

# Development Code

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## Article 1: General Provisions

### 1.010 Title

Title 10 of the Grants Pass Municipal Code may also be cited as the Development Code of the City of Grants Pass. The Development Code of the City of Grants Pass may be referred to as "this Code" within the Development Code document itself.

### 1.020 Purpose

The purpose of this Code is to implement the policies of the Grants Pass Comprehensive Community Development Plan, and to coordinate City regulations governing the development and use of land.

### 1.030 Scope and Compliance

1.031 Compliance. Real property may be used, occupied, developed, divided or subdivided, and a structure may be used, occupied or developed only as permitted by this Code. Each use and development shall comply with the applicable criteria and standards of this Code.

1.032 Assignment. The requirements of this Code shall apply to the party undertaking a use or development, and to any successor in interest.

### 1.040 Consistency With Plan, Laws and Code

1.041 Plan Consistency Assumed. It may be generally assumed that the requirements of this Code implement the policies of the Comprehensive Plan, and that therefore a use or development meeting the requirements of this Code likewise meets the requirements of the Comprehensive Plan. Should a conflict between the requirements of the Comprehensive Plan and Code be demonstrated, the requirements of the Comprehensive Plan shall prevail, and the Director shall initiate the necessary action to bring the requirements of this Code into conformance with the Comprehensive Plan.

1.042 Restrictiveness. Where conditions are imposed on use or development by a provision of this Code are less restrictive than comparable conditions imposed by other provisions of this Code, the more restrictive provisions shall apply.

1.043 Effect on Agreements Between Parties. The provisions of this Code shall not interfere with, abrogate or annul any easement, covenant or other agreement between parties, provided that where this Code imposes a differing or greater restriction than that imposed by the agreement, the provisions of the Code shall control.

1.044 Severability and Validity. If any section, subsection, sentence, clause or phrase of this Code is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Code. The City Council of the City of Grants Pass hereby declares that it would have passed this Code, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases might be declared invalid.

1.050 Interpretations

1.051 Director. The Director shall interpret all terms, provisions and requirements of this Code.

1.052 Appeals. The interpretation of the Director may be appealed to the Planning Commission as provided in Article 10.

1.053 Request and Action.

- (1) A request for interpretation of this Code shall be made to the Director in writing. The Director shall respond in writing to those requests for interpretations under his authority within five (5) working days from receipt of the request.
- (2) While an interpretation is pending, no action on the affected application for permit shall be taken. The count of calendar or working days required to process a permit application shall be frozen while an interpretation is pending, and shall be resumed on the day following the rendering of an interpretation by the Director.

1.054 Basis for Interpretation. Interpretations shall be considered administrative action, and shall be based upon the following considerations:

- (1) The Comprehensive Plan;
- (2) The purpose and intent of the particular section of the Code in question;
- (3) The definitions contained in Article 30 of this Code; and
- (4) The opinion of the City Attorney.

1.060 Enforcement and Penalties

1.061 Duties of Officer. It shall be the duty of the City Manager to administer this Code. All departments, officials, and public employees of the City of Grants Pass, vested with the duty of authority to issue permits shall conform to the provisions of this Code and shall issue no permit, certification, or license for any use, development, building or purpose which violates or fails to comply with conditions or standards imposed by this Code. Any permit, certificate or license issued in conflict with the provisions of this Code, intentionally or otherwise, shall be void.

1.062 Revocation of Permit. Any Development Permit, certificate or license granted in accordance with the terms of this Code may be revoked if any of the conditions or terms of such Permit, certificate or license are violated, or if any law or ordinance is violated in connection therewith.

The Planning Commission may revoke any Development Permit for noncompliance with conditions after first holding a Type III hearing, as provided in Section 2.050 of this Code. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Development Permit.

<sup>1</sup>1.063 Fees, Fines, Penalty Assessments, and Procedures for Violations of the Development Code

- (1) Investigation Fees: If any grading, encroachment, building, sign erection, or other work is conducted without a duly authorized permit, in addition to any other fees, fines, or penalty assessments, at the time of the issuance of the permit, the applicant shall also pay an investigation fee equal to 100% of the permit fee.

- (2) Fines for Violations: Any person, firm, contractor, developer, property owner, business, corporation, or other entity who violates any provision of this Code, shall be punished upon conviction by a fine of not less than \$50 and not more than \$500, with each day a violation continues unabated considered a separate offense. Any penalty assessment, fine, investigation fee, delinquent charge, or collection fee due the City pursuant to the Development Code is a civil penalty, and no imprisonment shall result from any failure to pay said fines, penalty assessments, investigation fees, delinquent charges, or collection fees, or any part thereof, however, this does not limit the power of a court to impose a penalty as provided by law for contempt of court. A defendant in a prosecution for a violation of the Development Code shall not be entitled to a court appointed attorney and shall be tried to the court, without a jury. The procedures and fines set forth in Section 1.063 shall be in addition to any other remedies provided by the Municipal Code, the Development Code, or the laws of the State of Oregon.
- (3) Penalty Assessments: In lieu of prosecuting a violation as provided in Section 1.063(2), the City Manager, or a designee, may choose to seek compliance with the Development Code as provided in 1.063(4) et seq. A penalty assessment may not be enforced through contempt of court except under Section 1.063(2). A penalty assessment levied under Sections 1.063(4), 1.063(5), 1.063(6), and 1.063(7) shall preclude a fine or penalty under 1.063(2) only under the following circumstances:
- (a) It is for the same violation, regarding the same conduct, and occurring on the same day; and
  - (b) The penalty assessment and all related fees have been paid by the defendant within 30 days of the assessment or a decision by a hearings officer on an appeal.
- (4) Grading Permits: Any person, business, corporation, developer, contractor, or property owner who conducts grading, or causes grading, on any property without a required permit of the Oregon Structural Specialty Code based on the Uniform Building Code, the Uniform Building Code, or the Grants Pass Municipal Code (including the Development Code) shall pay a penalty assessment equal to



100 percent of the permit cost for each day the violation continues after notification either personally or after the 3rd day a notification is placed in the U.S. Mail, postage prepaid, to their last known address for delivery to the person, business, corporation, developer, contractor, or property Owner. No further permits shall be issued for development on the property until the grading permit is obtained and paid for and the penalty assessments and investigation fees noted herein are paid.

(5) Encroachment Permits:

- (a) Penalty Assessments for 1 or 2 Violations: Any person, business, corporation, developer, contractor, or property owner who, on 1 or 2 occasions during any 12 month period, encroaches, or causes encroachment, on public property without a required encroachment permit of the Oregon Structural Specialty Code based on the Uniform Building Code, the Uniform Building Code, or the Grants Pass Municipal Code (including the Development Code) shall pay a penalty assessment of \$25 for each day the violation continues after notification either personally or after the 3rd day a notification is placed in the U.S. Mail, postage prepaid, to their last known address for delivery to the person, business, corporation, developer, contractor, or property owner who is encroaching or for whom the encroachment is being conducted.
  
- (b) Penalty Assessments for 3 or 4 Violations: Any person, business, corporation, developer, contractor, or property owner who, on 3 or 4 occasions during any 12 month period, encroaches, or causes encroachment, on public property without a required encroachment permit of the Oregon Structural Specialty Code based on the Uniform Building Code, the Uniform Building Code, or the Grants Pass Municipal Code (including the Development Code) shall pay a penalty assessment of \$50 for each day the encroachment occurred without a permit.
  
- (c) Penalty Assessments for 5 or More Violations: Any person, business, corporation, developer, contractor, or property owner who, on 5 or more occasions during any 12 month period, encroaches, or causes encroachment, on public property without a

required encroachment permit of the Oregon Structural Specialty Code based on the Uniform Building Code, the Uniform Building Code, or the Grants Pass Municipal Code (including the Development Code) shall pay a penalty assessment of \$100 for each day the encroachment occurred without a permit.

(6) Building Permits: Any person, business, corporation, developer, contractor, or property owner who builds, or causes building, on any property without a required building permit shall pay a penalty assessment of \$25 for each day the violation continues after notification either personally or after the 3rd day a notification is placed in the U.S. Mail, postage prepaid, to their last known address for delivery to the person, business, corporation, developer, contractor, or property owner. No further permits shall be issued for development on the property until the building permit is obtained and paid for and the penalty assessments and investigation fees noted herein are paid.

(7) Sign Permits: Any person, business, corporation, developer, contractor, or property owner who erects, or causes the erection of, a sign [other than a temporary sign as set forth in the Development Code, violations of which shall be prosecuted under 1.063(2)] on any property without a required sign permit shall pay a penalty assessment for each day the violation continues beyond 48 hours after notification either personally or after the 3rd day a notification is placed in the U.S. Mail, postage prepaid, to their last known address for delivery to the person, business, corporation, developer, contractor, or property owner. No further permits shall be issued for development or signs on the same property until the sign permit is obtained and paid for and the penalty assessments and investigation fees noted herein are paid. A violation shall be deemed to continue until the sign is removed. However, a violation will be temporarily suspended if: (1) a request for a variance to the sign standard is pending; and (2) all accrued penalty assessments, investigation fees, permit fees, and variance fees have been paid in full; and (3) the sign is covered from sight until a decision on the variance by the appropriate hearing body is made. The penalty assessment shall be \$25 per day if the violation is the 1st or 2nd within the past 12 months, \$50 per day if the violation is the 3rd or 4th within the past 12 months,

and \$100 per day if the violation is the 5th or greater within the past 12 months.

- (8) Denial of Sign Permits for Two or More Violations on the Same Property: Any person, developer, contractor, property owner, or business that erects, or causes the erection of any sign or banner on the same property without a duly authorized sign permit on 2 or more occasions within a 12 month period, shall not be issued any further sign permits for the same property from the date of the last violation to the date which is 12 months after the date all penalty assessments and fees have been paid in full.
  
- (9) Discontinuation of City Sewer and Water Services: If a building is occupied prior to the issuance of a Certificate of Occupancy or a Final Inspection beyond 72 hours after notification either personally or after the 7th day a notification is placed in the U.S. Mail by certified mail, to their last known address for delivery to the property owner and occupant, the City Manager or a designee shall post a 24 hour notice of disconnect on the property. If the property is still occupied on the first business day following the posting of the 24 hour notice, the City Manager or a designee shall order the sewer and water services to the property to be disconnected and said service shall remain disconnected until a Certificate of Occupancy is issued or a successful Final Inspection is completed. The City Manager or a designee shall also request from the appropriate utility company that natural gas and electrical service to the property be discontinued until the certificate of occupancy is issued or the successful Final Inspection is completed.
  
- (10) Appeals: Any person, firm, contractor, developer, property owner, business, corporation, or other entity upon whom a penalty assessment or restriction has been levied by the City under Section 1.063(3) through 1.063(9) may appeal that penalty assessment or restriction as follows:
  - (a) Notice of Penalty Assessment or Restriction: Upon determining a penalty assessment or restriction should be imposed, the City shall notify the person, firm, contractor, developer, property owner, business, corporation, or other entity that the City is levying a penalty assessment or restriction, or

both, against them and the amount thereof. Notice shall be perfected by notification either personally or after the 7th day a notification is placed in the U.S. Mail, postage prepaid, to their last known address for delivery to the person, business, corporation, developer, contractor, or property owner. An appeal shall be filed with the Director of the Community Development Department within 7 days of the date the notice is perfected.

- (b) Hearings Officer: The appeal shall be heard by a hearings officer. Not less than 2 hearings officers shall be appointed for 1 year periods to consider appeals under this Section. Hearings officers shall not be employees of the City and shall not be entitled to nor shall they receive any compensation for their service. Hearings officers shall be nominated by the City Manager and appointed by the City Council, and may be removed at the discretion of the City Manager.
  
- (c) Procedures: At the time of filing the appeal, the appellant must include a short written statement indicating the penalty assessment being appealed and any mitigating or extenuating circumstances surrounding the alleged violation. The filing of an appeal does not prevent the City from levying additional penalty assessments if the violation continues to occur pending the appeal. Unless all hearings officers are unavailable or a continuance is granted, the hearing shall be held within 80 hours (excluding Saturdays, Sundays, and holidays) of the date and time an appeal is filed. For good cause shown, a hearings officer may continue a hearing upon the request of the City or appellant. The hearing shall be continued upon the request of either the City or appellant, if the opposing side has no objection. Continuances shall not exceed 10 days.
  
- (d) Evidence: A decision of the hearings officer shall be supported by a preponderance of evidence at the hearing. Evidence at the hearing may be presented by testimony or exhibits, including statements presented in writing by persons who are not present for the hearing. However, no written statement of a person not present at the hearing may be considered

unless the opposing side has an adequate opportunity to talk with the person prior to the hearing.

- (e) Decision of Hearings Officer: Based on the evidence reviewed at the hearing, the hearings officer is authorized to affirm or reverse the penalty assessment and restriction levied by the City, or to lower the penalty assessment, or to increase the penalty assessment to the maximum provided by law. A decision of the hearings officer is final subject to any statutory right of review by a Circuit Court of the State of Oregon.

1.064 Injunctive Relief. The foregoing sanctions shall not be exclusive, and where the public health, safety, or general welfare will be better served thereby, the City Manager may institute such proceedings for injunctive relief against a continuing violation as may be authorized by law. In the enforcement of provisions prohibiting nuisances caused by odor, sound, vibration and the like, the City Manager may seek injunction against the specific device, activity or practice causing the nuisance.

1.065 Civil Relief. When any real property is or is proposed to be transferred, sold or disposed of in violation of this Code, the Council, City Manager, City Attorney, or any persons whose interest in real property is or may be affected by the violation, may in addition to other remedies provided by law, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent temporarily or permanently enjoin, abate or set aside such transfer, sale disposition, offer, negotiation or agreement.

1.066 Abatement.

- (1) Where, because of the absence of the responsible person, or persons from the City, County or the State, as the case may be, the courts of the State of Oregon cannot secure effective jurisdiction over the person or persons responsible for the cause of continuation of a structure or condition erected or maintained in violation of this Code, or where the City Council deems it important to the public interest that the unlawful structure or condition be removed or corrected without delay, the Council may, after notice and hearing, using Type IV procedure, order the removal of the unlawful structure or condition and,

if such removal or correction is not effected within the time prescribed in the order, the City Manager shall cause such abatement, going upon the premises with such men or equipment as may be necessary, and the Council shall thereafter by Ordinance assess the cost of abatement against the real property. The lien of the assessment shall be enforced in the same manner as in the case of street improvement liens.

- (2) Notice of hearing shall be sufficient if given 30 days advance of the hearing, either by personal delivery or by mailing the same to the last known address of the owner of the property as shown by the County Assessor's records. The order shall be served upon the owner or responsible person in the manner prescribed for the notice of hearing, and the owner or responsible person shall have such period of time after service of the order, but not less than 30 days, as the City Council may deem to be reasonably necessary to accomplish the requirement of the order. The notice of hearing and the abatement order shall contain a notice to the property owner, or other person served, that the City of Grants Pass shall not be responsible for the condition or storage of the component parts of, or personal property situated within, the structure following abatement by the City. The remedy of abatement shall be in addition to, and not in lieu of, the other remedies prescribed in this section.

1.067 Evidence. In any prosecution for causing or maintaining any condition or use of, or activity on, or construction, moving or maintaining any structure on, any premises in violation of this Code, a person in possession or control of the premises, as owner or lessee at the time of the violation, or continuance thereof, shall be presumed to be the person who constructed, moved, caused or maintained the unlawful activity, use, condition or structure. This presumption shall be rebuttable and the City Council or the defendant in such prosecution shall have the right to show that the offense was committed by some person other than, or in addition to, an owner of lessee or other person in possession or control of the premises; but this shall not be construed as relieving a person in possession and control of property from any duty imposed upon him by this Code. For the purpose hereof, the person to whom the premises are taxed according to the records of the Josephine County Assessor shall be prima facie the person in possession or control

of the premises. Where premises on which the violation is committed are commercial or industrial premises on which a sign is situated identifying the commercial or industrial activity conducted thereon, or displaying the real or assumed business name of a person or proprietor thereof, the same shall constitute prima facie evidence that the person whose name is thus displayed is in possession or control of the premises as owner or lessee, but this shall not be construed to relieve from responsibility any agent, manager, employee or other person who actually committed the violation.

<sup>2</sup>1.070      Fees

The City Council shall establish fees for the performance of the actions and reviews required by this Code by separate resolution. The fees charged shall be at an amount no more than the actual or average cost of providing that service. Payment of said fees shall be required at the time of application, and no review or action shall go forward without payment of said fee in full. Upon denial of the applicant's request, and resubmission by the applicant, fees shall be required in full for the resubmitted application. For modifications or amendments to an approved application requiring a Type II, III, IV or V review, a fee shall be required.

1.080      Validity and    Prior Approval

The following actions, if initiated prior to the adoption of this Code, may be continued and completed, but only when in accordance with approvals granted by the City, and when in accordance with conditions made or requirements in effect at the time approval was granted. All other approvals, authorization or permission in any form given prior to the enactment of this Code shall be invalid.

- (1) Completion of any construction activity for which a building permit had been issued, provided that the work is carried out in conformance with the requirements under which the permit was issued. If after a period of more than one year from adoption of this Code the work is not progressing in a vigorous manner, a development permit conforming to the requirements of this Code shall be required.

