verify the accuracy of the plot plan as permitted under *Section 11.40.38.C.6.*, the Community Development Director shall mail a copy of the decision to the applicant and affected parties by certified mail, return receipt requested.
 - c. If the tentative decision is to approve the permit, and the owners of all affected properties did not verify the accuracy of the plot plan as permitted under *Section 11.40.38.C.6.*, the Community Development Director shall send a copy of the tentative decision to the applicant and to the owners of affected properties who did not sign the verification statement pursuant to *Section 11.40.38.C.6.*, by certified mail return receipt requested. If the Community Development Director determines at the owners of a given property affected by the permit are not the occupants of that property, then the Community Development Director also shall send a copy of the notice to the occupants of such property.

- (i) The notice sent to the applicant shall include a sign that says a solar access permit for the property has been tentatively approved, and that informs readers where to obtain more information about it. The applicant shall be instructed to conspicuously post the sign so it is visible from right-of-way adjoining the property, and to sign and return a form provided by the Community Development Director certifying that the sign was posted as provided herein not more than fourteen (14) days after the tentative decision was mailed.
 - (ii) The notice shall include the plot plans required in *Section 11.40.38.C.2. and 3.*, above, the proposed solar access height limits and duties created by the permit.
 - (iii) The notice shall request recipients to verify that the plot plan shows all non-exempt vegetation on the recipient's property, and to send the Community Development Director comments in writing within fourteen (14) calendar days after the tentative decision is mailed if the recipient believes the applicant's plot plan is inaccurate.
 - d. Within twenty-eight (28) days after notice of a tentative decision is mailed to affected parties, the Community Development Director shall consider responses received from affected parties and/or an inspection of the site, modify the plot plan and the permit to be consistent with the accurate information, and issue a final decision. The Community Development Director shall send a copy of the permit and solar access height limits to the owners of each property affected by the permit.
 - 5. If the application is approved, the applicant shall record the permit, associated solar access height limits, legal descriptions for the affected properties, and the site plan required in *Section 11.40.38.C.3.*, with such modifications as required by the Community Development Director in the office of the County Recorder with the deeds to the properties affected by it before the permit is effective.
- E. Permit Enforcement Process.
- 1. Enforcement Request. A solar access permittee may request the city to enforce the solar access permit by providing the following information to the Community Development Director:
 - a. A copy of the solar access permit and the plot plans submitted with the permit; and

- b. The legal description of the lot(s) on which alleged non-exempt vegetation is situated, the address of the owner(s) of that property, and a scaled site plan of the lot(s) showing the non-exempt vegetation; and
 - c. Evidence the vegetation violates the solar access permit such as a sunchart photograph, shadow pattern, and/or photographs.
 - 2. Enforcement Process. If the Community Development Director determines the request for enforcement is complete, he or she shall initiate an enforcement action pursuant to *Section 11.10.09*. Provided the Community Development Director shall not enforce the permit against vegetation the owner of which shows was in the ground on the date the permit application was filed with the city.
- F. Expiration and Extension of a Solar Access Permit.
 - 1. Expiration. Every permit issued by the Community Development Director under the provisions of *Section 11.40.36.*, shall expire if the construction of the solar feature protected by such permit is not commenced within of one hundred and eighty (180) days from the date of such permit, or if the construction of the solar feature protected by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred and eighty (180) days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one (1) year. If the permittee does not show construction of the solar feature will be started within of one hundred and eighty (180) days of the date of the permit or the extension, or if the solar feature is removed, the Community Development Director shall terminate the permit by recording the notice of expiration in the office of the County Recorder with the deeds to the affected properties. If attached to a subdivision, it shall expire with the plat.
 - 2. Extension. Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit when he or she is unable to commence work within the time required by this section for good and satisfactory reasons. The Community Development Director may extend the time for action by the permittee for a period not exceeding of one hundred and eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

(Sections 11.350 through 11.364 inclusive renumbered to Section 11.40.36 through 11.40.38., inclusive by Ordinance No. 810, May 1, 2000)

11.40.40 CULTURAL/HISTORIC RESOURCES

40.41 Purpose. These provisions are intended to promote the preservation and enhancement of the City's identified cultural and historic sites and artifacts. The purpose of these regulations are:

- A. To encourage public knowledge, understanding, and appreciation of the City's cultural and historic resources;
- B. To foster community, neighborhood, and ownership pride based on preservation, enhancement, and use of cultural and historic resources;
- C. To protect and enhance property values and the aesthetic quality of the community;
- D. To identify and resolve conflicts between the preservation of historic resources and alternative land uses;
- E. To facilitate restoration and upkeep of historic buildings by integrating the management of resources and relevant data into the development permit process;
- F. To provide standards and procedures for designating cultural and historic resources, allowing normal and necessary maintenance, managing restoration, and regulating alteration and demolition of identified resources.

40.42 Authority and Scope of Review. The review of development permits related to designated resources shall be consistent with the procedures set forth herein. The City Council may, by resolution, appoint a Review Commission to review special permits and/or designation of resource sites. In the absence of a Historical Review Commission, the Planning Commission shall act in the capacity for review of development requests. The scope of review on any resource site shall be limited to the exterior appearance and features of the structure. The remaining lot area and undesignated accessory structures are not subject to special review under this section.

40.43 Resource Designation. All registered cultural and historic resources shall be designated by a Cultural Historic Resources (CHR) designation on the Comprehensive Plan map. Addition or removal of a designated resource shall be managed as required by the State Historic Preservation Office (SHPO)

- A. A resource shall only be designated by upon findings of significance consistent with the State Historic Preservation Office (SHPO) policies and requirements.
- B. A resource of potential historic, cultural, or archeological significance discovered during the review of a development permit or construction at the site shall be protected by a temporary stop work, not to exceed forty-five (45) days, to allow for notification of appropriate agencies and for

preliminary findings as to the site's level of resource significance. On or before the forty-fifth day, the City Council shall hold a public hearing to determine the site appropriateness for designation.

1. If the site is found to be significant with a need for protection, the City Council shall initiate a plan amendment and the provision of this section shall apply.
 2. If negative findings are made as to significance, the City Council shall order the stop work to be lifted.
- C. Except in the case of a request for designation by the owner of a resource site, the burden of proof of significance and evaluation of conflicting use impacts shall be on the City and affected agencies or interested parties. If the owner requests designation, the burden of proof shall be on the owner.
- D. The burden of proof of compliance with permit criteria set forth herein, for exterior improvements or alterations of designated resources shall be on the applicant.
- E. The designation of a resource may be removed only by plan map amendment based upon compelling evidence that the designation was in error, is no longer of significance to the public, or that the public will benefit to a greater degree by an alternative use.
- F. The designation of a resource shall be only established with the property owners consent.

40.44 Development Permits.

- A. Any alteration of the exterior of a designated historic or cultural resource, as defined by the Uniform Building Code, or any relocation of such a resource, shall be reviewed through the appropriate review procedure as prescribed by the Community Development Director.
- B. No development permit shall be issued for exterior alteration or relocation of any designated resource or any potential resource which is under consideration for designation while a public hearing or any appeal thereof is pending.
- C. Approval of a development permit to alter the exterior of or relocate a designated resource shall be based on findings of adherence to the following guidelines:
1. Retention of original construction. All original exterior materials and details shall be preserved to the maximum extent feasible.
 2. Height. Additional stories may be added to historic buildings provided:
 - a. The added height complies with requirements of the building and development codes; and,
 - b. The added height does not exceed that which was traditional for the style of the building.