- (2) Completion of final subdivision plat, final manufactured home park plan, and final PUD plan for which preliminary approval has been granted, provided such plats and plans are submitted within six months of adoption of this Code, or are submitted in accordance with a previously approved phasing plan.
- (3) Construction of any subdivision, PUD, or manufactured home park, which has received final approval, provided that such work is commenced within one year of final approval and is completed within two years of final approval or in accordance with an approved phasing plan. A single extension up to 12 months to this time requirement may be granted by the review body upon request by the applicant.
- (4) Construction of any structure or facility for which a Conditional Use Permit, Variance or Site Plan approval has been granted provided such work is commenced within one year of approval and is completed within two years of approval. A single extension up to 12 months to this time requirement may be granted by the review body upon request by the applicant.
- (5) Construction of any structure or facility under conditions of a resolution of intent to rezone, provided the terms of the resolution are met.

<sup>3</sup>1.090 Approval Criteria following Text Amendments

Approval or denial of an application shall be based upon the standards and criteria that were applicable at the time the application was first submitted. If the submitted application was deemed incomplete as provided in Section 3.050 of this Code, and the applicant resubmits the required material within 180 days of the original submittal, the decision on the application shall also be based upon the standards and criteria that were applicable at the time of the first submittal. The provisions of ORS 92.040(2) shall apply only during the 90-day period commencing the date of the application is first submitted.



<sup>4</sup>1.100 Effective Date

This Code was adopted by the City Council by Ordinance No. 4490 on August 17, 1983, and shall be effective as of September 14, 1983.

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1. Revised 5-15-95
  2. Revised 4-3-91, 11-15-95
  3. Revised 4-3-91
  4. Revised 4-3-91

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## Article 2: Procedure Types

### 2.010 Purpose

The purposes of this section are:

- (1) to establish land use review procedures;
- (2) to stratify land use review procedures according to the degree of discretionary judgment required and the extent of public participation appropriate; and
- (3) to relate the type of the procedure to the degree of impact of the proposed development.

### <sup>8</sup>2.020 Procedure Types

- (1) For purpose of administering the provisions of this Code, and other ordinances and policies of the City pertaining to land use and development, there are hereby established five types of basic procedures for processing all land use applications.
- (2) Applications shall be processed in accordance with the procedures specified in Schedule 2-1. Consolidated procedures shall be processed in accordance with Section 3.044(3) of this Code.
- (3) The Director may modify the procedure types as provided in this Code as follows. The Director may:
  - (a) Refer a Type I-B or I-C application to a Type II or Type III review as provided in Sections 2.036 and 2.037.
  - (b) Refer a Type II application to a Type III review as provided in Section 2.042(2).
  - (c) Refer a Type III application to a Type II review as provided in Section 2.052.
  - (d) In special cases where there is a compelling public interest, refer any Type I, II, or III application to a Type IV-A or IV-B review.

<sup>8</sup> Schedule 2-1. Application Procedures

**Procedure Type**

Application Type	Development Code Section	Type I-EX	Type I-AU	Type I-A	Type I-B	Type I-C	Type II	Type III	Type IV-A	Type IV-B	Type V	
1. Urban Growth Boundary Amendment	Comp. Plan Section 13.6										✓-p	
2. Comprehensive Plan Map Amendment (1)	Comp. Plan Section 13.5									✓-p		
3. Comprehensive Plan Text Amendment (1)	Comp. Plan Section 13.5									✓-p		
4. Zoning Map Amendment (1)	Sections:											
-Base Zone District	-4.030											
-Special Purpose Districts	-4.040											
---Slope Hazard	---4.043											
---Flood Hazard	---4.044										✓-p	
---Historic (See 'Historic Designation, Amendment, or Recision' below)	---											
-Medical Overlay District	-4.050											
5. Development Code Text Amendment (1)	4.100									✓-p		
6. Annexation	Article 5								✓-p			
7. Minor Variance	Article 6						✓					
8. Major Variance	Article 6							✓				
9. Historic Designation, Amendment, or Recision	Sections 4.045 – 047 & 13.430									✓-p		
10. Nonconforming Use and Development	Article 15	See Schedule 15-1										
11. Property Line Vacation	17.100								✓			
12. Property Line Adjustment	17.200				✓							
13. Partition	17.300					✓						
14. Subdivision Tentative Plan	17.410											
a. <= 9 lots	17.410						✓-p					
b. >= 10 lots	17.410							✓-p				
15. Subdivision Final Plat	17.420											
a. Conforming	17.420					✓						
b. Nonconforming	17.420						Same as for Tentative					
16. Lot Authorization	17.534						✓					

Application Type	Development Code Section	Type I-EX	Type I-AU	Type I-A	Type I-B	Type I-C	Type II	Type III	Type IV-A	Type IV-B	Type V
17. Future Development Plan	17.540						Submitted with Tentative Plan				
18. Revision of Future Development Plan	17.547					✓					
19. Future Street Plan (local streets only)	17.550						Same as for Land Division				
20. Future Street Plan (arterials and collectors)	17.550									✓	
21. Planned Unit Development Preliminary Plan	Article 18										
a. In Residential Zone	Article 18							✓-p			
b. In Commercial or Industrial Zone	Article 18						✓-p				
22. Planned Unit Development Final Plan	Article 18					✓					
23. Site Plan Review (Minor or Major)	Article 19	Based on use, activity, zoning, adjacent zoning, and overlay zoning (-p)  -See Schedule 12-2 (-p) -See Schedule 12-3 for procedures for RTC District (-p) -See Schedule 13-1 for procedures for medical uses within Medical Overlay Zone -See Schedule 13-2 for procedures for Historic Review (-p)									
24. Solar Access Permit	22.640						✓				
25. Removal of noxious vegetation & replacement with riparian vegetation within stream corridor	24.343	✓									
26. Allowed Activities in Conservation Class Wetlands	24.551	✓									
27. Conditionally Permitted Activities in Conservation Class Wetlands	24.552					✓					
28. Allowed activities in Protection Class Wetlands	24.561	✓									
29. Performance Parking	25.050					✓					

**Table Legend**

I-EX= Type I Procedure, Exempt from Development Permit Review, Section 2.033

I-AU= Type I Procedure, Administrative Use Permit Review Only, Section 2.034

- I-A= Type I Procedure, Building Permit Serves as Development Permit, Section 2.035
- I-B= Type I Procedure, Director's Decision without Comment Period, Section 2.036
- I-C= Type I Procedure, Director's Decision with Comment Period, Section 2.037
- II= Type II Procedure, Hearings Officer's Decision, Section 2.040
- III= Type III Procedure, Planning Commission's Decision (or Historic Buildings and Sites Commission's Decision), Section 2.050
- IV-A= Type IV Procedure, City Council Decision without Planning Commission Recommendation, Section 2.060
- IV-B= Type IV Procedure, City Council Decision with Planning Commission Recommendation, Section 2.060
- V= Type V Procedure, Joint Board of County Commissioners & City Council Decision with Planning Commission Recommendation, Section 2.070
  
- ✓= Specifies the required procedure for the application type, using the procedure specified at the top of the column in which the check mark is located.
- p= In accordance with Section 3.041, a preapplication is required unless the Director finds a conference is not needed.

**Notes**

- (1)= The 1998 Intergovernmental Agreement gives the City decision-making authority for these items within the Urbanizing Area, and gives the County automatic party status.

<sup>1</sup>2.030 Type I Procedures

2.031 Purpose. The purpose of the Type I procedure is to provide a method for the Director to make decisions on applications under land use standards either which do not require interpretation or the exercise of policy or legal judgment, or which require only limited discretion in applying land use standards.

<sup>8</sup>2.032 Type I Procedure Subcategories. This Code identifies numerous developments and activities that require a Type I review. The Type I designation includes several subcategories that have different procedural requirements.

- (1) Type I-EX. Exempt from the requirements for a Development Permit. Processed in accordance with Section 2.033.
- (2) Type I-AU. Do not require a Development Permit, but do require a use permit issued in accordance with the provisions of this Code. Processed in accordance with Section 2.034.

- (3) Type I-A. Building Permit serves as Development Permit. Processed in accordance with Section 2.035.
- (4) Type I-B. Director's Decision without a public hearing, which does not require a public comment period. Processed in accordance with Section 2.036.
- (5) Type I-C. Director's Decision without a public hearing, which requires a public comment period. Processed in accordance with Section 2.037.

<sup>8</sup>2.033 Type I-EX. Exempt. The permitted development and activities listed as Type I-EX in Schedules 2-1 and 12-2, and the following activities regardless of use, are exempt from the requirements for a Development Permit, but are nonetheless subject to the provisions of this Code:

- (1) Landscaping, irrigation, maintenance or other treatment or use of the land not involving a structure EXCEPT:
  - (a) grading which requires a permit under the Uniform Building Code or other applicable regulations.
  - (b) grading in any of the following areas, where grading shall only occur as allowed by the applicable section, and in accordance with the procedure required by the applicable section:
    - (1) a slope hazard area, which shall be processed in accordance with Section 13.100,
    - (2) a flood hazard area, which shall be processed in accordance with Section 13.200,
    - (3) a stream corridor setback, which shall be processed in accordance with Section 24.340,
    - (4) a wetland or wetland buffer, which shall be processed in accordance with Section 24.500.
- (2) Construction or improvement of parking areas of less than 1,000 square feet.



- (3) Paving an existing driveway in a manner that complies with the current standards, access provisions, and landscaping provisions of this Code, subject to an encroachment permit for any work within the right-of-way.
- (4) An emergency measure necessary for the safety or protection of property when authorized by the City Manager.
- (5) Structures not requiring a building permit.
- (6) Maintenance of a building for which a building permit is not required.
- (7) Interior remodel of a building for which a building permit is not required provided it does not result in any of the items listed in Section 2.035(6).
- (8) Roofing or siding of a building for which a building permit is not required, unless the property is an Historic Landmark or within a district that requires review for the work, such as the Historic District or Riverfront Tourist Commercial District.
- (9) Fences meeting the requirements of Section 23.037 that do not require a building permit.

<sup>8</sup>2.034 Type I-AU. Administrative Use Permit. The permitted uses, development and activities listed as Type I-AU in Schedules 2-1 and 12-2 do not require a Development Permit, but do require issuance of a use permit issued in accordance with the applicable Sections of this Code for the stated use.

<sup>8</sup>2.035 Type I-A. Building Permit as Development Permit. The permitted uses, development and activities listed as Type I-A in Schedules 2-1 and 12-2, and the following activities regardless of use, may use the Building Permit as the Development Permit, provided the provisions of this Code are met:

- (1) Fences meeting the requirements of Section 23.037 that require a building permit.
- (2) Required strengthening of non-conforming building or structure as provided in Section 15.090.

- (3) Maintenance of a building for which a building permit is required.
- (4) Roofing or siding of a building for which a building permit is required, unless the property is an Historic Landmark or within a district that requires review for the work, such as the Historic District or Riverfront Tourist Commercial District.
- (5) Expansions of 400 square feet floor area or less which comprise less than 25 percent of the existing floor area of the building, provided the expansion would meet the requirements for a Minor Modification in Section 19.058 and the requirements of Subsection (6) below.
- (6) A change of use, interior remodel, or change internal to a building or other structure, provided all of the following are satisfied. If the change would create a noncompliant situation, it shall not be permitted. For all other situations below, review shall be through the applicable review procedure for site plan review, rather than the Type I-A Procedure where building permit acts as development permit.

Noncompliant Situation Created

- (a) the change does not convert the existing use to a non-permitted use, either based on zoning or proximity to other land uses, such as an Adult Business as provided in Article 14.
- (b) there is no change to the characteristics of the existing use that would make it noncompliant with this Code, such as the standards for a Home Occupation, Bed and Breakfast Inn, or Adult Business, as provided in Article 14.
- (c) the change does not violate conditions of approval of a land use decision or Development Agreement, such as those designed to protect public facilities or adjoining properties.

Site Plan Review Required

- (d) the change would not result in a use that requires review through a higher Procedure Type than the existing use, such as to convert a single-family dwelling to two units, or to convert a residential accessory use structure to a dwelling, in a zone where a Type II review is required for two units.
- (e) the change does not require more parking than is already present for the existing use on-site or through existing parking agreements.
- (f) the change does not generate more than 20 additional PM Peak Hour vehicle trips or 500 additional Average Daily Weekday Trips vehicle trips, based on the 6<sup>th</sup> Edition ITE Trip Generation Manual, or otherwise generate additional traffic that creates a transportation deficiency or hazard.
- (g) the change does not use the property in a manner substantially different than the original approval, such that a different decision or additional mitigation requirements at the time of the original approval would have been required.

Examples include:

- converting an area approved for outdoor retail to a parking lot when the area does not have the required parking lot landscaping

- installing windows in a commercial structure at a location that would have required screening or privacy considerations for adjacent residential development

- change to a noise intensive use adjacent to residential development that could have required conditions to limit noise or hours of operation

- (h) the change does not add a drive-through window.

(i) the change would not convert a use from one "land use category" listed in Schedule 12-2 to a different land use category, unless the Director determines that they have substantially the same operating characteristics or impacts on adjoining properties and public facilities. The land use categories are summarized below:

- (1) Agriculture
- (2) Residential Dwelling Unit
- (3) Trade
- (4) Services
- (5) Recreation
- (6) Public
- (7) Industrial
- (8) Temporary Use

For example, the following would require site plan review: conversion of a residence to an office or retail building; conversion of an industrial warehouse to a retail use.

<sup>8</sup>2.036 Type I-B. Type I Decision without Public Comment Period. The permitted uses, development and activities listed as Type I-B in Schedules 2-1 and 12-2 shall be processed by the Director in accordance with the requirements of this Section. At the Director's discretion, an application requiring a Type I-B review may be referred directly to the Hearings Officer for review through a Type II review or the Planning Commission for review through a Type III review.

(1) Director's Decision.

(a) Action and Criteria. Within 20 working days of the date of determination that an application is complete, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code.

(b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.

(2) Notice of Decision. Upon reaching a final decision on the application, the Director shall provide notice in accordance with this Section.

(a) Notice Area. The Director shall mail notice of the decision to:

(i) The applicant.

(ii) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.

(iii) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.

(iv) If requested by the applicant in writing at the time of application, the Director shall also provide notice to the Department of Land Conservation and Development.

(v) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for applications which affect private access to roads.

(b) Notice Content. The notice shall:

(i) Explain the nature of the application and the proposed use or uses which could be authorized.

(ii) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.

(iii) Set forth the street address or other easily understood geographical reference to the subject property.

- (iv) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
  - (v) 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 will be provided at reasonable cost.
  - (vi) Describe the nature of the decision.
  - (vii) State that any person who is adversely affected or aggrieved or who is entitled to written notice under paragraph (a) of this Subsection may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice is mailed.
  - (viii) State the place, date and time that the appeal is due.
  - (ix) State that the decision will not become final until the period for filing a local appeal has expired.
  - (x) 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.
- (3) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall as provided for the Type III decision.
- (4) Appeal. A final decision may be appealed to the Planning Commission as provided in Section 10.020 of this Code.
- (5) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

<sup>8</sup>2.037

Type I-C. Type I Decision with Public Comment Period.

The permitted uses, development and activities listed as Type I-C in Schedules 2-1 and 12-2, shall be processed by the Director in accordance with the requirements of this Section. At the Director's discretion, an application requiring a Type I-C review may be referred directly to the Hearings Officer for review through a Type II review or the Planning Commission for review through a Type III review.

- (1) Public Comment Period Required. The Director shall provide a 14 day period for submission of written comments prior to making a decision on any application requiring a Type I-C procedure.
- (2) Notice of Public Comment Period. The Director shall mail public notice within 10 working days of receiving a complete application pursuant to Section 3.050 of this Code.
- (3) Notice Area. The Director shall mail notice of the public comment period to the following:
  - (a) The applicant.
  - (b) Owners of property within 100 feet of the entire contiguous site for which the application is made. The list shall be compiled from the most recent property tax assessment roll.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - <sup>7</sup>(d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for all partitions, and other applications which affect private access to roads.
- (4) 'Notice of Comment Period' Content. The notice shall:
  - (a) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the comment period. Issues shall be

raised with sufficient specificity to enable the decision maker to respond to the issue.

*[Note: The above language is required by ORS 197.195 for Limited Land Use Decisions, even though the procedures herein provide for appeal of a Type I-C decision to be heard by the Planning Commission through a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence. The 'notice of comment period' and 'notice of decision' language below is slightly different than the statutory language to reflect the fact that this code allows for local appeal].*

- (b) Explain the nature of the application and the proposed use or uses which could be authorized.
- (c) Briefly summarize the local decision making process for the decision being made.
- (d) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
- (e) Set forth the street addresses or other easily understood geographical reference to the subject property.
- (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (g) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, all evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.
- (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, and anyone who provides written comments during the comment period may appeal the decision by filing a written appeal in a manner provided in this Code within 12



calendar days of the date the written notice of decision is mailed.

- (i) State the place, date and time that comments are due.
- (j) State that the decision will not become final until the period for filing a local appeal has expired.
- (k) 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.

(5) Director's Decision.

- (a) Action and Criteria. Within <sup>8</sup>10 working days of the end of the public comment period, the Director shall make a decision by approving, conditionally approving, or denying the application based upon compliance with the provisions of this Code.
- (b) Conditions. Conditions may be applied to the approval of any application when such conditions are required to comply with the relevant Sections of the Code.

(6) Notice of Decision. Upon reaching a final decision on the application, the Director shall mail a copy of the decision to the applicant and any person who submits comments during the public comment period.

The Director shall also mail notice of the decision in writing to parties who were notified of the comment period in Subsection (3) of this Section.

(7) 'Notice of Decision' Content. The content of the notice of the decision shall:

- (a) Explain the nature of the application and the proposed use or uses which could be authorized.
- (b) Briefly summarize the local decision making process for the decision being made.

- (c) List, by commonly used citation, the applicable criteria from the ordinance and the plan that apply to the application at issue.
- (d) Set forth the street addresses or other easily understood geographical reference to the subject property.
- (e) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (f) State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, applicable criteria, and all evidence relied upon by the decision-maker are available for inspection at no cost and will be provided at reasonable cost.
- (g) Describe the nature of the decision.
- (h) State that any person who is adversely affected or aggrieved, anyone who is entitled to written notice under paragraph (3) of this Subsection, or anyone who provided testimony for the record may appeal the decision by filing a written appeal in a manner provided in this Code within 12 calendar days of the date the written notice of decision is mailed.
- (i) State that issues which may provide the basis for an appeal shall be raised in writing prior to the expiration of the appeal period. Issues shall be raised with sufficient specificity to enable the decision maker to respond to the issue.
- (j) State the place, date, and time the appeal is due.
- (k) state that the decision will not become final until the period for filing a local appeal has expired.
- (l) 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.

- (8) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the notice of decision is mailed, unless appealed, in which case the effective date shall as provided for the Type III decision.
- (9) Appeal. A final decision may be appealed to the Planning Commission as provided in Section 10.030 of this Code.
- (10) Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

#### 2.040 Type II Procedure

2.041 Purpose. The purpose of the Type II procedure is to hold a meeting between the applicant and surrounding property owners, in which the opportunity is given to resolve any potential conflict between the applicant and affected parties in an informal setting, and reach an acceptable decision regarding the proposal. The decisions involved in development review are to be objective in nature, and require only moderate discretion in the application of the requirements of this Code.

#### <sup>8</sup>2.042 Processing.

- (1) Except as provided in Section 2.042(2), a Type II application shall be processed by the Hearings Officer through a publicly held and noticed mediation hearing.
- (2) Hearing Option. At the Director's discretion, a Type II review may be referred directly to the Planning Commission for review and approval, using the Type III procedure as provided in Section 2.050.
- (3) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall provide for a public mediation meeting within 35 calendar days, as provided in Section 2.043 through 2.044 following, and shall cause review of the application as required by this Code to proceed.
- (4) A staff report on the application shall be prepared and shall be available to the applicant and any other interested parties at least seven calendar days prior to the meeting.

<sup>2</sup>2.043      Notice of Mediation Hearing

(1) Notice Area. The Director shall mail notice not less than <sup>8</sup>20 calendar days prior to the mediation hearing to the following:

- (a) The applicant.
- (b) Owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet of the property which is the subject of the notice.
- (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
- <sup>7</sup>(d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT), for all subdivisions, and other applications which affect private access to roads.

(2) Notice Content. The notice shall:

- (a) Explain the nature of the application and the proposed use or uses which could be authorized.
- (b) List the applicable criteria from this Code and the Comprehensive Plan that apply to the application at issue.
- (c) Set forth the street address or range of addresses, Assessor's map reference, or other easily understood geographical reference to the subject property.
- (d) State the date, time and location of the meeting.
- (e) 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 may preclude appeal based on that issue.

*[Note: ORS 197.763 requires the language "...precludes appeal to the board on that issue". The procedures herein provide for local appeal of a Type II decision to be heard by the Planning Commission and City Council prior to an appeal to the Land Use Board of Appeals. The procedures also allow for the possibility of a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence].*

- (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (g) 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 and will be provided at a reasonable cost.
- (h) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost.
- (i) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

2.044 Mediation Hearing.

- (1) Purpose. The mediation hearing is a face-to-face meeting of those persons directly involved, whose purpose is to determine design and development conditions that may mitigate the impacts of the proposed development. The Hearings Officer shall take the role of mediator, and shall encourage a design solution meeting the needs and concerns of both the applicant and objecting property owners.
- (2) Orderly Conduct. The Hearings Officer shall chair the mediation hearing, and shall provide for the orderly conduct of the hearing in an informal but fair and open manner. Participants will conduct themselves in a reasonable and orderly manner, and may be excused from

the meeting by the Hearings Officer for disruptive conduct.

- (3) At the commencement of the hearing, a statement shall be made to those in attendance that:
  - (a) Lists the applicable criteria by which a decision will be made.
  - (b) States that testimony, evidence, and arguments, must be directed toward these criteria or other criteria contained in this Code or the Comprehensive Plan which the person believes to apply to that decision.
  - (c) States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue may preclude appeal based on that issue.

*[Note: ORS 197.763 requires the language "...precludes appeal to the board on that issue". The procedures herein provide for local appeal of a Type II decision to be heard by the Planning Commission and City Council prior to an appeal to the Land Use Board of Appeals. The procedures also allow for the possibility of a 'de novo' hearing, which allows new issues to be raised and allows introduction of new evidence].*

- (4) If a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven calendar days after the meeting.

#### 2.045 Hearings Officer's Decision.

- (1) Action and Criteria. The Hearings Officer shall review the application, written comments, mediation hearing testimony, if any, and the requirements of this Code, and shall make a decision on the application by approving, conditionally approving, or denying the application. The criteria for reaching a decision under a Type II procedure shall be based on compliance with the provisions of the Code.

- (2) Conditions. Conditions may be applied to the approval of any application under a Type II procedure when such conditions are required to comply with the applicable provisions of this code. Conditions in excess of the requirements of this Code may be made, but only if agreed to in writing by the applicant, and made at this option in order that the project may go forward speedily.
- (3) Final Decision and Notice. At the conclusion of the mediation hearing, or within 10 calendar days of the mediation hearing, the Hearings Officer shall reach a final decision, and shall mail notice in writing of the final decision to the applicant, all affected parties participating in the mediation meeting, and all affected parties submitting written comment prior to the mediation meeting requesting such notice. The content of the notice of final decision shall be as provided in Section 2.037(7) of this Code, and shall state the right of appeal of the final decision as provided in this Code.
- <sup>8</sup>(4) Effective Date. The effective date of the final decision shall be 12 calendar days following the date the written notice of decision is mailed, unless appealed, in which case the effective date shall be as provided for the Type III decision.

2.046 Appeal. The final decision of the Hearings Officer under the Type II procedure may be appealed to the Planning Commission as provided in Section 10.040 of this Code.

2.047 Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.050 Type III Procedure

2.051 Purpose. The purpose of the Type III procedure is to provide for quasi-judicial review of designated land use actions by the Planning Commission at a public hearing. Such actions may be complex and discretionary in nature, requiring the exercise of judgment in applying the policies of the Comprehensive Plan and the requirements of this Code.

<sup>8</sup>2.052      Processing.

- (1) A Type III application shall be reviewed at a public hearing before the Planning Commission. At the Director's discretion, a Type III review may be referred to the Hearings Officer, in which case the application shall be reviewed using the Type II procedure. The Director shall only refer a Type III decision to the Hearings Officer when unusual circumstances apply, and the amount of discretion is not substantially greater than applications reviewed through a Type II procedure.
- (2) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall schedule a public hearing within 55 calendar days, as provided in Sections 2.053 through 2.054 following, and shall cause review of the application as required by this Code to proceed.

<sup>3</sup>2.053      Notice of Public Hearing

- <sup>8</sup>(1) Notice shall be mailed not less than 20 calendar days prior to the hearing, or, if there are two or more evidentiary hearings, notice shall be mailed not less than 10 days before the first hearing. Notice shall be mailed to the following:
  - (a) The applicant.
  - (b) Owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet of the property which is the subject of the notice.
  - (c) Any neighborhood or community organization whose boundaries include the site and who is listed by the City on a public notice registry.
  - <sup>7</sup>(d) Public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT).
- (2) If the hearing is a Planning Commission recommendation hearing or City Council action hearing for a Type IV procedure, the following notice shall also be provided:



- (a) For Development Code text amendments and Comprehensive Plan amendments, notice shall be provided in a newspaper of general circulation 4 to 10 days prior to the hearing.
  - (b) If the application would change the zone of property which includes all or part of a manufactured home park, notice shall be mailed to each existing mailing address for tenants of the manufactured home park at least 20 calendar days and not more than 40 calendar days prior to the hearing.
  - (c) For Development Code amendments and Comprehensive Plan amendments that "rezone" property as defined in Section 2.095, mailed notice shall be provided in Section 2.095.
- (3) On an appeal from the Type I or II procedure, the Director shall mail notice to parties specified in Section 10.022, 10.032, or 10.042, provided below for reference:
- (a) Type I-B. The applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously mailed written notice of the decision.
  - (b) Type I-C. The applicant, the appellant, any adversely affected or aggrieved party requesting notice and writing, and all persons previously noticed as part of the process leading to the Director's final action.
  - (c) Type II. The applicant, the appellant, any adversely affected or aggrieved person requesting notice in writing, and all person's previously noticed leading to the Hearings Officer's written decision.
- (3) Notice Content. The notice shall:
- (a) Explain the nature of the application and the proposed use of uses which could be authorized.

- (b) List the applicable criteria from this Code and the Comprehensive Plan that apply to the application at issue.
- (c) Set forth the street address or range of addresses, Assessor's map reference, or other easily understood geographical reference to the subject property.
- (d) State the date, time and location of the meeting.
- (e) State the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or other evidence to afford the decision maker an opportunity to respond to the issue may preclude appeal of the Planning Commission's decision based on that issue, and precludes appeal of a City Council decision to the Land Use Board of Appeals based on that issue.
- (f) Include the name of a City representative to contact and the telephone number where additional information may be obtained.
- (g) 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 and will be provided at a reasonable cost.
- (h) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost.
- (i) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.

2.054 Public Hearing. A public hearing shall be held by the Hearing Officer or the Planning Commission on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-judicial Hearing Rules.

<sup>4</sup>2.055      Final Decision

- (1) Action and Criteria. The review body shall review the application, together with staff review, written comment received prior to or during the hearing, and testimony made at the hearing, and shall make a decision on the application by approving, approving with conditions or denying the application. The criteria for reaching a decision under a Type III procedure, including decisions made under appeal, shall be based upon compliance with the provisions of this Code.
- (2) Conditions. Conditions may be applied to the approval of any application under a Type III procedure, when such conditions are required to comply with the applicable Sections of this Code.
- (3) Findings and Notice of Final Decision. The initial action by the Planning Commission shall be known as the oral decision, as provided in Section 8.038 and 9.037.
  - (a) A final decision by the Planning Commission incorporating the oral decision shall be adopted by the next regularly scheduled meeting of the Commission, and shall include findings which address the applicable criteria when required by this Code.
  - (b) Notice of the final decision shall be mailed to the applicant, and other affected parties requesting such notice in writing, within 10 calendar days of the rendering of the final decision by the Planning Commission, and shall state the right of appeal of the final decision as provided in this Code.
- <sup>8</sup>(4) Effective Date. The effective date of the final decision shall be 7 calendar days following the final decision by the Planning Commission unless appealed, in which case the effective date shall be as provided for the Type IV decision.

2.056      Appeal. The final decision of the review body under the Type III procedure may be appealed to the City Council as provided in Section 10.050 of this Code.

2.057      Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.060 Type IV Procedure

2.061 Purpose. The purpose of the Type IV procedure is to provide for quasi-judicial and legislative review of designated land use actions by the City Council at a public hearing. Such actions are complex and discretionary in nature, and require the exercise of judgment in applying the policies of the Comprehensive Plan and the requirements of this Code.

2.062 Processing.

- (1) A Type IV application may be reviewed at a public hearing before the Planning Commission for a recommendation, unless otherwise stipulated by this Code, and shall be reviewed at a public hearing before the City Council for action on the matter.
- (2) Upon verification of a complete application pursuant to Section 3.050 of this Code, the Director shall schedule a public hearing before the Planning Commission within 55 calendar days, as provided in Sections 2.063 through 2.064 following, and shall cause review of the application required by this Code to proceed.
- (3) As specified in this Code, certain land use actions processed under the Type IV procedure may require review by the City Council only, all other particulars of the review process under the Type IV procedure remaining the same. These actions are designated as Type "IV-A" in Schedule 2-1. Unless specifically stated otherwise in this Code, the Type IV procedure shall include consideration by the Planning Commission. These actions are designated as Type "IV-B" in Schedule 2-1.

2.063 Recommendation Hearing Before Planning Commission.

- (1) Notice. When an application is scheduled for the recommendation hearing by the Planning Commission, notice area, method and content shall be as provided in Section 2.053 of this Code.
- (2) Public Hearing. A public hearing shall be held by the Planning Commission on the date noticed by the Director. The conduct of the hearing shall be as provided in

Article 8, Quasi Judicial Hearing Rules or Article 9, Legislative Hearing Guidelines, as appropriate.

2.064 Recommendation Hearing by the Planning Commission

<sup>7</sup>(1) Action, Criteria and Conditions. The Planning Commission shall review the application and make a recommendation to the City Council, either for approval, approval with conditions or denial of the proposal. The criteria for reaching a decision under the Type IV procedure shall be compliance with the Comprehensive Plan, including but not limited to the Master Transportation Plan, and the provisions of this Code.

(2) Findings and Notice of Recommendation Decision. The initial action by the Planning Commission at the Recommendation Hearing shall be known as the oral recommendation.

(a) A final recommendation embodying the oral recommendation by the Planning Commission shall be adopted at the next regularly scheduled meeting of the Commission, and shall include findings which address the applicable criteria of this Code.

(b) Notice of the final recommendation shall be mailed to the applicant, and to other affected parties requesting such notice in writing, within 10 calendar days of the rendering of the final recommendation by the Planning Commission, and shall indicate the tentative date of the public hearing scheduled before the City Council on the matter.

2.065 Action Hearing Before City Council.

(1) Schedule. Within 12 calendar days of the oral recommendation by the Planning Commission, the Director shall tentatively schedule the action hearing on the application before the City Council.

(2) Notice of Public Hearing. Notice shall be as provided in Section 2.053 of this Code, except that mailed notice shall also include those affected parties who testified either in person or in writing at the recommendation hearing before the Planning Commission.

- (3) Public Hearing. A public hearing by the City Council shall be held on the date noticed by the Director. The conduct of the hearing shall be as provided in Article 8, Quasi-Judicial Hearing Rules, or Article 9, Legislative Hearing Guidelines, as appropriate.

<sup>5</sup>2.066 Final Decision by City Council

- (1) Action and Criteria. The City Council shall review the application, together with the staff review, findings and final recommendation of the Planning Commission, evidence received prior to and during both the Planning Commission and City Council hearings, and shall make a decision on the application by approving, conditionally approving or denying the application. The criteria for reaching a decision under the Type IV procedure shall be compliance with the Comprehensive Plan and the provisions of this Code.
- (2) Conditions. Conditions may be applied to the approval of any application under Type IV procedure, when such conditions are in accord with the applicable Sections of this Code.
- (3) Findings and Notice of Final Decision. The initial action by the City Council shall be known as the oral decision.
  - (a) A final decision embodying the oral decision shall be adopted by the City Council by the second regularly scheduled meeting of the Council following the oral decision by Council.
  - (b) Notice of the final action shall be mailed to the applicant, and to other affected parties requesting such notice in writing, within 10 calendar days of the rendering of the final decision, and shall include the adopted findings of Council, and shall state the right of appeal under state statute.
- (4) Effective Date. The decision of the Council shall be final upon signing of the findings of fact.

2.067 Appeal. The final decision of the City Council under the Type IV procedure may be appealed to the Oregon Land Use Board of Appeals as provided in Section 10.060.

2.068 Resubmittal. A denied application may be resubmitted as provided in Section 3.080 of this Code.

2.070 Type V Procedure. Type V procedure providing for joint City Council and Board of County Commissioners review shall be as provided in the Joint Urban Area Services Management Agreement.

<sup>8</sup>2.071 Appeal. The final decision of the City Council and Board of County Commissioners under the Type V procedure may be appealed to the Oregon Land Use Board of Appeals as provided in Section 10.060.

<sup>6</sup>2.080 Deadline for Decision

The review body shall take final action on any application including resolution of all appeals as provided in Section 3.050.

<sup>7</sup>2.085 Coordinated Review for Transportation Facilities

All land use decisions involving transportation facilities, corridors and sites shall include as part of the record, and consider the findings of, any relevant Environmental Impact Statements and Environmental Assessments completed by the Oregon Department of Transportation (ODOT).

<sup>8</sup>2.090 Noticing Requirements for Certain Proposed Administrative Rules and New State Statutes and Administrative Rules

The purpose of this Section is to comply with noticing procedures required by ORS 197.047.

(1) Applicability. The provisions of this Section apply to all statutes and administrative rules of the Land Conservation and Development Commission that limit or prohibit otherwise permissible uses or cause a local government to rezone property.