- D. Demolition of resource.
1. If a demolition permit for an identified significant historic structure is submitted, the City shall institute a sixty (60) day notice period before holding a public hearing on the matter before the Planning Commission. Notice shall be generally posted with specific notice to:
 - a. State Historic Preservation office
 - b. The county museum
 - c. Local newspaper
 - d. City Historical Commission
 2. When reviewing an application for demolition of a historic structure, the Planning Commission shall consider the following:
 - a. The state of repair of the building;
 - b. The reasonableness of the cost of restoration or repair;
 - c. The purpose of preserving such designated historical buildings and sites;
 - d. The character of the neighborhood;
 - e. Alternative to demolition, proposed by interested parties;
 - f. The proposed use of the site, if the resource is demolished;
 - g. All other factors the Planning Commission feels are appropriate.
 3. Based on the above considerations, the Planning Commission shall either:
 - a. Immediately issue a demolition permit; or
 - b. Grant an extension of up to sixty (60) days for interested parties to formulate a legitimate acquisition plan. Such alternative action must, however, be implementable within of one hundred and eighty (180) days of presentation to the Planning Commission.
 - d. If no appropriate alternative is presented after the sixty (60) day extension, the demolition permit shall be issued.
- E. Reference shall be made to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings for guidance in the review of a development permit involving a historic and cultural resource.
- F. Ordinary maintenance and repair. Nothing in *Section 11.40.43.*, shall be construed to prevent the ordinary maintenance or repair in or on any resource designated by *Section 11.40.43.*, that does not involve a change in design, material, or external appearance thereof.
- G. Abatement of a historic and cultural resource. Abatement of an unsafe building or structure may proceed, through a Type III procedure, upon findings by the review authority that the condition of the building or

structure is beyond practical repair or restoration, is a continuous threat to the safety of life or property which cannot otherwise be eliminated, or does not otherwise comply with the Uniform Building Code for the Abatement of Dangerous Buildings.

(Sections 11.092 through 11.098, inclusive, added by Ordinance No. 666, _1, December 15, 1987.)

(Sections 11.092 through 11.098 inclusive amended and renumbered to Section 11.40.40 through 11.40.44., inclusive by Ordinance No. 810, May 1, 2000)

(Section 11.40.42 and 11.40.43 amended by Ordinance 841, July 21, 2003)

11.40.50 SIGNS

Short Title. *Section 11.40.50* shall be known and may be cited as the "Sign Code" of the City of Cornelius.

40.51 Purpose. The general purpose of this Section is to provide one (1) of the principle means for implementation of the Cornelius Comprehensive Plan, to ensure continued aesthetic improvement to the City's environment, and to promote traffic safety, all by classifying and regulating the locations, size design, type and number of signs and related matters.

40.52 Authority. Permits. It is unlawful for any person to erect, alter or relocate any sign without first obtaining a sign permit and paying the required City fee. Applications for sign permits must be made on forms provided by the Community Development Department and accompanied by a scale drawing of each sign proposed.

- A. If the work authorized under a sign permit has not been started within one hundred and eighty (180) days and completed within two hundred and twenty five (225) days after the date of issuance, the permit will become null and void. The time for commencing and completing work may be extended for an additional forty-five (45) days upon showing a reasonable cause for delay, if the request for extension is filed in writing with the Community Development Director prior to the expiration of the original time period.
- B. Permits may be revoked by the Community Development Director upon failure of the holder to comply with any provision of the sign code requirements. All signs and other advertising structures must conform to adopted and applicable editions of the Uniform Building Code. In addition to other requirements, all signs shall satisfy wind and deadload requirements, and all wood parts coming into contact with the ground must be treated. All exposed sign parts must be painted or treated in a manner to prevent deterioration. When required by the building code, plans must be stamped by a registered engineer or architect licensed by the state of Oregon.
- C. Permit Fees. Prior to issuance of a sign permit, the applicant shall pay a one-time fee to the City in accordance with the adopted fee schedule.
 - 1. Fees for alteration of nonconforming signs are the same as for new signs. Signs that have faces on more than one (1) side shall be calculated by totaling the area of all sign faces.
- D. The Community Development Director may authorize the placement of seasonal displays and signs on public property, including streets and

public ways, subject to review by the Public Works Director and Building Official for compliance with public works and building code standards.

- E. Violations of the Sign Code. The Building Official and the Community Development Director or both of the city of Cornelius is hereby authorized to enforce the terms and provisions of the Sign Code.
1. Removal of Illegal Signs. If any sign or other advertising structure regulated by this or any other code has been constructed or erected or is being maintained in violation of the provisions of this or any other code, written notice will be given to the owner. If the owner or occupant of the land upon which the sign is erected fails to remove or alter the sign to comply with the applicable code within thirty (30) days after the date of said notice, the sign shall constitute a nuisance and a violation. Signs or other advertising structures, which constitute an immediate peril to persons or property, may be removed by the Building Official summarily and without notice.
 2. Approved Materials and Maintenance. All parts of any sign must be of such materials or treated in such a manner that normal rainfall, moisture or sunlight will not harm or deface the surface. Unsafe portions of the sign will be repaired or replaced, i.e., deteriorated wood or metal.
 3. Signs to Be Removed. Any sign, which no longer advertises a licensed business or product, must be removed. The owner will be notified by certified mail and asked to remove the sign within thirty (30) days.
 4. Damaged or Deteriorated Signs. All signs shall be kept in good condition and repair. Signs, which are damaged or become deteriorated shall be repaired, replaced or removed. The owner or occupant of the land upon which the sign is located shall be given written notification to repair or remove the sign, and in the event that repairs or removal are not effected within a thirty (30) day period after the date of said notice, then the Building Official shall be authorized to remove the sign at the expense of the owner.
 5. Materials and Attachment of Letters. All letters, figures or characters must be attached in a safe and secure manner as determined by the Building Official, to the sign structure.

40.53 Types of Signs. Permanent signs, Temporary signs, Prohibited signs, Existing signs and Exempt signs.

- A. Permanent signs. Signs attached to a building, structure, or the ground in some manner and of materials intended for long term use. Authorized permanent signs shall not have a time limitation. A sign permit and fee are required.

- B. Temporary signs. A sign, banner, pennant or advertising display constructed of fabric, wood, or other light materials, not permanently attached to a building structure, or the ground. A permit and fee are required.
1. Temporary signs shall be permitted for no more than forty-five (45) days.
 2. Temporary signs shall not exceed twenty-five (25) percent of the permitted sign size for the applicable zoning district.
 3. Temporary signs in residential zones shall not exceed four (4) square feet in size.
 4. Temporary signs shall not exceed six (6) feet in height.
 5. One temporary sign at a time shall be permitted per property.
 6. Temporary signs shall conform to locational requirements of permanent signs.
- C. Prohibited Signs. It is unlawful to erect, display or maintain any sign or advertising structure falling within any of the following descriptions.
1. Temporary signs, except as permitted in *Section 11.40.53.B*.
 2. Any sign located within public rights-of-way, except as identified in the Main Street Plan and in *Section 11.40.53.E*.
 3. Signs that obstruct doorways, fire escapes or windows.
 4. Signs that constitute traffic hazard. Signs shall not be erected or placed so as to obstruct free and clear vision or, by reason of their position, shape or color, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
 5. Signs adjacent to rights-of-way may not protrude into the right-of-way.
 6. Signs that interfere with the operation and maintenance of public or private utilities.
 7. Roof signs, except by approval of a Conditional Use Permit.
- D. Existing Signs. All signs existing prior to May 1, 2000, and all signs erected after May 1, 2000, which are in compliance with applicable sign regulations in effect on May 1, 2000, so long as they are maintained, both cosmetically and structurally, shall be lawful.
1. Nonconforming signs. A nonconforming sign shall not be changed, enlarged, or altered without complying with the existing sign code. A nonconforming sign is a lawful sign that exists on the effective date of adoption or amendment of this code, which is not in compliance with applicable sign regulations in effect on May 1, 2000.
- E. Exempt Signs shall conform to the standards of this section. No fee or permit will be required for the following:

1. Architect, engineer or contractor signs on a job site, which do not exceed thirty two (32) square feet in area, and are removed within five (5) days of the completion of the project.
2. Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs, public/semi-public signs and such temporary emergency or non-advertising signs as may be approved.
3. Signs or banners on or over public thoroughfares within the city, erected by city personnel.
4. Temporary sign on a lot zoned for residential use.
5. Signs affixed to the interior of a window.

40.54 Limitations on Permitted Signs: Number, Height, Size and Location.

- A. Height shall not exceed twenty (20) feet from grade to top of sign for freestanding and/or ground signs. The height of a sign shall be measured from the finished ground level, excluding mounds, berms, etc., to the top of the sign or the highest portion of the sign structure or frame, whichever is greater.
- B. Size. The size of a sign shall be the entire area within any type of perimeter or border, which encloses the outer limits of any writing, representation, emblem, figure, or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area with a parallelogram or a triangle of the smallest size sufficient to cover the entire area of the sign and computing the area of the parallelogram or a triangle. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign. Conforming and/or nonconforming signs in existence at the time of the enactment of this ordinance shall be counted in establishing the permitted area or size of all new signs to be allowed on the property. The total area of all signs (freestanding and wall) on any one (1) piece of property may not exceed the maximum permitted under *Section 11.40.54.B.*
 1. Ground and freestanding signs as defined in *Section 11.60.00., Definitions*, may be permitted on any street, but may not protrude into the right-of-way, except as defined in the Main Street District. All signs shall comply with the vision clearance standards. Ground and/or freestanding signs shall be allowed per business establishment or tax lot, whichever is less. Tax lots created by fee ownership land division and contiguous tax lots under the one (1) ownership shall be considered one (1) tax lot for the purposes of calculating the number of freestanding signs allowed.

The maximum overall dimensions or maximum area of such signs may not exceed the following:

Commercial and Industrial Zoning Districts

	C2	CE	MS	M1
A. Number	1	1	1	1
B. Size (Maximum sq. ft. for all faces combined)	64'	64'	36'	64'
C. Size (Maximum for any one face)	32'	32'	18'	32'
D. Height Maximum	20'	20'	16'	20'

- a. No permanent ground sign may be within thirty (30) feet (measured diagonally at corner locations) of another permanent ground sign.
 - b. In the case of a through lot which has a distance of two hundred (200) feet or greater at its shortest measurement point between the streets, and the frontages are on streets which have a collector or higher status, a freestanding sign may be placed on each street frontage, so long as all freestanding signs on the lot are a minimum of two hundred (200) feet apart.
 - c. In the Main Street District signs shall emphasize pedestrian orientation. Signs shall project no more than two (2) feet out from a building elevation, or twelve (12) inches into a pedestrian space (i.e. sidewalks, courtyards, etc.). Signage projecting into ODOT right-of-way shall be subject to ODOT standards. Sign lettering in the Main Street District shall not exceed twelve (12) inches in height. Movable/portable outdoor signs or displays shall be limited to business hours only and are subject to approval of the appropriate permits.
2. Wall signs shall be permitted for each business not to exceed twenty (20) percent of a linear building face. The twenty (20) percent may be divided among the building faces. For example, ten (10) percent of two (2) building faces or five (5) percent of four (4) building faces. The area of each sign shall be computed by applying the allowable percentage to the wall to which the sign will be attached. The building front includes all wall and window area. The twenty (20) percent shall include the total area of all lettering,

characters or designs. The background color or colors will also be included in the case of trademarks. No wall sign shall project more than of twelve (12) inches from the wall surface it is attached to, except for awnings that serve as coverage for the sidewalk.

40.55 Master Sign Program. For developments containing three (3) or more businesses or that exceed three hundred (300) feet in lineal street frontage, a master sign program may be required by the Planning Commission through the Site Design Review process.

40.56 Conditional Use Permits for Signs. Certain signs may require special consideration where unique conditions involving topography, nonconforming uses and/or structures, size or shape of property, regulatory requirements, building design, or other situations exist. An application to request a Conditional Use Permit for a sign(s) shall be made per *Section 11.30.30* and the appropriate fee paid.

(Sections 11.202 through 11.226 inclusive amended and renumbered to Section 11.40.50 through 11.40.56., inclusive by Ordinance No. 810, May 1, 2000)

11.40.60 TRANSPORTATION FACILITIES

40.61 Purpose and Intent. It is the purpose and intent of this chapter to establish design standards and performance requirements for all streets and other transportation facilities constructed or reconstructed within the City of Cornelius.

40.62 General Provisions.

- A. All transportation facilities shall be designed and improved in accordance with the standards of this code and the Public Works Public Utilities Design Standards. In addition, when development abuts or impacts a transportation facility under the jurisdiction of one or more other governmental agencies, the City shall condition the development to obtain permits required by the other agencies.
- B. In order to protect the public from potentially adverse impacts of the proposal, to fulfill an identified need for public services related to the development, or both, development shall provide traffic capacity, traffic safety, and transportation improvements in proportion to the identified impacts of the development.
- C. For applications that meet the threshold criteria of *Section 11.40.63.B* Traffic Impact Analysis, this analysis or limited elements thereof may be required.
- D. The decision-making authority may impose development conditions of approval per the Development & Zoning Code. Conditions of approval may be based on the Traffic Impact Analysis.
- E. Dedication of right-of-way shall be determined by the decision-making authority.
- F. Traffic calming may be approved or required by the decision-making authority in a design of the proposed and/or existing streets within the Area of Influence or any additional locations identified by the City Engineer. Traffic calming measures shall be designed to City standards.
- G. Intersection performance shall be determined using the Highway Capacity Manual 2000 published by the Transportation Research Board. The City Engineer may approve a different intersection analysis method prior to use when the different method can be justified. Terms used in this subsection are defined in the Highway Capacity Manual 2000.

40.63 Traffic Impact Analysis. For each development proposal that exceeds the Analysis Threshold of *Section 11.40.63.B*, the application for land use or design review approval shall include a Traffic Impact Analysis as required by this code. The Traffic Impact Analysis shall be based on the type and intensity of the proposed land use change or development and its estimated level of impact to the existing and future local and regional transportation systems.

- A. Engineer Certification. The Traffic Impact Analysis shall be prepared and certified by a traffic engineer or civil engineer licensed in the State of Oregon.
- B. Analysis Threshold. A Traffic Impact Analysis is required when the proposed land use change or development will generate 200 vehicles or more per day (vpd) in average weekday trips as determined by the City Engineer.
- C. A Traffic Impact Analysis or some elements of a Traffic Impact Analysis may be required when the volume threshold under subsection A. of this section is not met but the City Engineer finds that the traffic impacts attributable to the development have the potential to significantly impact the safe and efficient operation of the existing public transportation system.
- D. Study Area. The Traffic Impact Analysis shall evaluate the Area of Influence of the proposed development and all segments of the surrounding transportation system where users are likely to experience a change in the quality of traffic flow. The City Engineer may identify additional locations for study if existing traffic operation, safety, or performance is marginal or substandard. Prior to report preparation, the applicant shall submit the proposed scope and analysis assumptions of the Traffic Impact Analysis. The City Engineer shall determine whether the scope and analysis assumptions are adequate.