(2) 'Rezoned' Defined. For purposes of this section, property is rezoned when the statute or administrative rule causes the City to:

- (a) Change the base zoning classification of property;  
or
  - (b) Adopt or amend an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (3) 'Owner' Defined. As used in this section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the last available complete tax assessment roll.
- (4) Notice Requirement for Proposed LCDC Administrative Rule That Rezones Property. When the City receives notice under ORS 197.047(2) of a proposed new or amended administrative rule of the Land Conservation and Development Commission, it shall cause the notice set forth in Subsection (5) of this Section to be mailed to every property owner that will be rezoned as a result of the proposed rule. Notice to an owner under this subsection must be mailed at least 45 days prior to the final public hearing on the proposed rule.
- (5) Notice Content for Proposed LCDC Administrative Rule That Rezones Property. The notice required in Subsection (4) of this Section must:
- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:  
  
"This is to notify you that the Land Conservation and Development Commission has proposed a new or amended administrative rule that, if adopted, may affect the permissible uses of your property and other properties."
  - (b) Contain substantially the following language in the body of the notice:  
  
"On (date of public hearing), the Land Conservation and Development Commission will hold a public hearing regarding adoption of proposed (new or amended) rule (number). Adoption of this rule may affect the permissible uses of your property, and



other properties in the affected zone, and may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the proposed rule (number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (phone number)."

- (6) Notice Requirement for Adopted Statute or LCDC Administrative Rule That Rezones Property. When the City receives notice under ORS 197.047(6) of an adopted new or amended statute or administrative rule of the Land Conservation and Development Commission, it shall cause the notice set forth in Subsection (7) of this Section to be mailed to every property owner that will be rezoned as a result of adoption of the rule or enactment of the statute, unless notice was provided pursuant to Subsection (4) of this Section.

The City shall mail the notice to an owner under this subsection at least 45 days prior to the effective date of the rule or statute unless the rule or statute is effective within 90 days of enactment or adoption, in which case the City shall mail the notice to an owner under this subsection not later than 30 days after the City receives notice under ORS 197.047(6).

- (7) Notice Content for Adopted Statute or LCDC Administrative Rule That Rezones Property. The notice required in Subsection (6) of this notice must:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

"(Check on the appropriate line:)

\_\_\_\_\_ This is to notify you that the Land Conservation and Development Commission has adopted an administrative rule that may affect the permissible uses of your property and other properties; or

\_\_\_\_\_This is to notify you that the Legislative Assembly has enacted a land use planning statute that may affect the permissible uses of your property and other properties."

- (b) Contain substantially the following language in the body of the notice:

“(Check on the appropriate line:)

\_\_\_\_\_On (date of rule or adoption), the Land Conservation and Development Commission adopted administrative rule (number). The rule may affect the permissible uses of your property, and other properties in the affected zone, any may change the value of your property.

Rule (number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of the rule (number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (phone number); or

\_\_\_\_\_On (date of enactment), the Legislative Assembly enacted (House/Senate bill number). The Department of Land Conservation and Development has determined that enactment of (House/Senate bill number) may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

A copy of the (House/Senate bill number) is available for inspection at the Department of Land Conservation and Development located at (address). A copy of (House/Senate bill number) also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information, contact the Department of Land Conservation and Development at (telephone number).

- (8) DLCD Reimbursement to City. The Department of Land Conservation and Development shall reimburse the City for:
- (a) The actual costs incurred responding to questions from the public related to a proposed new or amended administrative rule of the Land Conservation and Development Commission and to notice of the proposed rule; and
  - (b) All usual and reasonable costs of providing notices required under subsection (4) or (8) of this section.

2.095 Noticing Requirements for Certain Comprehensive Plan and Ordinance Amendments that Rezone Property

The purpose of this Section is to comply with noticing procedures required by ORS 227.186.

- (1) 'Rezoned' Defined. For purposes of this Section, property is rezoned when the City:
  - (a) Changes the base zoning classification of the property; or
  - (b) Adopts or amends an ordinance in a manner that limits or prohibits land uses previously allowed in the affected zone.
- (2) 'Owner' Defined. As used in this Section, "owner" means the owner of the title to real property or the contract purchaser of real property, of record as shown on the latest available complete tax assessment roll.
- (3) Legislative Acts by Ordinance. All legislative acts relating to comprehensive plans, land use planning or zoning adopted by the City shall be by ordinance.
- (4) Additional Notice Requirement for Proposed Ordinance Amending Comprehensive Plan That Would Require Rezoning of Property to Comply with Plan. The noticing requirement in this Section is in addition to the applicable notice requirements contained elsewhere within this Article.

Except as provided in Subsection (7) of this Section, at least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to amend an existing comprehensive plan or any element thereof, or to adopt a new comprehensive plan, a city shall cause written individual notice of a land use change to be mailed to each owner whose property would have to be rezoned in order to comply with the amended or new comprehensive plan if the ordinance becomes effective.

- (5) Additional Notice Requirement for Proposed Ordinance That Rezones Property. The noticing requirement in this Section is in addition to the applicable notice requirements contained elsewhere within this Article.

At least 20 days but not more than 40 days before the date of the first hearing on an ordinance that proposes to rezone property, the City shall cause a written individual notice of a land use change to be mailed to the owner of each lot or parcel of property that the ordinance proposes to rezone.

- (6) Notice Content for Proposed Ordinance Described in Subsection (4) or (5). An additional individual notice of land use change required by Subsection (4) or (5) of this Section shall be approved by the City and shall describe in detail how the proposed ordinance would affect the use of the property. The notice shall:

- (a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

"This is to notify you that the City of Grants Pass has proposed a land use regulation that may affect the permissible uses of your property and other properties."

- (b) Contain substantially the following language in the body of the notice:

"On (date of public hearing), the City of Grants Pass will hold a public hearing regarding the adoption of Ordinance Number \_\_\_\_\_. The City of

Grants Pass has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, any may change the value of your property.

Ordinance Number \_\_\_\_\_ is available for inspection at the Grants Pass City Hall located at 101 NW 'A' Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \$\_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the City of Grants Pass Planning Division at 474-6355."

(7) Notice Requirement for Adoption of Ordinance Amending Comprehensive Plan or Land Use Regulation for Periodic Review. At least 30 days prior to the adoption or amendment of a comprehensive plan or land use regulation by a city pursuant to the requirements of periodic review of the comprehensive plan under ORS 197.628, 197.633 and 197.636, the City shall cause a written individual notice of the land use change to be mailed to the owner of each lot or parcel that will be rezoned as a result of the adoption or enactment. The notice shall describe in detail how the ordinance or plan amendment may affect the use of property. The notice also shall:

(a) Contain substantially the following language in boldfaced type across the top of the face page extending from the left margin to the right margin:

"This is to notify you that the City of Grants Pass has proposed a land use regulation that may affect the permissible uses of your property and other properties."

(b) Contain substantially the following language in the body of the notice:

"As a result of an order of the Land Conservation and Development Commission, the City of Grants Pass has proposed Ordinance Number \_\_\_\_\_. The City of Grants Pass has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property.

Ordinance Number \_\_\_\_\_ will become effective on (date).

Ordinance Number \_\_\_\_\_ is available for inspection at the Grants Pass City Hall located at 101 NW 'A' Street. A copy of Ordinance Number \_\_\_\_\_ also is available for purchase at a cost of \_\_\_\_\_.

For additional information concerning Ordinance Number \_\_\_\_\_, you may call the City of Grants Pass Planning Division at 474-6355.

- (8) Combined Mailing Option. Notice provided under this Section may be included with the tax statement required under ORS 311.250.
- (9) Method of Mailing. Notwithstanding Subsection (8) of this Section, a city may provide notice of a hearing at any time provided notice is mailed by first class mail or bulk mail to all persons for whom notice is required under Subsections (4) and (5) of this Section.
- (10) Relationship to Section 2.090. The provisions of this Section do not apply to legislative acts of the City Council resulting from action of the Legislative Assembly or the Land Conservation and Development Commission for which notice is provided under Section 2.090 or resulting from an order of a court of competent jurisdiction.
- (11) Notice Not Required to Duplicate Ownerships. The City Council is not required to provide more than one notice under this Section to a person who owns more than one lot or parcel affected by a change to the comprehensive plan or land use regulation.
- (12) DLCD Reimbursement to City. The Department of Land Conservation and Development shall reimburse the City for all usual and reasonable costs to provide notice required under Subsection (7) of this Section.

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1. Revised 10-7-92
  2. Revised 11-15-95
  3. Revised 10-7-92; 11-15-95
  4. Revised 11-15-95
  5. Revised 11-15-95
  6. Revised 11-15-95
  7. Revised 9-4-02
  8. Revised 4-20-05, Ordinance 5285

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**Article 3: Land Use Decision and Development Permit Procedures**

3.010 Purpose

Land use decisions and development permits are issued to assure property owners that the use and development of land is consistent with the provisions of this Code. The development permit replaces various land use permits previously required prior to adoption of this Code, while simplifying and regularizing the permit procedure.

<sup>3</sup>3.020 Code Compliance Required

3.021 Land Use Decision and Permit Issuance. Land Use Decisions and Development Permits shall be issued according to the provisions of this Code.

Neither the City Building Official nor any other state or local official shall issue a permit for use, development or occupation of a structure which has not been approved according to this Code. Notwithstanding the above, valid prior approvals shall be allowed to proceed as provided in Section 1.080, Validity and Prior approval.

3.022 Lands in Violation. The Director shall not issue a Land Use Approval or Development Permit for the partitioning, subdivision, development, or use of land that has been previously divided in violation of state or local codes then in effect, or divided in violation of this Code subsequent to its adoption, or otherwise developed in violation of this Code, regardless of whether the applicant created the violation, unless the violation can be rectified as part of the proposed development in a manner provided by this Code.

3.030 Land Use Approval Required, Exceptions

- (1) Any use, development, or activity identified in Section 2.033 of this Code as "Exempt" (Type I-EX Procedure) does not require a permit, land use decision, or Development Permit, but shall comply with the provisions of this Code.
- (2) Any use, development, or activity identified in Section 2.034 of this Code as requiring an Administrative Use Permit (Type I-AU Procedure) does not require a land use decision or Development Permit, but requires a Use Permit

in accordance with the provisions of this Code, and shall comply with the provisions of this Code.

- (3) Any use, development, or activity identified in Section 2.035 of this Code, which allows the Building Permit to serve as Development Permit (Type I-A Procedure), does not require a written land use decision, but shall comply with the conditions set forth as part of the Building Permit, and shall comply with the provisions of this Code.
- (4) Except as provided in Subsection (5) of this Section, any use, development, or activity identified in Sections 2.036 (Type I-B Procedure), 2.037 (Type I-C Procedure), 2.040 (Type II Procedure), 2.050 (Type III Procedure), 2.060 (Type IV Procedure), or 2.070 (Type V Procedure) requires a written land use approval issued in accordance with the procedures of Article 2.
- (5) Certain applications, such as Lot Line Vacations, are reviewed through a Type IV-B Procedure, and approval is granted by City Council by Ordinance. The ordinance serves as the approval and there is no separate written land use approval.

### 3.040 Land Use Decision Procedures

#### <sup>3</sup>3.041. Pre-Application Conference

- (1) A pre-application conference is required for all applications in Schedule 2-1, 'Application Procedures' identified as requiring a pre-application, unless the Director finds the conference is not needed.

An applicant or the applicant's authorized representative shall request the Director to arrange a pre-application conference, unless the Director finds the conference is not needed.

- (2) The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this Code; to provide for an exchange of information regarding applicable elements of the Comprehensive Plan and Development Code requirements, and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development.

- (3) Any pre-application for site plan review, subdivision, or PUD requires a rough sketch conceptual plan to be reviewed in the pre-application conference.
- (4) Upon the request of the applicant, the Director shall provide the applicant with a written summary of the conference including confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application.

3.042 Director Coordination. The Director shall be responsible for the coordination of the land use application and decision making procedure.

3.043 Submittal of Application Materials. Land use applications together with all application materials shall be submitted to the Director during the normal working hours of the Department. The Director shall indicate the date of submittal on each copy of the materials submitted.

A complete application shall consist of only the items required by this Code, as follows:

- (1) A completed application, on a form provided by the Director.
- (2) Legal description, assessor map page number and tax lot number for all properties included in the application.
- (3) Evidence that the property included in the application is owned by the applicant, or that the applicant is the duly authorized agent of the owner.
- (4) Additional information, including maps, plans, sketches, calculations, and traffic analysis as required by other Articles and Sections of this Code.
- (5) Where applicable, a statement of intent, explaining the nature and proposed use of the development, pertinent background information and other information that may have a bearing in determining the action to be taken.
- (6) As many duplicates of the above information as may be requested by the Director to facilitate expeditious review of the application.

- (7) Submission of application fees as established by the City Council by separate resolution.

3.044 Determination of Procedure Types

- (1) Procedure Types. A land use application shall be processed under a Type I, II, III, IV, or V procedure, as provided in this Code in Article 2, Procedure Types.
- (2) Determination of Procedure Types. When a complete application is submitted, or following the pre-application conference, the Director shall determine the type of procedure the Code specifies for its processing. Where there is a question as to the appropriate type of procedure, the Director shall determine the procedure to be utilized based upon the most similar development permit procedure specified by this Code.
- (3) Consolidated Procedures. An applicant may apply at one time for all permits or approvals required for a development, such as zone map amendment and comprehensive plan map amendment, subdivision, variance, and site plan review, provided all application materials for each permit are submitted simultaneously. In such circumstances, the procedure type followed shall be determined by the Director and may be the highest required for any of the individual applications.
- <sup>2</sup>(4) Consolidation Process for Transportation Facilities. Whenever more than one land use decision is required to permit a transportation facility, review of such decisions shall be consolidated, provided all application materials for each permit are submitted simultaneously. In such circumstances, the procedure type followed shall be determined by the Director and may be the highest required for any of the individual applications.

<sup>3</sup>3.050 Application Completeness and Processing Timelines

- (1) Except as provided in subsections (5) and (7) of this section, the review body shall take final action on any application, including resolution of all local appeals under ORS 227.180, within 120 days after the application is deemed complete.

The timelines specified in Article 2 for processing an application, including noticing, scheduling a hearing, and issuing a decision shall begin on the date the application is deemed complete.

- (2) Within 5 days of receiving an application, the Director will review the application materials and make a determination of whether the application is complete.

If an application is deemed complete, the Director shall process the application in accordance with the provisions of this Code, including the referral and review provisions of this Article and the applicable procedure type of Article 2.

If an application is deemed incomplete, the Director shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section upon receipt by the Director of:

- (a) All of the missing information; or
- (b) Some of the missing information and written notice from the applicant that no other information will be provided; or
- (c) Written notice from the applicant that none of the missing information will be provided.

- (3) Applicable Criteria.

- (a) If the application was deemed complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
- (b) If the application is for industrial or traded sector development of a site identified under Section 12, Chapter 800, Oregon Laws 2003, and proposes an amendment to the comprehensive plan, approval or denial of the application must be based

upon the standards and criteria that were applicable at the time the application was first submitted, provided the application complies with paragraph (a) of this section.

- (4) On the 181<sup>st</sup> day after first being submitted, the application is void if the applicant has been notified of the missing information as required under subsection (2) of this section and has not submitted:
  - (a) All of the missing information; or
  - (b) Some of the missing information and written notice that no other information will be provided; or
  - (c) Written notice that none of the missing information will be provided.
- (5) The 120-day period set in subsection (1) of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days.
- (6) The 120-day period set in subsection (1) of this section applies:
  - (a) Only to decisions wholly within the authority and control of the governing body of the City; and
  - (b) Unless the parties have agreed to mediation as described in ORS 197.319(2)(b).
- (7) Notwithstanding subsection (6) of this section, the 120-day period set in subsection (1) of this section does not apply to an amendment to an acknowledged comprehensive plan or land use regulation, or adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610(1) in accordance with post-acknowledgment plan amendment procedures.
- (8) Except when an applicant requests an extension under subsection (5) of this section, if the review body does not take final action on an application within 120 days after the application is deemed complete, the city shall refund to the applicant, subject to subsection (9) of this section, either the unexpended portion of any

application fees or deposits previously paid or 50 percent of the total amount of such fees or deposits, whichever is greater. The applicant is not liable for additional governmental fees incurred subsequent to the payment of such fees or deposits. However, the applicant is responsible for the costs of providing sufficient additional information to address relevant issues identified in the consideration of the application.

(9) Refund Process.

(a) To obtain a refund under subsection (8) of this section, the applicant may either:

(i) Submit a written request for payment, either by mail or in person, to the city.

(ii) Include the amount claimed in a mandamus petition filed under ORS 227.179. The court shall award an amount owed under this section in its final order on the petition.

(10) A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section governing refunds or ORS 227.179 governing mandamus proceedings, as a condition for taking any action on an application except when such applications are filed concurrently and considered jointly with a plan amendment.—

3.060 Referral and Review of Complete Application

3.061 Referral. Within five (5) working days of accepting a complete application, the Director shall:

(1) Transmit one copy of the application, or appropriate parts of the application, to each City department identified by the Director as having possible interest in commenting on the proposal pursuant to the requirements of this Code.

(2) Transmit the application, or appropriate parts of the application, to other governmental bodies where approval of other governmental bodies is required prior to granting a development permit.



- <sup>3</sup>(3) Transmit the application, or appropriate parts of the application, to public agencies which provide transportation facilities and services, such as Josephine County and the Oregon Department of Transportation (ODOT) for all partitions, and other applications which affect private access to roads.

3.062 Review

- (1) The Director shall include in the transmissions noted in Section 3.061(1) above, the date of site plan review scheduled for the application, or if no site plan review is required, some other date for submission or comment. If no comment is forthcoming by the date of site plan review, or by the other date provided if no site plan review is required, the referral agency or City department is presumed to have no comments and objections.
- (2) The Director may extend the deadline for comment by the referral agency or City department up to 10 working days, but only if the application involves unusual circumstances.

3.065. Decision or Recommendation

The Director shall review the application, applicable criteria and standards of this Code, other applicable laws, comments from the Site Plan Review Committee, and any testimony received.

- (1) For a Type I-B or Type I-C Procedure, the Director shall issue a decision and provide notice of the decision in accordance with Article 2.
- (2) For a Type II, III, IV, or V Procedure, the Director shall issue a staff report with a recommendation to the review body and provide notice as provided in Article 2. The review body shall issue a decision, and notice of the decision shall be provided in accordance with Article 2.

3.070 Fulfillment of Conditions of Land Use Approval

- (1) If the land use application is approved, the decision shall identify:
  - (a) any conditions that must be completed prior to issuance of a Development Permit, for applications which require a Development Permit.
  - (b) any conditions that must be completed prior to occupancy or final plat approval.
  - (c) when the decision expires.
- (2) If the Director or Review Body approves the land use application, the decision shall become final on the effective date as specified in Article 2. Once a land use decision becomes final, it shall expire as provided in Section 3.075. The applicant shall obtain a Development Permit prior to expiration of the land use decision. If the conditions do not require a Development Permit, the applicant shall complete all other conditions or obtain an extension prior to expiration of the land use approval.

3.075. Expiration and Extension of Land Use Approval

3.076. Expiration of Land Use Approval

- (1) Tentative Plans. Expiration of a land use approval for a tentative plan shall be governed by Article 17: Section 17.213 for Property Line Adjustments, Section 17.313 for Partitions, and Section 17.415 for Subdivisions.
- (2) All Other Applications. Except as provided in Subsection (1), a land use approval shall expire 18 months from the effective date of the decision, unless:
  - (a) The applicant has obtained a Development Permit, or
  - (b) When a Development Permit is not required, the applicant has completed all conditions of approval, or
  - (c) When authorized in Section 3.077 of this Code, the applicant received a written extension from the

Director prior to expiration of the land use approval.

3.077. Extension of Land Use Approval

(1) Tentative Plans. Extension of a land use approval for a tentative plan shall be governed by Article 17: Section 17.213 for Property Line Adjustments, Section 17.313 for Partitions, and Section 17.415 for Subdivisions.

(2) All Other Applications. The Director may grant up to two extensions of the land use approval of six months each, in accordance with the provisions of this Section. The Director may grant an extension for less than six months if there are reasons a six month extension would be contrary to the purposes of this Code.

(a) At least 30 days prior to the expiration of the decision, the applicant shall submit a written request for an extension. The request shall identify all of the following:

(i) progress the applicant has made toward completion of the conditions necessary to obtain a Development Permit.

(ii) an estimate of the time the applicant will need to complete the remaining conditions to obtain a Development Permit.

(iii) evidence that the applicant is vigorously pursuing the Development Permit and has the resources necessary to complete conditions necessary to obtain a Development Permit within the time provided by an extension.

(b) To grant an extension, the Director shall make written findings that all of the following are satisfied:

(i) There have not been significant changes in this Code, other regulations, the facts upon which the approval was based, the recommendations that existed at the time the land use decision was issued, or other circumstances that would warrant refiling the plan.

- (ii) No other development approval would be affected.
  - (iii) The applicant is vigorously pursuing a Development Permit and has made substantial progress toward obtaining a Development Permit.
  - (iv) The remaining work necessary to obtain a Development Permit can be reasonably completed within the amount of time granted by an extension.
  - (v) No useful purpose would be served by requiring resubmittal.
- (c) The extension shall be in writing and shall specify the new expiration date.

3.080 Action on Resubmission of Denied Application.

An applicant may make appropriate alterations to a proposal which has previously been denied by the review body and resubmit it with payment of the required fee.

<sup>3</sup>3.090 Development Permits

3.091 Development Permit Required.

- (1) Except as provided in Subsection (2), any development activity or land division requires a Development Permit prior to commencement of any work. Except as provided in Subsection (2), no person shall engage in or cause to occur a development, including the partitioning and subdivision of land, for which a development permit has not been issued.
- (2) A Development Permit is not required for:
  - (a) any development or activity identified in one of the following Code sections that does not require a written land use approval: Section 2.033 Type I-EX (Exempt), Section 2.034 Type I-AU (Administrative Use Permit), or Section 2.035 Type I-A (Building Permit as Development Permit).

- (b) any development or activity that requires a written land use approval, but does not involve physical modification to the property, such as a Property Line Adjustment, and the written decision does not require a Development Permit as a condition of approval.
  - (c) a Type IV decision where the approval is by Ordinance and does not involve physical modification to the property, such as a Property Line Vacation or Zoning Map Amendment.
- (3) Development permits shall be in a form prescribed by the Director.

3.092 Development Permit Expiration.

- (1) Tentative Plans. Expiration of a Development Permit for a tentative plan shall be governed by Article 17: Section 17.213 for Property Line Adjustments, Section 17.313 for Partitions, and Section 17.415 for Subdivisions.
- (2) All Other Development Activities. For all other activities, all development permits shall expire 18 months from the date of issuance, unless an extension has been granted as provided in Section 3.093.

To prevent the development permit from expiring, the applicant shall complete construction, fulfill all conditions, and obtain all approvals for final inspection and occupancy, prior to expiration of the Development Permit.

- (3) The expiration date for the Development Permit shall be shown on the Development Permit.

3.093 Development Permit Extension.

- (1) Tentative Plans. Extension of a Development Permit for a tentative plan shall be governed by Article 17: Section 17.213 for Property Line Adjustments, Section 17.313 for Partitions, and Section 17.415 for Subdivisions.
- (2) All Other Development Activities. A development permit shall expire upon the expiration date shown on the permit unless:

- (a) an extension has been granted by the review body as provided in applicable Sections of this Code, or
- (b) a written extension is granted by the Director.  
Extensions may be granted by the Director when:
  - (i) construction of the development has begun and is being vigorously pursued toward completion, or
  - (ii) The Director determines that the circumstances, this Code and other regulations, and the recommendations that existed at the time of the issuance of the permit have not significantly changed and no useful purpose would be served by requiring resubmittal.

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- 1. Revised 10-7-92
  - 2. Revised 9-4-02
  - 3. Revised 4-20-05, Ordinance 5285

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**Article 4: Development Code Amendments and Criteria**

4.010 Purpose

From time to time it may be appropriate to amend sections of this Code whenever public's necessity, convenience, and general welfare require such amendment, and where such an amendment is in conformity with the Comprehensive Plan, other sections and articles of this Code, and other applicable ordinances and policies. The purpose of this section is to set forth the procedures and criteria by which changes to this Code can be made.

4.030 Zoning Map Amendments

4.031 Purpose. The Zoning Map establishes land use for all real property within the Boundary. The purpose of this section is to provide procedures and criteria for amending the Zoning Map in a manner consistent with the Comprehensive Plan.

4.032 Initiation of Amendment. A Zoning Map amendment may be initiated by any one of the following:

- (1) Property owner, by application.
- (2) The Planning Commission.
- (3) The City Council.

4.033 Criteria for Amendment. The Zoning Map may be amended by the review bodies provided that all the following criteria are met:

- (1) The proposed use, if any, is consistent with the proposed Zoning District.
- (2) The proposed Zoning District is consistent with the Comprehensive Plan Land Use Map designation.
- (3) A demonstration that existing or proposed levels of basic urban services can accommodate the proposed or potential development without adverse impact upon the affected service area or without a change to adopted utility plans.

- <sup>5</sup>(4) A demonstration that the proposed amendment is consistent with the functions, capacities and performance standards of transportation facilities identified in the Master Transportation Plan.
- (5) The natural features of the site are conducive to the proposed Zoning District.
- (6) The proposed zone is consistent with the requirements of all overlay Districts that include the subject property.
- (7) The timing of the zone change request, is appropriate in terms of the efficient provision or upgrading of basic urban services versus the utilization of other buildable lands in similar zoning districts already provided with basic urban services.
- (8) In the case of rezoning from the Urban Reserve District, that the criteria for conversion are met, as provided in Section 4.034.

<sup>1</sup>4.034 Criteria for Conversion From Urban Reserve Zones. No conversion from the Urban Reserve (UR) District to any other zoning district, whether residential, commercial or industrial, shall be granted unless it can be shown that all the following criteria have been met:

- (1) The encouragement of development within the urban areas before conversion of urbanizable areas has occurred.

The parcel(s) subject to the conversion shall be contiguous to an urban zoning district other than the Urban Reserve District.

- (2) The orderly, economic provision for public facilities and services has taken place.

Either full or interim urban services, as required for urban level development by the Joint Urban Services Management Agreement, shall be available or can be made available to serve the parcel(s) subject to the conversion.

<sup>6</sup>4.035      Procedures for Initiation of Zoning Map Amendment

- (1) A zoning map amendment for property within City limits may be initiated by the property owner, Planning Commission, or City Council.
- (2) A zoning map amendment for property within the Urbanizing Area may be initiated by the property owner, Planning Commission, City Council, or Board of County Commissioners.
- (3) A pre-application conference is required when the amendment is initiated by the property owner, in accordance with Section 3.041.
- (4) The procedure type for amending the district boundaries of the zoning map shall be in accordance with Schedule 2-1.

<sup>2</sup>4.040      Special Purpose District Map Amendments

<sup>3</sup>4.041      Purpose. The Special Purpose District Map Amendments determine the location and extent of the slope hazard district, the flood hazard district, the historic district, and the medical overlay district. These districts are located for a specific purpose, according to specific criteria, and affect development procedure and standards. It is the purpose of this section to provide procedures for amending the Special Purpose Districts consistent with the purpose and criteria of each district.

4.042      Initiation of Amendment.

- (1) Except as provided in Subsections (2) and (3) of this Section, a Special Purpose District map amendment may be initiated by any one of the following:
  - (a) Property owner, submitting a complete application as provided in Section 3.050.
  - (b) The Director.
  - (c) The Planning Commission.
  - (d) The City Council.

- (2) An amendment to an Historic District, Conservation District, or Historic Landmark Designation may be initiated by any party listed in Section 13.431.
- (3) Initiation of an amendment to the Medical Overlay District that excludes part of the property from the District or removes an entire Medical Overlay District shall also be in accordance parties specified in with Section 4.051.

4.043 Criteria for Amendment: Slope Hazard District

- (1) The slope hazard district may be amended provided all areas proposed for inclusion contain slopes equal to or in excess of 15%, and all areas proposed for exclusion contain slopes less than 15%.
- (2) The Director shall begin administering the slope hazard district requirements upon receipt of slope information demonstrating that the slope of the area is equal to or in excess of 15%. The slope information shall be prepared by a licensed professional surveyor, or through other sources approved by the City Engineer.

4.044 Criteria for Amendment: Flood Hazard District

- (1) The Flood Hazard District map is the Flood Boundary - Floodway Map established by the Federal Emergency Management Agency (FEMA) in the scientific and engineering reports entitled "The Flood Insurance Study for the City of Grants Pass" and "The Flood Insurance Study for the County of Josephine County, State of Oregon". The flood hazard district map may be amended only by FEMA in the procedure provided for Flood Boundaries - Floodway Maps.
- (2) Upon receipt of proper authorization from FEMA, the Director shall begin administering the revised Flood Hazard District, as designated by FEMA.

4.045 Criteria for Amendment: Historic District, Conservation District, and Historic Landmarks

An Historic District, a Conservation District, and a Landmark may be recommended for designation by the Historical Buildings and Sites Commission and designated

by the City Council, providing all the following criteria are addressed during consideration by the review body:

- (1) The designation of a District or Landmark serves the purpose of this section.
- (2) The boundaries of a District are adequate and suitable for designation.
- (3) Consideration of the positive and negative effects of the designation upon residents, businesses or property owners of the area.

4.046 Refusal to Consent to Historic Designation

- (1) At any time prior to the close of the final public hearing on designation of a historic district, conservation district, or historic landmark, the owner of property proposed for designation may submit to the Director a written refusal to consent to the designation. If the property owner does so, the property shall not receive the proposed designation.
- (2) If the property owner refuses designation as described in subsection (1) above, the City shall issue no permit for the demolition or modification of that property or any structure thereon during the 120-day period following the date of the property owner's refusal to consent.

4.047 Procedure Type for Historic Designation

Applications for designation of, or amendment or rescission of, the Historic District, Conservation District, or an Historic Landmark Designation shall be processed in accordance with the procedures in Schedule 2-1, except that the Historical Buildings and Sites Commission shall serve in the place of the Urban Area Planning Commission in the recommendation hearing.

<sup>1</sup>4.050 Criteria for Amendment: Medical Overlay District. The review body may establish and amend a medical overlay district provided all of the following criteria are met:

- (1) The underlying zoning of the property is R-1, R-2, R-3, R-4, GC, CBD, BP, or IP.

- (2) Each district must encompass at least eight contiguous acres and may not encompass more than forty contiguous acres.
- (3) Each district shall include a core hospital consisting of one or more buildings totaling at least 20,000 square feet of floor area. The core hospital may be an existing facility, or one approved prior to or concurrent with the application for a medical overlay district.
- (4) Not more than five percent of the area of the district shall include lots in residential zones with residences as the primary use.
- (5) Lots in residential zones with current residential uses shall not be included within the district unless at least one-third of its total frontage is directly across a street from a medical use.
- (6) The primary access for each lot within the medical overlay district shall be to a collector street, an arterial street, a state highway, or to another street that accesses one of the previous only through the land within the medical overlay district. Access to local residential streets outside the district shall be minimal, if any.
- (7) The natural features and current land uses of the property are conducive to conversion to medical uses.
- (8) There are adequate public facilities that either serve the property, or that are planned to serve the area and could readily be extended to serve the property upon development.

4.051 Removal of Medical Overlay District : Any party authorized to initiate an amendment to the medical overlay district on a property may initiate an amendment to exclude that property from the district. An application to remove an entire overlay from an area may be initiated by the Director, the Planning Commission, the City Council, or owners of a majority of the land area within the district. The review body may exclude properties or remove an entire medical overlay district upon finding that one or more of the criteria found in Section 4.050 are no longer satisfied.

4.052 Procedure Type: Medical Overlay District

Creation or removal of an entire medical overlay district, or amendment to an existing medical overlay district, shall be processed in accordance with the procedures specified in Schedule 2-1 for a zoning map amendment.

4.100 Development Code Text Amendments

4.101 Purpose. The purpose of amending the text of the Development Code is as follows:

- (1) To ensure that the Development Code changes as the Comprehensive Plan changes.
- (2) To implement the Comprehensive Plan goals and policies more fully.
- (3) To amend development criteria and standards as community attitudes change and new technologies are acceptable, insofar as the public health, safety and welfare permit.
- (4) To eliminate prior error or contradiction.

4.102 Procedures for Initiation of Development Code Text Amendment.

- (1) An amendment of the text of this Code may be initiated by the following:
  - (a) A resident of the Urban Growth Boundary, submitting a complete application as provided in Section 3.050.
  - (b) An owner of property within the Urban Growth Boundary, submitting a complete application as provided in Section 3.050.
  - (c) The Director.
  - (d) The Planning Commission.
  - (e) The City Council.

- (2) A pre-application conference is required when the amendment is initiated by a resident of the Urban Growth Boundary or an owner of property within the Urban Growth Boundary.
- (3) The procedure type for amending the text of this Code shall be in accordance with Schedule 2-1.

4.103 Criteria for Amendment. The text of this Code may be recommended for amendment and amended provided that all the following criteria are met:

- (1) The proposed amendment is consistent with the purpose of the subject section and article.
- (2) The proposed amendment is consistent with other provisions of this Code.
- (3) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.
- <sup>5</sup>(4) The proposed amendment is consistent with the functions, capacities and performance standards of transportation facilities identified in the Master Transportation Plan.

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<sup>1</sup> Revised 3-6-96

<sup>2</sup> Revised 11-15-95

<sup>3</sup> Revised 12-4-96

<sup>4</sup> Revised 12-4-96

<sup>5</sup> Revised 9-4-02

<sup>6</sup> Revised 4-20-05, Ordinance 5285



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**Article 5: Annexation Procedure**

5.010 Purpose

The purpose of this Article is to provide for adequate review of all annexation requests, to establish a system for determining the cost and appropriateness of proposed annexations, to provide for public participation in the annexation process, and to set forth the procedures and criteria for annexing real property to the City of Grants Pass.

5.020 Application

5.021 Pre-Application Conference. The applicant shall request a pre-application conference as provided in Section 3.033 of this Code, prior to submitting an application for annexation.

5.022 Application Submittal. The applicant shall submit a complete application on forms provided by the Director. The Director shall verify the completeness of the application and notify the applicant as provided in Section 3.052 of this Code. An incomplete application may be resubmitted as provided in Section 3.053 of this Code.

<sup>1</sup>5.050 Annexation

5.051 Purpose. The purpose of this Section is to set forth the procedures and the criteria for annexation of real property into the City of Grants Pass.

5.052 Criteria for Property Subject to Annexation Agreement.

If the proposed property is subject to an annexation agreement, then the applicant must prove the following:

- (1) All the conditions and requirements of the annexation agreement have been met.
- (2) Any additional conditions or requirements made necessary by subsequent judicial or state or federal or legislative acts have been met.