(Amended March 21, 2005 by Ord. No. 857)

11.40.70 STREET VACATION

11.40.71 Purpose.

The purpose of Street Vacation is to recognize that changes to the City's existing street system are occasionally required. Therefore, the following application has been established to allow limited changes to the City's existing street system without adversely affecting safe and efficient circulation throughout the City. A Street Vacation is a legislative action which is not subject to the 120 day rule of ORS 227.178. This Section is carried out by the approval criteria listed herein.

11.40.72 Applicability.

Alteration to the City's existing streets that involve the vacation of streets, right-of-way, easements, or both shall be reviewed by the City Council.

11.40.73 Application.

There is a single Street Vacation application which is subject to the following requirements.

- A. Procedure Type. Legislative Action, the decision making authority is the City Council.
- B. Approval Criteria. In order to approve a Street Vacation application, the City Council shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
 1. The proposal satisfies the threshold requirements for a Street Vacation application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposed Street Vacation meets the eligibility provisions of ORS 271.080.
 4. The proposed Street Vacation will not adversely impact street connectivity as identified in the Transportation System Plan of the Comprehensive Plan.
 5. The proposed Street Vacation will not adversely impact police, fire, and emergency service in the area.

6. That the vacation of the street will not hinder accessibility to any above ground or underground public facilities.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- C. Submission Requirements. An application for a Street Vacation shall be made by the owner of property abutting the right-of-way or easement, or the owner's authorized agent, to the City Council, Mayor, or their designee on a form provided by the Community Development Director and shall be filed with the Director.
- D. Conditions of Approval. The City Council may impose conditions on the approval of a Street Vacation application to ensure compliance with the approval criteria.

(Amended March 21, 2005 by Ord. No. 857)

REFERENCE INFORMATION

SECTION 11.50.00

11.50.10 PUBLIC IMPROVEMENT PLAN CHECKING FEES

50.11 Definitions. For the purposes of *Section 11.50.10*:

- A. A "public improvement" includes any improvement of public streets, sidewalks, alleys, curbs, gutters, sewers, sewer collection lines, sewer lateral, sewage pumping station, sewer pressure line, sewage treatment device, water line, water pumping station, water treatment device, water valves and hydrants, storm drainage sump, storm drainage line, storm drainage ditch, dike, fill, excavation and any improvements defined in ORS 223.387.
- B. Domestic wells, septic tanks and any type of construction regulated by the state building code as adopted by the City and City subdivision regulations are excluded from the terms of *Section 11.50.10.*, except that such non-public systems must be authorized for private use by the City Council, based on recommendations from the Public Works Director and City Engineer.

50.12 Applicability. *Section 11.50.10*, shall apply to construction as defined in *Section 11.50.10* proposed by any private party, quasi-public body, public agency or governmental unit except the City.

50.13 Submission of Plans. Complete plans, including sufficient detail to insure full and complete disclosure of all work contemplated, shall be submitted to the City for approval, subject to the following:

- A. Plans shall be prepared with reference to the survey grid system adopted by the City, and no other system of locations or elevations shall be used. The City will furnish upon request at the price established by resolution, required photogrammetric maps. No other maps shall be used, except as may be approved by the Public Works Director as being more up-to-date or accurate.
- B. Plans shall indicate pertinent connections to nearby public works with detailed information on method of connection.
- C. Plans shall indicate drainage or visibility effects on adjoining or nearby property, together with appropriate mitigation.
- D. Where applicable to the improvement, plans shall indicate methods of providing for future connections of adjoining, beyond or nearby property to the public improvement.

50.14 Construction Permit Fee.

- A. The applicant shall pay a Public Works construction permit fee. The rate of such fee shall be determined by resolution of the City Council.
- B. The permit fee is intended to defray typical or average, but not necessarily actual, costs incurred by the City in providing technical services related to any Public Works construction performed through a private engineer and contractor at the applicant's expense. Typical services provided by the City include, but are not limited to the following:
 - 1. Meeting with the applicant, his engineer or agent to review City standards, specifications, or ordinances and procedures;
 - 2. Providing the engineer with information on existing conditions and facilities;
 - 3. Providing information and data for any state or county approvals that are required;
 - 4. Providing a detailed review of all construction drawings, engineering and specifications;
 - 5. Making inspections necessary to assure compliance with City standards and specifications, exclusive of work related to processing change orders, progress pay estimates, or other matters not directly affecting the City;
 - 6. Keeping notes and records sufficient for preparation of "as-built" drawings by the engineer;
 - 7. Updating City map files and records by incorporating "as-built" information; and
 - 8. Meeting with various utility companies to review and coordinate all utility construction and installations.
- C. Any required soils or materials testing, when performed by a private or independent testing firm, shall be paid for by the applicant, separate from the permit fee.
- D. When construction plans are incomplete or when it is not practicable to determine a fair valuation of work to be performed, the engineer's preliminary cost estimate may be used to determine the permit fees. However, when the permit fee is to be based on estimated construction cost the fee may be adjusted upward by not more than twenty percent (20) by the City Engineer. A decision by

the City Engineer regarding the approved cost estimate shall be final.

50.15 Public Works Construction Permit. After approval of plans and payment of the fee established in *Section 11.50.14.*, a permit for public works construction shall be issued by the Public Works Director. The construction authorized by the City shall be clearly specified on the permit. The City Engineer and any authorized consultant personnel employed by the City shall have free access to the property until the construction is completed and approved by the City.

50.16 Stop Work Order. All persons or organizations making a public improvement as defined in *Section 11.50.11.*, above, without a valid permit, or in violation of the terms and conditions of their permit, shall cease and desist from the improvement upon issuance of a stop work order by the Public Works Director and/or the City Manager.

(Sections 11.062 through 11.072 inclusive amended and renumbered to Sections 11.50.10 through 11.50.16 inclusive by Ordinance 810, May 1, 2000)

11.50.20 PARK SYSTEM DEVELOPMENT CHARGE

50.21 Purpose. In the interest of promoting useable public open spaces within the City, the City shall develop a parks and open spaces system that maintains no less than the current (1999) level of service. Development of vacant land will increase the general demand on the existing parks and the improvements within them so that without additional parks and improvements the general recreation accessibility and opportunities to all residents will diminish proportionately with the increase in population. Therefore, in order to provide for the current level of service the City shall implement a park and recreation System Development Charge (SDC) in a manner set forth in the Parks and Open Spaces Master Plan and described in this section.

50.22 Procedure. The methodology used to establish a reimbursement fee shall be proportional to the impact of added housing on the Parks System, and shall consider the following factors:

- A. The cost or market value of then-existing facilities (LOS), including land and improvements, excluding SDC funds expended;
- B. The value of unused capacity, and/or the proportional cost of increased capacity provided from improvements to existing facilities;
- C. Rate-making principles employed to finance publicly owned capital improvements;
- D. The costs associated with complying with the provisions of ORS 223.287 to 223.314, including the costs of developing methodologies for calculating charges, and costs of annual accounting and reporting of SDC revenues and expenditures; and
- E. Other relevant factors.

50.23 Authority. The Parks and Open Spaces Master Plan contains the methodology for the parks and recreation System Development Charge. The amount of the SDC shall be set by resolution, adopted by the City Council.

- A. The Building Official shall calculate the System Development Charge due and the amount shall be paid at the time of issuance of a building permit for each residential unit authorized to be

constructed on the permit. The full amount due shall be paid prior to issuance of the permit, unless special payment provisions have been authorized by the City Council to mitigate financial hardship, but shall be paid prior to issuance of an occupancy permit.

- B. The Park SDC's may only be expended for capital improvements to the parks system, including acquisition and development. Improvements must be listed on the City's capital improvement schedule, as set forth in Section 5 of Exhibit B of the Parks Master Plan to be eligible for the SDC funding. The City Council may from time to time update the capital improvements schedule by Resolution.

50.24 Additional Charges. The System Development Charge imposed under the provisions of *Section 11.50.20* is in addition to any and all applicable taxes, assessments, charges, licenses or fees otherwise provided by law.

(Sections 11.50.20 through 11.50.24 inclusive added by Ordinance No. 810, May 1, 2000)

11.50.30 General Reference Information

50.31 Housing Assistance Plan. Housing Assistance Plan Adoption. The City of Cornelius Housing Assistance Plan prepared by Ch2M-Hill, dated July 30, 1979, a copy of which is on file in the office of the City Recorder, is adopted by reference and incorporated in this code.

(Section 11.002 inclusive renumbered to Section 11.50.31 by Ordinance No. 810, May 1, 2000)

50.32 Parks and Open Space Master Plan. Parks and Open Space Master Plan Adopted. That certain Parks and Open Space Master Plan of the City of Cornelius, Oregon, dated February 1999. The plan shall be known and pleaded as "The Parks and Open Space Master Plan of the City of Cornelius, Oregon, February 1999."

(Section 11.012 inclusive renumbered to Section 11.50.32 by Ordinance No. 810, May 1, 2000.)

50.33 Street Names

- A. Renaming Certain Streets. The following streets located within the City are renamed as follows:
1. The cul-de-sacs on South Dogwood Street to be named: Dogwood Circle, Dogwood Place, and Dogwood Court.
 2. The cul-de-sacs on South Tarrybrooke Drive to be named: Tarrybrooke Place, Tarrybrooke Circle, and Tarrybrooke Court.
 3. South Julie Lee Court and South Lee Court to be named: South Dogwood Terrace.

[Section 11.020 renumbered from Section 11.032 by Ordinance No. 686, _1, December 20, 1988.]

(Section 11.020 inclusive renumbered to Section 11.50.33 by Ordinance No. 810, May 1, 2000.)

DEFINITIONS

SECTION 11.60.00

11.60.00 DEFINITIONS

Definitions. For purposes of *Sections 11.10.00 – 11.60.00*, the following mean:

Abut. Contiguous to; adjoining with a common boundary line.

Access. The place, means or way by which pedestrians, vehicles or both shall have safe, adequate and usable ingress and egress to a property or use. A private access is an access not in public ownership or control by means of deed, dedication or easement.

Accessory Dwelling Unit. A second or secondary, self-contained, one (1) bedroom, living unit with separate entrance and kitchen, developed in conjunction with an existing single-family residence.

Accessory structure or use. A structure or use incidental and subordinate to the main use of the property, including a home occupation, which is located on the same lot with the main use and contributes to the comfort or convenience of persons occupying the property, but not including the keeping of livestock other than ordinary household pets.

Acre, Gross. 43,560 square feet.

Acreage, Gross. The proposed size of the site expressed in acreage, including any unbuildable area.

Acreage, Net. The proposed size of the site expressed in acreage minus any unbuildable area. The following areas are deemed unbuildable for the purposes of calculating net acreage:

- (a) Street dedications and those areas used for private streets and common driveways; and
- (b) Environmentally constrained lands, such as open water areas, floodplains, water quality facilities, wetlands, natural resource areas, and other preservation areas set aside in separate tracts or dedicated to a public entity; and
- (c) Land set aside in separate tracts or dedicated to a public entity for schools, parks, or open space purposes.

Adequate Services - public water, public sewer, fire protection, drainage and access (local and minor collector roads).

Adjacent. Near or close. For example, an Industrial District across the street from a Residential District shall be considered as "adjacent".

Alley. A narrow street through or partially through a block primarily for vehicular service access to the back or side of properties otherwise abutting on another street.

Animal Hospital. A place where animals are given medical or surgical treatment and related care.

Apartment house. See dwelling, multifamily.

Area. The total area of a sign, including all decorative or structural trim, facing, announcement, demonstration, display, illustration, or any other attention-getting device, exclusive of essential structural supports.

Awning. A rooflike structure of fabric stretched over a rigid frame projecting from the elevation of a building designed to provide continuous overhead weather protection.

Banner. A sign made of fabric or other non-rigid material with no enclosing framework.

Basement. A space wholly or partly underground, and having more than one-half (1/2) of its height, measured from the floor to its ceiling, below the average adjoining finished grade.

Base Flood. The flood having a one (1%) percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always include the letters A or V.

Billboards. Signs advertising products, services or events other than those specifically available on the premises.

Block face. The distance between the right-of-way line of one intersecting street to the right-of-way line of the next closest intersection street. Cul-de-sacs shall not be considered as intersecting streets.

Boarding, lodging, or rooming house. A building where lodging with or without meals is provided for compensation for not less than three (3) nor more than fifteen (15) guests.

Building or structure. Shall be as defined by the building code and shall also include a structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind, retaining walls, stairways, required off-street parking facilities, any well, whether for water, oil or other products, and any underground storage facilities; but excluding driveways, walks, and similar slab construction not exceeding the surrounding ground level by six (6) inches.

Building Area. The gross cubic area of any structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind.

Bulk Retail Use. A retail use that is housed in a warehouse style building, is developed as a warehouse style building both on the interior and exterior, sells primarily institutional sized or multi-pack products in bulk quantities, has limited hours of operation and is not part of a larger shopping center.

Camping vehicle. Either a vacation trailer or a self-propelled vehicle or structure equipped with wheels for highway use and which is intended for human occupancy and is being used for vacation and recreational purposes, but not for residential purposes, and is equipped with plumbing, sink, or toilet.

Canopy. A permanent, fixed shelter.

City. The City of Cornelius, Oregon.

Child. A person under the age of 13 years.

Clinic, Outpatient. An establishment where human patients are examined or treated by physicians, surgeons, optometrists, dentists or similar State licensed professionals of the healing arts, with patients not lodged overnight.

Commission. The City Planning Commission.

Committee. Facilities and Design Review Committee

Condominium, Residential. Individual ownership of a housing unit in a multi-unit housing structure.

Contiguous. See "Abut".

Coverage, Lot. That percentage of the total lot area covered by buildings, including covered parking areas.

Crown cover. The area within the drip line or perimeter of the foliage of a tree.

Cul-de-Sac. A short dead-end street with a circular turn-around at the end.

CWS. Cleanwater Services, the regional agency that manages sanitary sewer and stormwater.

Deteriorated. To have reached a state or condition of, that promotes degradation or decline in the quality and/or appearance of a structure, so as not to represent the authorized/permitted condition.

Density, Net. The number of dwelling units per unit of land expressed as the number of acres of land per dwelling unit. The net density for any lot is computed by dividing the net acreage of the parcel by the number of dwelling units.

Development. The act of bringing about growth; to construct or alter a structure, to make a physical change in the use or appearance of land, to divide land into parcels, or to create or terminate rights of access.

Development. Any short plat, partition, subdivision or planned unit development that is created under the city's land division or zoning regulations.