5.053      Criteria for all Other Property. If the proposed property is not subject to an annexation agreement, the applicant must prove that the following standards have been met to receive approval of annexation:

- (1) The proposed property is located within the Grants Pass Urban Growth Boundary Area and the area is contiguous with the existing City boundary.
- (2) The proposed property is developed or will be developed consistent with City standards.
- (3) The proposal is consistent with the City's Comprehensive Plan at such a time as the State has acknowledged that plan, or the proposal is consistent with LCDC Goals, prior to an acknowledgment of the City's Comprehensive Plan.
- (4) The proposal is consistent with this Code.
- (5) The proposal is consistent with the provisions of the Oregon Revised Statutes.
- (6) The City of Grants Pass has sufficient capacity to provide the property with basic urban services, such as municipal water, sanitary sewer, fire protection, and police protection.

5.054      Procedures. The procedures for processing a request for full and complete annexation shall be:

- (1) A complete application is received by the Director as provided in Section 3.050.
- (2) The Director shall prepare a compliance report indicating the degree of compliance of the subject property with the provisions of this Code and other City standards, and compliance with any conditions subject to development of the property, and shall review the compliance report with the property owner in conference.
- (3) A public hearing is held before the City Council to determine whether the annexation standards of Section 5.053 have been met, or to call for an annexation election pursuant to ORS Chapter 222. Notice and

follow-up procedures for the hearing shall be as provided for a Type IV procedure as provided in Section 2.060. Conduct of the hearing shall be as provided in the Legislative Hearing Guidelines, Article 9 of this Code.

- (4) If approved by Council or by election, the City Manager shall, within 3 working days of the approval action, cause the necessary actions for service extension and notification of other governmental bodies to be initiated, and shall notify the applicant and all property owners in writing when such actions have been completed.
- (5) If the proposal for annexation is rejected by the City Council for failing to meet criteria, or if the proposal is rejected in an election held pursuant to ORS Chapter 222, the proposal may be resubmitted as provided in Section 3.053 of this Code.

#### 5.060 Annexation by Consent

The City need not hold an election in the City or in any contiguous territory proposed to be annexed, or hold any hearing required by ORS Chapter 222 when all the owners of land in that territory consent in writing to the annexation of the land in the territory and file a statement of their consent with the City. Once consent for annexation has been executed, the City, by ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation.

#### 5.065 Annexation by Triple Majority

- (1) The City need not hold an election in the City or in any contiguous territory proposed to be annexed, or hold any hearing required by ORS Chapter 222 if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory.

Once consent for annexation has been executed, the City, by ordinance, may set the final boundaries of the area to be annexed by a legal description and proclaim the annexation. At the hearing on the ordinance, property owners who have not consented to annexation may testify in favor or against its passage. All property owners shall be notified of the hearing at least 10 days prior to the hearing.

- (2) The public hearing for property owners may be held at the same time as the passage of the ordinance or at another time.

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1. Amended 11-7-01

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## <sup>1</sup>Article 6: Variances

### 6.010 Purpose

This Article provides standards, criteria, and procedures for variances. This Code cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, require flexibility. This Article provides that flexibility, while maintaining the purposes and intent of the Code. These provisions provide relief from strict application of measurable standards of the Development Code when the property has unique physical constraints or characteristics.

When greater flexibility is desired, or where flexibility is desired but there are no unique physical constraints or characteristics of the property, application may be made through the Planned Unit Development process of Article 18. Flexible application of the Code for development or creation of lots through the Planned Unit Development process shall be managed through the provisions of Article 18, and does not require action under this Article.

### 6.020. Definitions

#### 1. Minor Variance.

- (a) For Site Development Standards. A reduction below a minimum standard or an increase over a maximum standard, as follows:
  - (i) Building setback in front, side, and rear yards: 12 inches or less.
  - (ii) Building height: 18 inches or less.
  - (iii) Lot area, lots of record only: 50 square feet or less.
  
- (b) For Property Line Adjustments, Partitions, or Subdivisions. A reduction below a minimum standard or an increase over a maximum standard, as follows:
  - (i) Building setback: 12 inches or less.
  - (ii) Lot width or depth: 2 feet or less.
  - (iii) Lot area: 50 square feet or less.

#### 2. Major Variance.

A variance from any measurable standard other than defined as a minor variance.

### 6.030. Eligible Regulations

Variations are permitted for the following items when related to a unique constraint of the property:

- (1) Any measurable standard designed to regulate the physical characteristics of a permitted use;
- (2) Any measurable standard designed to regulate lot size, shape, or dimension;
- (3) Any other standard that this Code expressly specifies may be varied.

### 6.040. Ineligible Regulations.

Variations are prohibited for the following items:

- (1) To modify any standard when there is no unique constraint of the property;
- (2) To change any standard for a minimum size of a public utility;
- (3) To change any provision of this Code that specifies obligations for public improvements;
- (4) To allow a primary or accessory use that is not allowed by the regulations;
- (5) As an exception to any restrictions on uses or development that contain the word "prohibited".
- (6) To reduce minimum lot area by more than 50 square feet.
- (7) As an exception to a threshold for a review. *For example, expansion of a development by more than 25% could not be processed under criteria for a minor site plan review instead of criteria for major site plan review.*
- (8) As an exception to a definition or classification. *For example, an accessory structure is defined as one that does not exceed 1,000 square feet. By definition, a structure in excess of 1,000 square feet is not an accessory structure, and the definition can't be varied.*



- (9) As an exception to the procedural steps of a procedure or to change assigned procedures. *For example, development of a Manufactured Dwelling Park in an R-2 zone requires a Type III procedure with a public hearing. The procedure could not be varied to require a Type I procedure without a public hearing.*

#### 6.050. Review Procedures and Submittal Requirements.

<sup>2</sup>Except as specified below, variances shall be processed in accordance with the procedures in Schedule 2-1.

- (1) Applications for variances shall be submitted and processed along with the land use application for site plan review, property line adjustment, partition, or subdivision.
- (2) Where the site plan review, property line adjustment, partition, or subdivision requires a higher procedure type, the variance shall be considered using the higher procedure.
- (3) Where the variance requires a higher procedure type, the related application, such as an application where the building permit serves as the development permit, shall be considered using the higher procedure.
- (4) When an application requires more than one variance, the applicant shall file a single application for all variances, and pay one fee for the application, in addition to the required application and fee for the site plan review, property line adjustment, partition, or subdivision.
- (5) The applicant shall include a written narrative with responses to the criteria in this Chapter.

#### 6.060. Criteria for Variances

Previously granted variances shall not be considered to have established a precedent. The review body shall approve, approve with conditions, or deny the application. No variance shall be granted unless the review body finds that all of the applicable criteria under (A) and (B) have been satisfied.

- (A) Qualifying Condition. The applicant shall demonstrate that the following elements are present to qualify for a variance.
- (1) Unique Physical Constraint or Characteristic. The applicant has clearly described the nature of a unique physical constraint or characteristic of the property to which the variance application is related. The constraint is related to the particular property for

which the variance is sought, regardless of the owner, and it does not relate to other property or personal conditions of the owner or applicant, such as personal financial circumstances or inconvenience. Either:

- (a) The property has unique physical constraints or characteristics peculiar to the land involved, over which the applicant has no control, such as lot size or shape, topography, natural features, or other physical conditions on the site or in the immediate vicinity, which are not typical of other lands in the same zoning district subject to the same regulation; or
  - (b) The property has existing development, conforming or nonconforming, located such that it poses unique constraints to the further development of the property in full compliance with the standards of this Code.
- (2) Self-Created Constraint. If the review body finds the unique constraint described in Subsection (1) was self-created, the property shall only qualify for a variance if the review body determines that the self-created constraint can no longer be reasonably eliminated or reversed, or that it is in the public interest to grant a variance rather than require the owner to eliminate the self-created constraint. A situation shall be considered self-created if:
- (a) A current or previous owner created the unique physical constraint or characteristic by dividing, reconfiguring, or physically altering the property in a manner such that it could only be subsequently developed, or further developed, by obtaining a variance to the regulations in effect at the time of alteration; and
  - (b) At the time the current owner altered or acquired the property, he could have known that, as a result of the deliberate alteration, the property could only be developed, or further developed, by obtaining a variance.
- (3) Need for Variance. The applicant has demonstrated that a variance is necessary to overcome at least one of the following situations:

- (a) Allow Reasonable Use of an Existing Property. Due to the unique physical constraint or characteristic of an existing lot or parcel, strict application of the provisions of the Development Code would create a hardship by depriving the owner of the rights commonly enjoyed by other properties in the same zoning district subject to the same regulation. The variance is necessary for preservation of a property right of the owner, substantially the same as is possessed by owners of other property in the same district subject to the same regulation.
- (b) Better Achieve Public Purpose for Development, Division, or Adjustment of Lots and Parcels. There need not be a hardship to the owner to qualify for a variance under this Subsection. Due to the unique physical constraint or circumstance, the variance is necessary to better achieve the public purposes of the Comprehensive Plan and Development Code, with minimum deviation from standards. The variance will allow preservation of scenic, natural, or historic resources or features; allow a lot arrangement that represents a more efficient use of land; avoid odd shaped lots or flag lots; or alleviate other unique physical conditions to better achieve public purposes.
- (c) Allow Flexibility for Expansion of Existing Development. The location of existing development on the property poses a unique constraint to expansion in full compliance with the Code. The variance is needed for new construction and site improvements in order to provide for efficient use of the land or avoid demolition of existing development, where the public purpose can be substantially furthered in alternate ways with minimal deviation from standards.
- (4) No Other Reasonable Alternative. Reasonable alternatives to comply with the provisions of the Development Code have been exhausted. No reasonable alternatives have been identified that would accomplish the same purpose in accordance with the Code without the need for a variance. If applicable, the applicant shall, at a minimum, demonstrate that the following are not reasonable alternatives instead of the requested variance:

- (a) Lot line adjustment.
- (b) Modified setback option, pursuant to Section 22.200.
- (c) Alternate solar standards, pursuant to Section 22.623.

(B) Result of Relief. If the review body finds the proposal for a variance based on the criteria in Subsection (A) above, the review body shall only approve the proposal if it finds the specific proposal is consistent with the following criteria.

- (5) Best Alternative. When a variance is needed for a purpose identified in Subsection (3) above, the proposed variance shall be the best alternative to achieve the purpose compared with variances to other standards that could accomplish the same purpose. The best alternative will be the most consistent with the overall purpose of the Comprehensive Plan and Development Code, with the least impact to other properties and the public interest. Impacts to public facilities, substantial natural features, and natural systems shall be presumed to have broader public impact than localized impacts on nearby properties.
- (6) Minimum Deviation. Adherence to the standards of this Code shall be maintained to the greatest extent that is reasonably possible while accomplishing the purpose in Subsection (3). The deviation from standards shall be the minimum necessary to accomplish the purpose, and shall not convey a special right to the property that is not available to properties in the same zoning district subject to the same regulation.
- (7) No Hazard. The proposal shall not pose a public safety hazard such as a visual obstruction or traffic hazard, and shall not obstruct pedestrian or vehicular movement or impede emergency access.
- (8) Plan and Ordinance Consistency. The proposal shall not adversely affect implementation of the Comprehensive Plan, and shall not be materially detrimental or injurious to the purposes of the Comprehensive Plan or Development Code; other applicable plans, policies, or standards; or other properties in the same district or vicinity.

- (9) Mitigate Adverse Impacts. Adverse impacts shall be avoided where possible and mitigated to the extent practical. If a variance is not necessary to preserve a property right, or if the unique constraint in Subsection (1) was self-created, adverse impacts may be grounds for denial.
- (10) No Significant Increase in Residential Density. For development of an existing lot, if the variance is for a reduction to lot area, it shall not result in a significant increase in density. For a land division, the variance shall not result in an increase in density over that permitted by the zoning district, except that when a lot is reduced in size due to dedication of right-of-way, minimum lot area may be reduced by fifty square feet or less.
- (11) Recommendation of City Engineer. The review body shall consider a written recommendation of the City Engineer when the variance is any to any of the following standards:
- (a) A street, access, or utility development standard in Article 27 or 28 of the Code.
  - (b) The Flood Hazard or Slope Hazard provisions in Article 13 of this Code.
  - (c) To allow encroachment into existing or planned right-of-way or public utility easement. When a variance is authorized to allow encroachment into a right-of-way, the owner shall sign a right-of-way use agreement that specifies the terms and conditions under which the right-of-way may be utilized.
- (12) Additional Criteria. Variances from the street standards in Article 27 of this Code shall meet the additional criteria of 27.121(11)(h)(4) General Design Standards, 27.122(5) Connectivity Standards, and 27.123(15) Street Section Design Standards.

#### 6.070. Conditions

If the review body finds that the proposal does not sufficiently mitigate impacts resulting from a variance, it may attach conditions necessary to ensure impacts are mitigated to the extent practical. The review body may consider the provisions in Section 19.053 as a guideline for applicable conditions, but shall not be limited to these provisions.

## 6.080. Expiration

A variance shall be part of the land use decision and shall only vary standards for the specific development proposal reviewed and approved by the review body. If the property is redeveloped, a new variance application shall be required as part of the new land use application. A variance shall not vary standards for future development of a property for which a land use application has not been submitted.

The expiration of a variance shall be the same as the expiration date of the associated application for site plan review, property line adjustment, partition, subdivision, or other land use review. If no separate land use application was required, such as an application where the building permit serves as the development permit, the variance shall expire 18 months from the effective date of the review body's final decision on the variance. Pursuant to Section 3.024, a decision shall be final upon the expiration of the period for filing an appeal, unless appealed. An extension may be granted pursuant to Section 3.025(2).

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<sup>1</sup>Revised 12-17-03 by Ordinance 5205

<sup>2</sup>Revised 4-20-05 by Ordinance 5285

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## **Article 7: Hearing Bodies and Review Authority**

### 7.010 Purpose

The purpose of this Article is to set forth the method of appointment and land use review authority of the Director, Hearings Officer, Planning Commission, Historical Buildings and Sites Commission and City Council.

### 7.020 Director

7.021 Appointment. The Director shall be appointed by the City Manager as an employee of the City, according to City personnel procedures.

7.022 Review Authority. The Director shall have the authority to make a final decision on all land use matters requiring a Type I or Type II procedure, as provided in Sections 2.030 and 2.040, issue a Development Permit, as provided in Section 3.070, and interpret this Code, as provided in Section 1.051.

### 7.030 Hearings Officer

7.031 Appointment. A Hearings Officer may be appointed by the City Manager on a contractual basis and according to City contract procedures. The Director shall make an annual report to the City Manager regarding the performance of the Hearings Officer.

7.032 Review Authority. The Hearings Officer may have the authority to make a final decision on land use matters requiring a Type II or Type III procedure as established by the Director and approved by the City Council.

### 7.040 Planning Commission

7.041 Appointment and Service.

- (1) Joint Appointment. The Planning Commission shall consist of eight members, four appointed by the City Council and confirmed by the Board of County Commissioners, and four appointed by the Board of County Commissioners, and confirmed by the City Council.



- (2) Profession or Business. Members appointed to the Urban Area Planning Commission shall qualify under the standards established in ORS Chapter 215 for appointment of County Planning Commissioners, and shall qualify under the standards established in ORS Chapter 227 for appointment of City Planning Commissioners.
- (3) Residence. The members of the Urban Area Planning Commission shall reside or own property within the Urban Growth Boundary and be residents of Josephine County, and shall generally represent the four wards of the City of Grants Pass and their future expansion North of the Rogue River, and the three geographic areas South of the Rogue River: Fruitdale, Harbeck and Redwood.

7.042 Staffing. The Urban Area Planning Commission shall be adequately staffed by both the City and County. The City shall be the administrative lead agency for the Urban Area Planning Commission and responsible for initiating the Commission agenda, establishing the time and place of Commission Meetings, and contacting Commissioners. Agendas for the Urban Area Planning Commission shall be established by the City Director of Community Development, with the consent of the County Planning Director, and the Chairman or Vice Chairman of the Urban Area Planning Commission.

7.043 Administrative Procedure and Report Format.

Administrative procedures and report format shall be established by a mutual agreement between the Director and the County Planning Director, and shall be designed to carry out the provisions of this Code and the Urban Area Services Management Agreement, and as amended. Such procedures shall clearly establish between the City and County Planning staffs the lead staff responsibility for client contact, project analysis, staff reports, and presentation to the Urban Area Planning Commission and to the appropriate governing body.

<sup>1</sup>7.044 Applications and Fees. Applications for permits or hearings before the Urban Area Planning Commission shall be made in accordance with the provisions of the adopted intergovernmental management agreement between the City of Grants Pass and Josephine County.

7.045 Review Authority. The Planning Commission shall have the authority: (a) to make a final decision on all land use matters requiring a Type III procedure, (b) to make recommendations to the City Council or Board of County Commissioners, as appropriate, on all land use matters requiring a Type IV procedure, and (c) when requested by the Board and Council, to make recommendations to the City Council and Board of County Commissioners on land use matters of joint deliberation requiring a Type V procedure.

7.050 Mayor and City Council

7.051 Election. The Mayor and members of the City Council are the elected representatives of the City of Grants Pass, elected or appointed as provided by the City charter and State law.

7.052 Review Authority.

- (1) The City Council shall have the authority to make a final decision on all land use matters requiring a Type IV procedure within the City limits, and outside the City limits subject to an annexation contract.
- (2) The City Council shall have the authority to make a final decision or participate jointly in a final decision with the Board of County Commissioners on all land use matters requiring a Type V procedure as provided in the joint Urban Area Services Management Agreement.