Development. For the purpose of the Flood Area Zone in this code "development" means any manmade change to improve or unimprove real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations located within the area of special flood hazard.

Development Permit. Any permit required for development, including but not limited to construction, enlargement or alteration of a structure or to make a physical change in the use or appearance of the land.

District or Zoning District. A portion of the territory of the city within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

Drive-in Use. Any commercial use which permits the driver to transact business from his automobile.

Drive-up Window Facilities. A facility, whether it be a primary or accessory use, other than automobile service station, which is designed to allow patrons to make purchases or receive services at a window or service area while remaining in their motor vehicles.

Dwelling, duplex; or dwelling, two-family. A detached building containing two (2) dwelling units.

Dwelling, multi-family. A building containing three (3) or more dwelling units.

Dwelling, single-family. A detached building containing one(1) dwelling unit.

Dwelling unit. Any building or portion of a building which contains living facilities in one (1) or more rooms which include provisions for sleeping, eating, cooking, and sanitation for not more than one (1) family.

Emergency access. Entry to or passage through an area by police, fire, and other authorized emergency response personnel in the course of, and specifically for the purpose of performing, their official duties, including responding to emergencies, inspections, drills, and simulation exercises.

Employee. All persons (including proprietor, executives, professional people, production, sales and distribution employees) working on the premises during the largest shift.

Erect. To build, construct, attach, hang, place, suspend or affix; and also includes the painting of wall signs.

Exempt tree or vegetation. The full height and breadth of vegetation that the Community Development Director or his designee has identified as "solar friendly" and any vegetation listed on a plat map, a document recorded with the plat, or a solar access permit as exempt.

Facing or surface. The surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

Family. An individual, or two (2) or more persons related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit in which board and lodging may also be provided for not more than three (3) additional persons, excluding servants; or a group of not more than five (5) persons who need not be related by blood, marriage, legal adoption, or guardianship living together in a dwelling unit.

Fence, sight obscuring. A fence or evergreen planting arranged in such a way as to obstruct vision.

Fill. Any act by which earth, sand, gravel, rock or any other similar material is deposited, placed, pulled, moved or transported on the site and includes the conditions resulting therefrom. The placement of fill is development of land.

Flood Insurance Rate Map (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry areas from:

- (a). The overflow of inland or tidal waters; and/or,
- (b). The unusual and rapid accumulation of runoff of surface waters from any source.

Floodplain. The area adjoining a river, stream, or watercourse which may be subject to periodic inundation of floodwaters

Floodway. The channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor area. The area included in surrounding walls of a building or portion thereof, exclusive of vent shafts and courts.

Floor Area Ratio. The amount of gross floor area in relation to the amount of net site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means two square feet of floor area for every one square foot of site area.

Freestanding Sign. A sign supported by one (1) or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

Front lot line. For purposes of the solar access regulations, a lot line abutting a street. For corner lots, the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line is the chord or straight line connecting the ends of the curve. For a flag lot, the front lot line is the lot line that is most parallel to and closest to the street, excluding the pole portion of the flag lot (see *Figure 1, Section 11.40.30, Pg. SR 38A*).

Garage, private. An accessory building or portion of a main building used for the parking or temporary storage of vehicles owned or used by occupants of the main building.

Garage, public. A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

Garage sale. A sale as regulated by *Sections 9.405 to 9.410., Business of the Cornelius City Code*.

Garden store. A retail store for the sale of garden supplies and plants that are used in the care and development of residential property.

Grade (ground level). The average of the finished ground level at the center of all walls of the building. In case a wall is parallel to and within five (5) feet of a sidewalk, the ground level shall be measured at the sidewalk.

Ground sign. A sign supported by one (1) or more supports placed upon the ground, not attached to any building.

Grove. A stand of three (3) or more trees of the same species or mix, which form a visual and biological unit.

Height of building. The vertical distance from the “grade” to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the point midway between the ridge and the eaves of a pitch or hip roof.

Height of sign. The height of a sign is the vertical distance above grade to the highest point of the sign. This measurement is taken from the finished ground level, excluding mound, berms, etc. to the top of the sign or the highest portion of the sign structure or frame, whichever is greater.

Home occupation. Any lawful activity conducted within a dwelling by members of the immediate family on property located within a residential zone for the purpose of earning income which activity involves:

- (a) Personal appearances by customers on the property, by more than one (1) customer per week or by ten (10) or more customers at any one (1) time during any-one month period, and
- (b) Any advertising which informs potential customers of the location of the residential dwelling for the purpose of attracting customers to the dwelling, and
- (c) Any commercial activity which creates noise levels audible beyond the property line of the property upon which the residential dwelling is located, and
- (d) Activities which attract more than two (2) commercial deliveries of goods and services daily, and
- (e) Outside storage of materials or products which are used in or created by the income producing activity.

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

Hotel. A building in which lodging is provided for guests for compensation and in which no provision is made for cooking in the lodging rooms.

Illuminated sign. Any sign which has characters, letters, figures, designs, or outline illuminated by electric lights or luminous tubes.

Improvements, Land. Improvements and amenities that shall be constructed on a site that will have a public impact either with development or during construction, but shall be privately maintained, such as private streets, mass site grading, ponds, benches, etc.

Improvements, Public. Land divisions and needed work to create new lots for the time of the construction that a public agency will own and maintain, such as public streets, sidewalks, sewers and water.

Inoperable vehicle sign. Any sign attached or painted on a vehicle or trailer that is not operable and does not have a current valid license.

Interior lot line. Any lot line, which is not a street side lot line.

Interior Yard. Any yard which is not a street side yard.

Kennel. A lot or building in which four (4) or more dogs or cats at least four (4) months of age are kept commercially for board, propagation or sale.

Land Development. Approved improvements that will be privately maintained, but may have a public impact, such as mass site grading, private streets, amenities (ponds, benches, gazebos, etc.).

Land development application. Shall include any application or proceeding relating to the use and/or development of real property.

Landscaping. An exterior planted or vegetated area designed to be aesthetically appealing. The elements of landscaping include all forms of planting and vegetation, all adjustments, refinements, or designed developments in ground forms, rock groupings, or water patterns. Landscaping does not include artificial plants, shrubs or flowers, completely enclosed buildings or primarily utilitarian engineering structures such as, walks, , , steps, walls, , shelters, play areas, etc. These are the elements used to develop and refine space between, around, or within buildings and vehicular circulation elements.

Lawful. Conformable to law; authorized or established by law. (From Webster's Seventh Dictionary)

Lot. A tract, parcel, or unit of land that is created by partitioning a subdivision of land.

Lot area. The total horizontal area within the lot lines of a lot.

Lot, corner. A lot abutting on two (2) intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than one hundred and thirty-five (135) degrees.

Lot depth. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot, interior. A lot other than a corner lot.

Lot line. The property line bounding a lot.

Lot width. The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.

Marquee. A permanently fixed structure extending over the entrance to a building and serving some purpose other than strictly to provide shelter.

Master Plan. A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes a land use and circulation plan, development standards, design guidelines, an open space plan, utilities plans and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the land use review processes of this Code pursuant to *Sections 11.30.10 and 11.30.30.*, as applicable.

Mobile home. means:

- (a) Residential trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes, and was constructed before January 1, 1962.
- (b) Mobile house. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes, and was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
- (c) Manufactured home. A structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction safety standards regulations in effect at the time of construction.

Mobile home accessory building or structure. Any awning, portable, demountable, or permanent cabana, ramada, carport, porch, skirting, or steps established for use of the occupant of the mobile home and which are designed or intended to be attached to and which depend, in whole or in part, upon the mobile home for structural support.

Mobile home park. Any place where four (4) or more mobile homes are located within five hundred (500) feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Mobile home park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one (1) mobile home per lot if the subdivision was approved by the local government unit having jurisdiction under an ordinance adopted pursuant to ORS 92.010 to 92.190.

Mobile home construction and safety standard, federal. A standard for construction, design and performance of a mobile home promulgated by the Secretary of Housing and Urban Development pursuant to the federal National Manufactured Housing Construction and Safety Standards Act of 1970 (Public Law 93.383).

Mobile structure. A structure transportable in one (1) or more sections, each built on a permanent chassis.

Motel or auto court. A group of attached or detached buildings containing individual sleeping or living units generally for the temporary use by automobile tourists or transients: includes auto courts, hostels and motor lodges.

Moving sign. Any sign or advertising structure, with mechanical or electronic parts, which create any visible moving features or displays.

Nonconforming structure or use. A lawful existing structure or use at the time Ordinance No. 266 or any amendment becomes effective which does not conform to the requirements of the zone in which it is located.

Non-exempt tree or vegetation. Vegetation that is not exempt.

Northern lot line. The lot line that is the smallest angle from a line drawn east-west and intersecting the northernmost point of the lot, excluding the pole portion of a flag lot. If the north line adjoins an undevelopable area other than a required yard area, the northern lot line shall be at the north edge of such undevelopable area. If two (2) lot lines have an identical angle relative to a line drawn east-west, then the northern lot line shall be a line ten (10) feet in length within the lot parallel with and at a maximum distance from the front lot line (see *Figure 2, Section 11.40.30., Pg. SR-38A*).

North-south dimension. The length of a line beginning at the mid-point of the northern lot line and extending in a southerly direction perpendicular to the northern lot line until it reaches a property boundary (see *Figure 3, Section 11.40.30, Pg.SR-38B*)

Nursery, Day Care Facility. A facility that provides day care for up to twelve (12) children, including the provider's children. This term applies to the total day care operation (physical setting, equipment, staff, provider, program, and care of children) and includes day care center, group day care home, home of a family care provider, nursery school, preschool, kindergarten, child care development center, and child playschool, except those facilities excluded by law.

Obsolete sign. Any sign which no longer applies to the business, property or site upon which it is located.

Outline illumination. Lighting around the exterior of a sign face consisting of exposed reflective-type bulbs, strobe lights, incandescent lamps exceeding 40 watts, and fluorescent lamps.

Owner. An individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide.

Park. Any public or private land reserved for recreational, educational, cultural, or open space uses.

Parking, As the Principal Use. A facility providing for the temporary parking of automobiles and transportation vehicles which arrive and depart daily and remain for a short term.

Parking space. A rectangle not less than twenty (20) feet long and eight and one-half (8.5) feet wide, together with maneuvering and access space required for a standard American automobile to park within the rectangle.

Partition land. To divide an area or tract of land into two (2) or three (3) 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.

(a) "Partition land" does not include:

- (1) Divisions of land resulting from the creation of cemetery lots;
- (2) Divisions of land made pursuant to a court order, including but not limited to, court orders and proceedings involving testate or intestate successions.
- (3) Adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created, and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by zoning regulations.

(b) Major partition. When partitioning involves creation of a public street or right-of-way.

Pedestrianway. Means any sidewalk or walkway that is intended and suitable for pedestrian use.

Planning Commission. The City Planning Commission.

Plaza: An outdoor area suitable for use by persons and inaccessible to motor vehicles, except police and emergency response vehicles. Plazas must contain special, high-quality pavement materials, such as brickwork, cobblestones, or textured concrete, and may not be paved with chip-seal, asphalt, or similar compounds. Plazas typically contain a combination of specially paved surfaces, landscape elements, seating, and shelter providing full or partial shade. Plazas must be accessible from the public sidewalk, and may support activities such as sitting, informal gathering, eating, and commercial activity in compliance with standards in this Ordinance. Distinct types of plazas are defined below:

- (a) Entry plaza: a semi-private plaza that supports pedestrian passage and provides a transition between the public sidewalk and private interior of a building. An arch, gate, pavement change, or other features may be used to designate the transition between the public sidewalk and the entry plaza.
- (b) Public plaza: a plaza adjacent to a public sidewalk, which may function as an urban mini-park, provide plaza entrances to one (1) or more buildings or tenant lease spaces, or support passage among areas, such as mid-block access through a block or to parking lots located centrally within the block.

Portable Sign. A sign that is not permanently affixed to a building, structure, or the ground; a sign designed to be moved from place to place. These signs primarily include, but are not limited to A-frame signs, signs attached to wood or metal frames designed to be self-supporting and movable including trailer reader boards, paper, cardboard or canvas signs wrapped around supporting poles.

Plat. Includes a final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.

Projected street or roadway. A street or highway as shown on the comprehensive plan map for which the right-of-way, or any portion thereof, has not as yet been acquired for public use.

Protected solar building line. A line on a plat or map recorded with the plat that identifies the location on a lot where a point two (2) feet above may not be shaded by structures or non-exempt trees (see *Section 11.40.30., Figure 10, Pg. SR-38E*).

Projecting sign. A sign which projects beyond the building wall surface more than twelve (12) inches.

Public/semi-public signs. Those signs erected by a governmental body, nonprofit or service organization to identify parks, recreational facilities, churches, schools, governmental buildings, etc.

Recreational vehicle. A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a floor space of less than two hundred and twenty (220) square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.. The unit shall be identified as a recreational vehicle by the manufacturer.

Reader Board. A sign that provides for the manual removal and replacement of lettering, symbols and numbers using such a display face or structure that has been designed for a changing message or advertisement.

Real estate signs. Those covered under *Section 11.40.50*.

Recreation Vehicle. A boat, camper, motor vehicle, or portable vehicular structure capable of being towed on the highways by a motor vehicle, designed and intended for casual or short-term human occupancy for travel, recreational and vacation uses. If identified in some manner as a recreation vehicle by the manufacturer or registered as such with the State, it is prima facie a recreation vehicle.

Residential Districts. Zoning districts that provide for residential use as the primary use. These districts include Single Family R-7 and R-10, Multi-Family A-2, Main Street Residential Low Density, MSRL and Main Street Residential Medium Density, MSRM.

Residential signs. Signs identifying an apartment, boarding house, convalescent home, etc.

Residential Care Facilities. A living facility for more than five (5) non-related persons, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes, but is not limited to Assisted Living Facilities, Congregate Care Facilities, Nursing Homes, Convalescent Homes, Residential Home and Sanatoriums.

Residential Local Street. A street that is intended to provide direct access to abutting residential properties and discourage through traffic movements not related to the neighborhood in which the local street is located.

Residential Street. A public way, lane, cul-de-sac, local street or neighborhood route serving primarily access functions, directly or indirectly, to one (1) or more parcels that are predominantly residential in character or zoned for residential uses.

Retail Store. A place of sale to the ultimate consumer for direct consumption and not for resale.

Right-of-way. The horizontal area within the boundary lines of any street, highway, road, or way which provides for public use by means of dedication or deed.

Road. A public or private way that is created to provide ingress or egress for persons to one (1) or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes.

Roof Line. Either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette; where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the wall on which the sign is located.

Roof sign. Any signage erected, maintained, and displayed above the eaves of a building or structure and is wholly upon or over the roof of any building.

Security. An irrevocable letter of credit and/or other financial instrument approved by the City.