<sup>2</sup>7.060 Historical Buildings and Sites Commission

<sup>3</sup>7.061 Appointment and Service

- (1) The Commission shall consist of individuals who have been appointed by the Mayor and City Council and shall consist of the following six members:
  - (a) Two representatives from local historical societies in Grants Pass,
  - (b) One representative who is either the owner of a property located within the Historic district, the owner of a property located within a Conservation District, or the owner of a Historic Landmark as defined by Section 13.312 of the Development Code and Designated under Section 13.420 of the Development Code.

- (c) One representative who is the owner of a business located within the Central Business District of the City of Grants Pass,
  - (d) One representative who is either a licensed designer or architect, or, if no candidate is available who is either a licensed designer or architect, the Mayor and City Council may appoint a representative with similar credentials, with preference given to those candidates with historic preservation experience and training,
  - (e) One representative from the citizens at large.
- (2) Terms of Service. The terms of service for members shall be for two (2) years. When any member of the Commission fails to attend three (3) consecutive regular meetings of the Commission, unless his absence has been excused by the Commission, the Commission shall thereupon report this fact to the City Council. The City Council shall thereupon declare the position held by such member vacant and another member shall be appointed to the Commission to serve the unexpired portion of the term of the position so vacant. No member shall serve more than six (6) consecutive years. A vacancy occurring in a position for any reason other than the expiration of the term shall be filled by the appointment of the Mayor with confirmation by the City Council for the remainder of the term.
- (3) Officers. The officers shall consist of a chairperson and any other officer deemed necessary by the Commission. Officers shall be elected by the Commission members. No individual shall hold the same office for more than two (2) consecutive years.
- <sup>3</sup>(4) Meetings, Quorum and Staff. The Historical Buildings and Sites Commission shall hold official meetings monthly and as called by the Chairperson, and a quorum at such meeting shall consist of not less than four (4) members. The City Community Development Department shall serve as staff and advisors to the Commission.

7.062 Hearing Rules. The Historical Buildings and Sites Commission shall follow the Quasi-judicial Land Use Hearing Rules as provided in Section 8 of this Code in the conduct of any review procedure required under Section 13.400 of this Code.

- 7.063 Review Authority. The Historical Buildings and Sites Commission shall have the authority: (a) to make a final decision on all historic review matters requiring a Type III procedure, and (b) to make recommendations to the City Council on all historic review matters requiring a Type IV procedure.
- 7.064 Other Duties and Functions. In addition, the Historical Buildings and Sites Commission shall have the following duties and functions:
- (1) Promotions: Promote to the community the economic, cultural, social and visual importance of historic preservation.
  - (2) Education: Provide education, training and research services to the schools, colleges and libraries, and property owners including information on design, building materials, preservation tax credits and other financial incentives, information on how to research the history of a building or site, and information on sources of technical and financial assistance.
  - (3) Advice: Advise the City Council, Board of County Commissioners, Urban Area Planning Commission, Josephine County Historical Society, property owners and other interested agencies, boards, commissions or citizens on matters related to historic preservation within the City and urbanizing area.
  - (4) Research: Identify areas of archaeological significance; buildings of historic or architectural significance; historic landmarks; and areas of concentration of such sites within the City. Provide additional information on buildings that are identified as historic landmarks or that are being considered for historic landmark designation.

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<sup>1</sup> Revised 3-6-96

<sup>2</sup> Revised 8-1-84, 3-6-96

<sup>3</sup> Revised 5-31-01 (Ordinance 5062)

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<sup>1</sup>**Article 8: Quasi-Judicial Hearing Rules**

8.010 Purpose

The purpose of this article is to provide rules governing the conduct of all quasi-judicial land use hearings within the Urban Growth Boundary heard under the Type III, IV, and V procedures as provided in Article 2.

8.020 Nature of Quasi-Judicial Hearings

Land use hearings conducted as provided in this article are quasi-judicial administrative determinations, and shall be conducted accordingly. All applicants are entitled to notice of hearing, an opportunity to be heard, to present and rebut evidence before an impartial Hearing Body, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law.

8.030 Order of Hearing Procedure

The presiding officer shall conduct the hearing in an orderly fashion, as provided in this section. Technical rules of parliamentary law shall be avoided in order that the hearing procedure is as clear and simple as possible.

8.031 Commencement. The presiding officer shall:

- (1) announce the nature and purpose of the hearing,
- (2) summarize the rules for the conduct of the hearing,
- (3) identify the name of each applicant,
- (4) describe the general nature of each proposal,
- (5) list the applicable substantive criteria,
- (6) state that testimony and evidence must be directed toward those criteria or other criteria in the comprehensive plan or land use regulations which the person believes to apply to the decision,

- (7) state that failure to raise an issue accompanied by statements or evidence sufficient to afford the review body and the parties an opportunity to respond to the issue precludes appeal to the State Land Use Board of Appeals based on that issue,
- (8) explain rights for continuances and extensions of the record, and
- (9) briefly explain rights and procedures for appeals.

8.032 Objections to Jurisdiction. The presiding officer shall inquire of the audience whether there are any objections to the jurisdiction of the Hearing Body to hear the matter. Objections, if any, shall be noted in the record, and the matter shall proceed or shall terminate at the discretion of the presiding officer.

8.033 Abstentions. The presiding officer shall inquire of the Hearing Body whether any member thereof wishes to abstain from participation in the hearing on that proposal. Any member so abstaining may identify the reasons for the abstention and shall not participate in discussion of, or vote on, the proposal.

Any Hearing Body member whose participation has been identified or challenged for allegation of bias, prejudice, or conflict of interest, or who has been subject to significant ex parte contacts with proponents or opponents, may make a statement in explanation for the record, and shall announce his decision whether to participate in the hearing. (See Section 8.040). This statement shall not be subject to cross examination except upon consent of that member, but shall be subject to rebuttal by the alleging party. The final decision on whether a member of the Hearing Body should participate is to be decided by a majority of members of the Hearing Body.

8.034 Staff Report. The presiding officer shall request the Staff Report and shall thereafter indicate the action to be taken by the Hearing Body.

8.035 Proponents.

- (1) Presentation. The presiding officer shall allow the proponent to present his evidence in support of his



application, and may limit the proponent to a time certain in which to present such evidence. Proponent shall be allowed to produce witnesses on his behalf. Each such witness may be limited to a time certain in which to present his testimony. Members of the audience in favor of the proposal shall thereafter be allowed to present their views, subject to similar reasonable time limitations.

- (2) Cross-Examination. The parties do not have the right to cross-examine any witness. However, the Presiding Officer may allow a request to cross-examine when such a request would further the purpose of the hearing.

8.036 Opponents

- (1) Presentation. The presiding officer shall allow opponents to present evidence in opposition to the proposal. Each such opponent shall be limited to a time certain in which to present his opposition. Opponents shall be allowed to cross-examine proponent or any of his witnesses. Opponents shall be allowed to produce witnesses on their behalf.

- (2) Cross-Examination. The parties do not have the right to cross-examine any witness. However, the Presiding Officer may allow a request to cross-examine when such a request would further the purpose of the hearing.

8.037 Final Discussion and Summation. The presiding officer, in his discretion, may allow the proponent and opponent to summarize their arguments, upon conclusion of which no further evidence on that proposal shall be permitted. Members of the Hearing Body shall thereafter be allowed to openly discuss the proposal, and to further question any party appearing for or against the proposal. The order of procedure specified in this section shall be utilized for all land use hearing before the Josephine County Board of Commissioners, City of Grants Pass Council, Urban Area Planning Commission, and any Hearings Officer appointed by such City or County, for those cases originating within the Grants Pass Urban Growth Boundary Area.

<sup>2</sup>8.038 Requests for Continuances or Extensions of the Record

Prior to the conclusion of the initial hearing on an application, any participant may request an opportunity to present additional evidence or testimony regarding the application. The review body shall grant such request by continuing the public hearing pursuant to subsection (1) below, or by leaving the record open for additional written evidence or testimony pursuant to subsection (2) below.

- (1) Continuance: If the review body grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity shall be provided at the continued hearing for any person to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days to submit additional written evidence or testimony for the purpose of responding to the new written evidence.
- (2) Extension of the Record: If the review body leaves the record open for additional written evidence or testimony, the record shall be left open for a least seven days. Any participant may file a written request for an opportunity to respond to the new evidence submitted during the period the record was left open. The request must be filed not more than one working day after the close of the record. If such a request is filed, the review body shall reopen the record pursuant to subsection (3) below.
- (3) Reopening the Record after an Extension of the Record: When a request to reopen the record is filed pursuant to subsection (2) above, the record shall automatically be reopened for a period of 7 days after the date it was closed. Any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- (4) Submittal of Final Written Arguments: Unless waived by the applicant, the review body shall allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final

submittal shall be considered part of the record, but shall not include any new evidence.

8.039 Final Decision.

- (1) Oral Decision. At the conclusion of the Hearing, the Hearing Body may approve the application, deny the application, approve the application with conditions, table the proposal, or continue the application of further study or deliberation to a date and time certain. This action shall be known as the oral decision. For purposes of the record, each member of the Hearing Body shall be polled separately, at which time each member shall state his or her decision, and the particular findings in support of that decision when required by this Code.
- (2) Final Action. A final decision shall be taken by the Hearing Body as provided in Sections 2.055 and 2.066 of this Code, incorporating the oral decision and approving the findings.

8.040 Conflict, Disclosure and Abstention

8.041 Ex Parte or Pre-Hearing Contact. Members of the Hearing Body shall avoid significant pre-hearing contacts so that the tribunal's deliberations, recommendations and decisions can be based on evidence presented at the time of the public hearing.

8.042 Financial and Other Potential Conflicts of Interest

- (1) Any member of the Hearing Body with a potential conflict of interest, as herein-below defined, shall announce publicly the nature of the potential conflict prior to taking any official action thereupon. A potential conflict of interest means any transaction where a person acting in a capacity as a public official takes any action or makes any decision or recommendation, the effect of which would be to the private pecuniary benefit or detriment of the person or member of the person's household, unless the pecuniary benefit or detriment arises out of the following:
  - (a) An interest or membership in a particular business, industry, occupation or other class required by law

as a prerequisite to the holding by the person of the office or position.

- (b) Any action in the person's official capacity which would affect to the same degree all inhabitants of the County, City, or a smaller class consisting of industry, occupation or other group including one of which or in which the person, or member of the person's household or business with which he is associated, is a member or is engaged.
- (2) Any other appointed official or employee of the County or City with a potential conflict of interest shall notify, in writing, the City Manager of the nature of the conflict and request the City Manager to dispose of the matter, which shall be either to designate within a reasonable time an alternate to dispose of the matter or to direct the said appointed official or employee to dispose of the matter in a manner specified by the City Manager.

<sup>3</sup>8.043     Abstention

- (1) Impartiality. At the commencement of the hearing, members of the Hearing Body shall reveal all significant pre-hearing and ex parte contact they have had about the matter. If the contacts have not impaired the members' impartiality, the members shall so state that fact and participate or abstain, in accordance with these rules and in accordance with the members' own judgment. If the contacts have impaired the members' impartiality, the members shall disclose the same for the record and shall abstain from further discussion or voting on the proposal.
- (2) Appearance. Because of the importance of preserving public confidence in decisions made by the Hearing Body, a member of the Hearing Body may elect to abstain from the hearing when, in fact, the member is not disqualified but simply desires to avoid the mere appearance of partiality. Abstention in such an instance shall be solely a matter of the member's own judgment. A member who feels his abstention may be necessary or desirable under this section shall seek the advice of the Hearing Body and then state the member's decision and the reasons therefore.
- (3) Planning Commission Only. Pursuant to ORS 244.135, Planning Commission members must abstain from any hearing

when any of the following has a direct or substantial financial interest in the proposal: The Planning Commission member, or his spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which he or she is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interests shall be disclosed at the meeting of the Hearing Body where the action is being taken.

- (4) Disqualification for any of the above reasons, as applicable, may be ordered by a majority of the Hearing Body. The member who is subject to the motion for disqualification may not vote on said motion.

8.044 Affect on Quorum.

- (1) City Council or Board of County Commissioners. Notwithstanding any other rule, an abstaining or disqualified member shall constitute part of a quorum and may represent the member's own interest at a hearing, provided the member joins the audience, makes full disclosure of the member's status and position when addressing the Hearing Body, and abstains from discussion and voting on the matter as a member of the Hearing Body. If all members of the Hearing Body abstain or are disqualified and consequently cannot reach a decision while so abstaining or disqualified, all members present, after stating the reasons for abstaining or disqualifications, shall by so doing be requalified and proceed to resolve the issues raised by the hearing.
- (2) Planning Commission. Under ORS 227.035, Planning Commission members may not participate in the moving in his own interest, as in section 8.044(1) above, nor may Planning Commissioners become requalified as in Section 8.044(1) above.
- (3) Absence. A Hearing Body member absent during the presentation of any evidence during a hearing may not participate in the deliberations, oral decision or final decision regarding the matter of the hearing, unless such member first reviews the evidence presented in his absence, and states the same, on the record, prior to voting on the matter.

- (4) Lack of Quorum. If a public hearing of the Planning Commission has been scheduled and publicly noticed in accordance with the provisions of this Code, and the Commission lacks a quorum at the time of that hearing, the majority of those members present may postpone the hearing to the next regularly scheduled meeting of the Planning Commission without additional public notification. If no Commission members are present, a scheduled and publicly notice hearing may be postponed to the next regularly schedule meeting by posting a notice at the scheduled time and place of the hearing. The notice shall state the time when and place where the hearing will be rescheduled.

8.045 Challenge for Bias, Prejudice or Conflict of Interest. Any person may challenge the qualification of any member of the Hearing Body to participate in such hearing and decision. Such challenge may be in writing or made orally, and shall state the facts upon which the challenging party relies as to the member of the Hearing Body's disqualification or other facts from which the challenging party alleges the member should not participate in and render a decision in the matter. The presiding officer may require such challenge to be made under oath, administered by the presiding officer. Such matter of challenge shall be resolved at the time of the hearing, as provided in Section 8.033 above.

8.050 Conduct of Hearing

8.051 Notice. Notice of the hearing shall be given as provided in this Code, Article 2, Procedure Types.

8.052 Presiding Officer. The presiding officer shall have authority to:

- (1) Regulate the course and decorum of meetings;
- (2) Dispose of procedural requests or similar matters;
- (3) Rule on offers of proof and relevancy of evidence;
- (4) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations, cross-examination and rebuttal testimony;

- (5) Question any person appearing and allow other members to question any person;
- (6) Waive, in his discretion, the application of any provision of this section where the circumstances of the hearing indicate it would be expedient and proper to do so, provided such waiver does not act to prejudice or deny any party his substantial rights, as provided herein or otherwise by law; or
- (7) Take such other actions as authorized by the City Council or Board of County Commissioners to appropriately conduct the hearing, when the hearing is held before such body.

8.053 Conduct of Participants

- (1) Proceedings shall at all times be orderly, and no person shall be heard until he states his name, residential or business address, as applicable, and interest in the proceedings. The presiding officer may terminate the hearing when necessary or refuse to recognize or continue to recognize anyone who:
  - (a) Is disorderly, abusive or disruptive;
  - (b) Takes part in or encourages audience demonstrations, such as applause, cheering, display of signs, or other conduct disruptive of the hearing;
  - (c) Testifies without first receiving recognition from the presiding officer and making a statement regarding name, address and interest in the proceedings, as set forth herein-above; or
  - (d) Presents irrelevant, immaterial or repetitious evidence.
- (2) The presiding officer shall at all times maintain order at any hearing. Upon any person engaging in conduct which is disruptive of the hearing, the presiding officer shall first warn such party to stop such disruptive conduct upon penalty of removal. If such disruptive person continues to cause disruption the presiding officer may then order such person removed from the hearing without further warning.

8.054 Burden of Proof. The burden of proof shall be on the applicant. The degree of proof required shall vary depending upon the nature of the proposal and its impact on the community. The more drastic the change or the greater the impact of the proposal on an area, or the greater the departure from the present land use patterns, the greater is the burden upon the applicant.

8.055 Nature of Proof and Decision Making. The decision of the Hearing Body shall be based upon reliable, probative, and substantial evidence supported by the record. The applicant, or his witnesses, shall present evidence on the applicable criteria. Upon conclusion of the presentations, the Hearing Body shall consider such evidence in relation to the appropriate criteria, and shall render a decision as to whether or not the evidence received is sufficient to establish that the proposal is consistent or inconsistent with the appropriate criteria.

8.056 Rules of Evidence.

- (1) All evidence offered and not properly objected to may be received unless otherwise excluded by the presiding officer. The presiding officer shall admit all evidence that is relevant and useful. Evidence received at the hearing shall be of the quality that responsible persons are accustomed to rely upon in serious affairs.
- (2) All evidence received by the presiding officer shall be made a part of the record of the matter, and except for matters stipulated to and for matters judicially noticed, no other factual information or evidence shall be considered in the determination of the case. In the discretion of the presiding officer, documentary evidence may be received in the form of copies or excerpts or by incorporation by reference.
- (3) Judicial notice may be taken of judicially cognizable facts and general technical or scientific facts within the experience, technical competence, or specialized knowledge of the Hearing Body.
- (4) No decision shall be rendered except upon consideration of the whole record and as supported by and in accordance with reliable probative and substantial evidence.



- (5) The presiding officer may place any person submitting testimony under oath or affirmation prior to accepting such testimony.
- (6) The Hearing Body, in its discretion, may be represented by the City Attorney or County Counsel as appropriate.