Setback. The minimum allowable horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a principal building or structure as defined herein. The point of line of reference will be the lot line following any required dedication, or a special or reservation line if one is required pursuant to this ordinance.

Shade. A shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

Shade point. The part of a structure or non-exempt tree that casts the longest shadow onto the adjacent northern lot(s) when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south; except a shadow caused by a narrow object such as a mast or whip antenna, a dish antenna with a diameter of three (3) feet or less, a chimney, utility pole, or wire. The height of the shade point shall be measured from the shade point to either the average elevation at the front lot line or the elevation at the midpoint of

the front lot line. If the shade point is located at the north end of a ridgeline of a structure oriented within forty-five (45) degrees of a true north-south line, the shade point height computed according to the preceding sentence. may be reduced by three (3) feet. If a structure has a roof oriented within forty-five (45) degrees of a true east-west line with a pitch that is flatter than five (5) feet (vertical) in twelve (12) feet (horizontal), the shade point will be the eave of the roof. If such a roof has a pitch that is five (5) feet in twelve (12) feet or steeper, the shade point will be the peak of the roof (see *Section 11.40.30., Figures 4 and 5, Pg. SR-38B and SR38C*).

Shade reduction line. A line drawn parallel to the northern lot line that intersects the shade point (see *Section 11.40.30., Figure 6, Pg. SR-38C*).

Shadow pattern. A graphic representation of an area that would be shaded by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging between 22.7 degrees east and west of true south (see *Section 11.40.30, Figure 11, Pg. SR-38F*).

Sign. A presentation or representation, other than a house number, by words, letters, figures, designs, pictures, or colors publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation or a request for aid, or other type of advertising. This includes the surface upon which the presentation or representation is displayed. Each display surface of a sign shall be considered to be a sign.

Solar access height limit. A series of contour lines establishing the maximum permitted height for non-exempt vegetation on lots affected by a Solar Access Permit (see *Section 11.40.30, Figure 11, Pg. SR-38F*).

Solar access permit. A document issued by the city that describes the maximum height that non-exempt vegetation is allowed to grow on lots to which a solar access permit applies.

Solar feature. A device or combination of devices or elements that does or will use direct sunlight as a source of energy for such purposes as heating or cooling of a structure, heating or pumping of water, and generating electricity. Examples of a solar feature include a window that contains at least twenty (20) square feet of glazing oriented within forty-five (45) degrees east and west of true south, a solar greenhouse, or a solar hot water heater. A solar feature may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member of part of a roof, wall, or window. A south-facing wall without windows and without other features that use solar energy is not a solar feature for purposes of this ordinance.

Solar gain line. A line parallel to the northern property line(s) of the lot(s) south of and adjoining given lot, including lots separated only by a street, that intersects the solar feature on that lot (see *Section 11.40.30., Figure7, Pg. SR-38D*).

South or south facing. True south, or twenty (20) degrees east of magnetic south.

Square Feet. The square feet or gross floor area under roof measured from the face of the building or structure, excluding only space devoted to covered off-street parking or loading.

Storage Yard. Any lot, or portion of a lot, which is used for the sole purpose of the outdoor storage of fully operable vehicles, construction equipment, construction materials, or other tangible materials and equipment.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above the basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.

Street. The entire width between the boundary lines of every way which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms road, highway, lane, place, avenue, or other similar designations.

Street side lot line. A lot line which abuts a public street, alley or way. A given lot may have more than one (1) street side lot line, depending upon the number of lot lines abutting a public street, alley, or way.

Street side yard. A yard located between the street side lot line and the nearest point of the building, and between the interior or other streetside lot line or lines of the subject lot.

Street Tree. Any tree located within the public or private right-of-way or easement for vehicular access, or associated public utility.

Structure. That which is built or constructed. An edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner and which requires location on the ground or which is attached to something having a location on the ground.

Structural alteration. A change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or the roof.

Subdivide land. To divide an area or tract of land into four (4) or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of the year.

Subdivider. An individual, firm, association, syndicate, copartnership, corporation, trust, or any other legal entity commencing proceedings under *Section 11.30.24.*, to effect a subdivision of land hereunder for himself or for another.

Subdivision. Either an act of subdividing land or an area or a tract of land subdivided into four (4) or more parcels, tracts, or lots as defined in ORS 92.046.

Substantial Construction. Providing there are buildings on the site, the completion of construction of footings for the building where the principal use will take place shall constitute substantial construction.

Sunchart. One (1) or more photographs that plot the position of the sun between 10:30 a.m. and 1:30 p.m. on January 21, prepared pursuant to guidelines issued by the city manager or his designee. The sunchart shall show the southern skyline through a transparent grid on which is imposed solar altitude for a forty-five (45) degree and thirty (30) minute northern latitude in ten (10) degree increments and solar azimuth from true south in fifteen (15) degree increments.

Surety Bond. An irrevocable letter of credit and/or other financial instrument approved by the City.

Temporary sign. A sign, banner, pennant or advertising display constructed of fabric, wood, other light materials, not permanently attached to a building, structure, or the ground.

Temporary Sign, Off-site. A temporary sign approved for placement off the site where the primary use, sale, promotion, condition or similar activity is taking place. An off-site temporary sign permit shall be issued for a time period not to exceed ninety (90) days.

Temporary sign structure. A sign or a structural support for a sign which is located directly on the ground, or on a foundation imbedded in the ground.

Time-Temperature display. Any sign displaying time and temperature to the public.

Through Lot. A lot other than a corner lot with frontage on more than one (1) street.

Transit Line. A corridor providing access to a public transportation system (currently, Tri-Met is the regional provider of publicly funded transportation services and programs).

Tree. Any woody, perennial plant, deciduous, evergreen or coniferous, characterized by having a main trunk of six (6) inches or more in diameter fifty-four (54) inches above natural grade (dbh). In cases of multi-stemmed or trunked trees, the diameter shall be the sum of diameters of all individual stems or trunks. Trees of less than six (6) inches may be considered under this ordinance section if they are designated as historic or significant trees.

Undevelopable area. An area that cannot be used practicably for a habitable structure, because of natural conditions, such as slopes exceeding twenty (20) percent in a direction greater than forty-five (45) degrees east or west of true south, severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or manmade conditions, such as existing development which isolates a portion of the site and prevents its future development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

Use. The purpose for which land or structure is designed, arranged, or intended or for which it is occupied or maintained.

Vegetation. Any perennial plant, deciduous, evergreen or coniferous which is not defined as a tree.

Vehicle Repair. The general repair, alteration, rebuilding, maintenance or reconditioning of vehicles, including motor, body, frame, upholstery, interior or paint work.

Vehicle Sales Lot. A lot used for display, sale or rental of new or used vehicles, including, but not limited to, automobiles, boats, trailers and recreational vehicles.

Vision clearance area. A triangular area on a lot at the intersection of two (2) streets or a street and a railroad, two (2) sides of which are lot lines for a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two (2) sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. The vision clearance area contains no planting, walls, structures, or temporary or permanent obstructions exceeding thirty (30) inches in height, except occasional tree trunks or poles. The vision clearance area shall be measured from the top of the curb or, if there is no curb, from the centerline street grade and extend upward ten (10) feet.

Wall. A linear, exposed face of a structure, not projecting more than twelve (12) inches.

Wall sign. A sign attached to or painted on the exterior wall of any building or other structure. This includes signs attached to canopies, awnings, marquees or similar structures.

Wholesale. The bulk sale of goods generally for resale to a person other than the direct consumer.

Yard. An open space on a lot which is unobstructed from the ground upward.