<sup>4</sup>8.060 Record of Proceedings

- (1) Written minutes shall be taken of all hearings as provided by law.
- (2) All exhibits received in evidence shall be marked or otherwise made readily identifiable for purposes of appeal or review. All exhibits received into evidence shall be retained by the Hearing Body until the period for review or appeal has expired, at which time the same may be released to the person identified thereon as the owner thereof. If a review proceeding or appeal is filed, exhibits shall be released as aforesaid when the matter is finally resolved.
- (3) Except as otherwise provided by State law, all records of the Hearing Body shall be available for inspection and copying by any person. Expense of copying shall be borne by the person obtaining the same.

8.070 Appeal and Review

Any final action of the Hearings Officer or Planning Commission may be appealed by an aggrieved party as provided in Section 10.040 of this Code. Any final action of the Planning Commission may be reviewed by the City Council or Board of County Commissioners on its own motion, as provided in the joint Urban Area Services Management Agreement.

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<sup>1</sup> Amended 2-16-94

<sup>2</sup> Added 11-15-95

<sup>3</sup> Revised 3-6-96

<sup>4</sup> Revised 3-6-96

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## **Article 9: Legislative Hearing Guidelines**

### 9.010 Purpose

The purpose of this article is to provide guidelines for the conduct of all legislative land use hearings within the Urban Growth Boundary heard under the Type IV and V procedures as provided in Article 2.

### 9.020 Nature of Legislative Hearings

- (1) A legislative decision is made by the governing body, and applies to the general population, or the general classes of the population. The result is usually the enactment of ordinance adopting or amending the Comprehensive Plan or this Code, or the passage of a resolution establishing policy. By contrast, land use decisions that affect interests of identifiable persons or property are quasi-judicial. Court cases have determined that certain decisions (such as annexations) may be legislative in nature, but also require a quasi-judicial hearing held and findings adopted. This mixed requirement is accommodated by the Type IV and V procedures of this Code, by the criteria established for decision making, and by these hearing guidelines.
- (2) Nothing in this Code shall limit the authority of the City Council to make amendments to the Comprehensive Plan or Development Code by legislative act, where such changes have broad application or are so designated legislative in nature in this Code.

### 9.030 Order of Hearing Procedure

The presiding officer shall conduct the hearing in an orderly fashion, as provided in this section. Technical rules of Parliamentary law shall be avoided in order that the hearing procedure is as clear and simple as possible.

- 9.031 Commencement. The presiding officer shall announce the nature and purpose of the hearing, summarize the guidelines for the conduct of the hearing, and describe the general nature of the subject of the hearing.

- 9.032 Objections to Jurisdiction. The presiding officer shall inquire of the audience whether there are any objections to the jurisdiction of the Hearing Body to hear the matter. Objections, if any, shall be noted in the record, and the matter shall proceed or shall terminate at the discretion of the presiding officer.
- 9.033 Abstentions. The presiding officer shall inquire of the Hearing Body whether any member thereof wishes to abstain from participation in the hearing. Such member shall make a statement regarding potential bias, prejudice or conflict of interest, and announce his decision whether to participate in the hearing.
- 9.034 Staff Report. The presiding officer shall request the Staff Report, and shall thereafter indicate the action to be taken by the Hearing Body.
- 9.035 Proponents. The presiding officer shall then call forward all those wishing to testify in favor of the proposed legislative action. Each proponent shall be limited to a reasonable length of time, such time to be determined by his testimony, at the discretion of the presiding officer, but in no case to exceed 10 minutes each.
- 9.036 Opponents. The presiding officer shall then call forward all those wishing to testify against the proposed legislative action, such opponents to be held to the same constraints as the proponents.
- 9.037 Final Decision
- (1) Deliberation. The presiding officer shall then open the matter for discussion by the Hearing Body. Members may question both proponents and opponents regarding points of testimony during deliberations by the Hearing Body, at the discretion of the presiding officer.
  - (2) Action Taken. At the conclusion of the deliberations, the City Council may take any of the following steps:
    - (a) Enact or defeat an ordinance on all or part of the proposal under consideration.
    - (b) Refer some or all of the proposal back to staff or the Planning Commission for further consideration.

- (c) Continue the proposal for decision by the Council to a time and date certain.
- (3) Oral Decision. The initial action to enact or defeat an ordinance shall be known as the oral decision. For purposes of the record, each member of the Hearing Body shall be polled separately, at which time each member shall state his or her decision, and a statement of the particular findings required for each relevant criteria as determined by this Code, the Comprehensive Plan and State Law.
- (4) Final Action. A final decision may be taken at the same or subsequent meeting, incorporating the oral decision and the findings. If a set of findings is prepared for the final action, these findings shall be approved as part of the final action.

9.040 Conflict, Disclosure and Abstention

- 9.041 Potential Conflict of Interest. A potential conflict of interest shall mean any transaction where a person acting in a capacity as a public official takes any action or makes any decision or recommendation, the effect of which would be to the private pecuniary benefit or detriment of the person or member of the person's household.
- 9.042 Disclosure and Abstention. At the commencement of the hearing, at the time requested by the presiding officer, any member shall make a statement regarding potential bias, prejudice or conflict of interest. A member may disqualify himself or herself when, in fact, the member is not disqualified but simply desires to avoid the mere appearance of partiality. Disqualification for conflict of interest may be ordered by a majority of the Hearing Body, except that the member subject to the motion for disqualification may not vote on said motion.
- 9.043 Affect on Quorum. An abstaining or disqualified member shall constitute part of a quorum, and must leave the podium occupied by the Hearing Body and refrain from any discussion on the issue, but may remain within the chamber during the hearing. If all members of the Hearing Body abstain or are disqualified, all members present, after stating the reasons for abstaining or disqualification, shall by so doing be requalified and may proceed to reach a final decision on the proposal.

9.044 Challenge for Bias. Any person may challenge the qualification of any member of the Hearing Body due to potential bias, prejudice, or conflict of interest. The challenging party shall state the facts from which the challenging party alleges bias on the part of the member of the Hearing Body. The presiding officer may require such challenge to be made under oath, administered by the presiding officer. Such challenge shall be resolved immediately following, as provided in this section.

9.050 Conduct of Hearing

9.051 Notice. Notice of the hearing shall be given as provided for Type IV or V procedures, except that in the case of the general legislative decision, notice need not include a mailing to all property owners potentially affected. The City Manager shall prepare notice designed to reach persons believed to have particular interest.

9.052 Presiding Officer. The presiding officer shall have the authority to:

- (1) Regulate the course of decorum of the meetings;
- (2) Dispose of procedural requests or similar matters;
- (3) Rule on admissibility of evidence;
- (4) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentations;
- (5) Question any person appearing and allow other members to question any person;
- (6) Waive, in his or her discretion, the application of any provision of this section where the circumstances of the hearing indicate it would be proper to do so, provided such waiver does not act to prejudice or deny any participant his or her substantial rights, as provided by this Code or otherwise by law; or
- (7) Take such actions as authorized by a majority vote of the Council to appropriately conduct the hearing.

9.053 Conduct of Participants.

- (1) Proceedings shall at all times be orderly, and no person shall be heard until he states his name, residential or business address, as applicable, and interest in the proceedings. The presiding officer may terminate the hearing when necessary or refuse to recognize or continue to recognize anyone who:
  - (a) Is disorderly, abusive or disruptive;
  - (b) Takes part in or encourages audience demonstrations, such as applause, cheering, display of signs, or other conduct disruptive of the hearing;
  - (c) Testifies without first receiving recognition from the presiding officer and making a statement regarding name, address and interest in the proceedings, as set forth hereinabove; or
  - (d) Presents irrelevant, incompetent or repetitious evidence.
- (2) The presiding officer shall at all times maintain order at any public hearing. Upon any person engaging in conduct which is disruptive of the hearing, the presiding officer shall first warn such party to stop such disruptive conduct upon penalty of removal. If such disruptive person continues to cause disruption the presiding officer may then order such person removed from the hearing without further warning.

9.054 Nature of Decision making. The decision of the Hearing Body shall be based upon reliable, probative and substantial evidence supported by the record. In reaching a final decision, the Hearing Body shall consider such evidence in relation to the appropriate criteria, and shall render a decision as to whether or not the evidence received is sufficient to meet that criteria.

<sup>1</sup>9.060 Record of Proceedings

- (1) Written minutes shall be taken of all hearings as provided by law.



- (2) All exhibits received in evidence shall be marked or otherwise made readily identifiable. All exhibits received into evidence shall be retained by the Hearing Body until the period for review or appeal has expired, at which time the same shall be released, upon demand, to the person identified thereon as the owner thereof. If a review proceeding or appeal is filed, exhibits shall only be released when the matter is resolved.
  
- (3) Except as otherwise provided by State Law, all records of the Hearing Body shall be available for inspection and copying by any person. Expense of copying shall be borne by the person obtaining the same.

9.070 Appeal

Any final legislative action of the City Council may be appealed as provided by State law.

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<sup>1</sup> Revised 3-6-96

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<sup>1</sup>Article 10: Appeals

10.010 Purpose

The purpose of this Article is to provide appeal procedures for the review of decisions on land use and development matters by the Director, Hearings Officer, Planning Commission, Historic Buildings and Sites Commission, and City Council.

<sup>3</sup>10.015 Appeal Procedures and Hearing Types

The appeal procedures are summarized in Schedule 10-1, 'Summary of Appeal Procedures'. The detailed procedural requirements for each appeal type are contained in the following Sections of this Article.

An appeal hearing shall be 'de novo', 'limited to issues', or 'on the record' as specified in this Article. Each of the hearing types is summarized below.

- (1) de novo: Anyone may testify. Issues are not limited to those raised in the appeal. New evidence and argument may be presented.
- (2) limited to issues: Anyone may testify. Issues are limited to those raised in the appeal. New evidence and argument may be presented, but it must only be used to consider the issues raised in the appeal.

Rather than hold a de novo hearing to consider issues not raised in the appeal, the review body may hold a hearing to consider an expanded scope of issues. In this case, the review body may consider issues raised on appeal plus additional issues specified by the review body. Prior to, or at the outset of the hearing, the review body shall specify which additional issues can be considered. New evidence and argument may be presented, but it must only be used to consider the issues raised in the appeal and the additional issues specified by the review body.

(3) on the record:

(a) Anyone may testify. Issues are limited to those raised in the appeal. New evidence may not be presented. New argument may be presented.

(b) The Council may admit additional testimony and other evidence without holding a de novo hearing if it is satisfied that the testimony or other evidence could not have been presented at the initial hearing. In deciding such admission, the Council shall consider:

(1) Prejudice to parties

(2) Convenience of locating the evidence at the time of initial hearing.

(3) Surprise to opposing parties.

(4) When notice was given to the other party as to the attempt to admit.

(5) The competency and relevancy of the proposed testimony.

(c) If additional evidence is admitted, then upon request, any other party may submit additional rebuttal evidence at that time, or for a period of 7 calendar days thereafter, and may also require that the decision of the review body be delayed for a period of not less than 14 calendar days to allow for consideration of the rebuttal evidence. The submission of additional evidence that results in a delay shall constitute a 30 day waiver of the 120 day decision making time frame, both by the party submitting the new evidence and by the party submitting the rebuttal evidence.

**Schedule 10-1. Summary of Appeal Procedures**

Type I-B	Type I-C	Type II		
<p><b>Initial Decision by Director</b> (no hearing, no comment period, notice of decision is mailed)</p> <p align="center">↓</p>	<p><b>Initial Decision by Director</b> (no hearing, comment period, notice of decision is mailed)</p> <p align="center">↓</p>	<p><b>Initial Decision by Hearings Officer</b> (de novo hearing)</p> <p align="center">↓</p>		
<p><b>Director's Decision is Appealed to Planning Commission</b></p> <p><u>Who may appeal?</u> Any person who is adversely affected or aggrieved or anyone entitled to written notice of decision</p> <p><u>What type of Planning Commission hearing?</u> De novo hearing required</p> <p align="center">↓</p>	<p><b>Director's Decision is Appealed to Planning Commission</b></p> <p><u>Who may appeal?</u> Any person who is adversely affected or aggrieved, anyone entitled to written notice of decision, or anyone who provided written comments during the comment period</p> <p><u>What type of Planning Commission hearing?</u> De novo hearing required</p> <p align="center">↓</p>	<p><b>Hearings Officer's Decision is Appealed to Planning Commission</b></p> <p><u>Who may appeal?</u> Anyone who provided written or oral testimony in the record for the initial decision</p> <p><u>What type of Planning Commission hearing?</u> De novo hearing, unless, at the outset of the hearing, the Commission specifies that it will be: -limited to issues, or -on the record</p> <p align="center">↓</p>	<p><b>Initial Decision by Planning Commission</b> (de novo hearing)</p> <p align="center">↓</p>	<p><u>Type IV-A</u> <b>(No Planning Commission Recommendation)</b></p> <p><u>Type IV-B</u> <b>Recommendation by Planning Commission</b> (de novo hearing)</p> <p><u>Type V</u> <b>Recommendation by Planning Commission</b> (de novo hearing)</p>
<p><b>Planning Commission's Decision is Appealed to City Council</b></p> <p><u>Who may appeal the Planning Commission's decision to City Council?</u> Anyone who previously provided written or oral testimony in the record, whether for the initial decision or for the Planning Commission hearing on appeal.</p> <p><u>What type of City Council hearing?</u> De novo hearing, unless, at the outset of the hearing, the Council specifies that it will be: -limited to issues, or -on the record</p> <p align="center">↓</p>				<p><u>Type IV-A, IV-B</u> <b>Initial Decision by City Council</b> (de novo hearing)</p> <p><u>Type V</u> <b>Initial Decision by City Council and Board of County Commissioners</b> (de novo hearing)</p> <p align="center">↓</p>
<p><b>City Council's Decision is Appealed to LUBA, or City Council/Board of County Commissioners Decision is Appealed to LUBA</b></p> <p>In accordance with ORS 197.805-860.</p>				

10.020 Appeal of Final Action by the Director on Type I-B Decision (without Public Comment Period).

10.021 Appeal. A final action of the Director on a Type I-B decision (without public comment period) may be appealed to the Planning Commission, provided that the procedures of this Section are followed.

10.022 Procedures.

<sup>3</sup>(1) Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision may appeal the decision by filing a written appeal. The appeal must be filed with the Director within 12 calendar days from the date the written notice of decision is mailed, on a form provided by the Director. The appeal shall contain:

(a) A reference to the application or matter sought to be appealed to the Planning Commission, and the date of the decision.

(b) The name, address, and phone number of the appellant.

(c) The specific grounds relied upon in the request for appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.

(d) The required appeal fee.

(2) Not later than 48 hours after receiving an appeal, the Director shall make a determination whether or not the appeal is and whether or not it has been filed on time. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Director's decision shall become final and is not subject to local appeal.

(3) Notice of the appeal hearing shall be mailed to the applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously mailed written notice of the decision. The manner and content of notice shall be as provided in Section 2.053.

- (4) The appeal shall be reviewed by the Planning Commission under the Type III procedure as provided in Section 2.050.

<sup>3</sup>10.023 Planning Commission Action

- (1) Review. The hearing shall be "de novo" as required by ORS 227.175(10)(a)(D). The de novo hearing shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals. At the de novo hearing:
  - (a) The applicant and other parties shall have the same opportunity to present testimony, arguments, and evidence as they would have had in a hearing before the decision was issued.
  - (b) The presentation of testimony, arguments, and evidence shall not be limited to the issues raised in a notice of appeal; and
- (2) The Planning Commission shall consider the record, all relevant testimony, arguments, and evidence that are accepted at the hearing.
- (3) Commission Action. The Planning Commission may affirm, amend, or reverse the final action of the Director.

10.024 Notice of Decision. Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing who requested such notice in writing. The notice of decision shall state the right of appeal of the decision as provided in this Code.

10.025 Appeal. Any appeal of the Planning Commission's decision on the appeal shall follow the procedures for appeal of a Type III decision.

10.030 Appeal of Final Action by the Director on Type I-C Decision (with Public Comment Period).

10.031 Appeal. A final action of the Director on a Type I-C decision (with public comment period) may be appealed to the Planning Commission, provided that the procedures of this Section are followed.

10.032 Procedures.

- (1) Any person who is adversely affected or aggrieved, anyone who is entitled to written notice of the decision, or anyone who provided written comments during the comment period may appeal the decision by filing a written appeal. The appeal must be filed with the Director within 12 calendar days from the date the written notice of decision is mailed, on a form provided by the Director. The appeal shall contain:
  - (a) A reference to the application or matter sought to be appealed to the Planning Commission, and the date of the decision.
  - (b) The name, address, and phone number of the appellant.
  - (c) The specific grounds relied upon in the request for appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.
  - (d) The required appeal fee.
- (2) Not later than 48 hours after receiving an appeal, the Director shall make a determination whether or not the appeal is complete and whether or not it has been filed on time. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Director's decision shall become final and is not subject to local appeal.
- (3) Notice of the appeal hearing shall be mailed to the applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Director's final action. The manner and content of notice shall be as provided in Section 2.053.
- (4) The appeal shall be reviewed by the Planning Commission under the Type III procedure as provided in Section 2.050.

10.033 Planning Commission Action



(1) Review.

The hearing shall be "de novo". At the de novo hearing:

(a) The applicant and other parties shall have the same opportunity to present testimony, arguments, and evidence as they would have had in a hearing before the decision was issued.

(b) The presentation of testimony, arguments, and evidence shall not be limited to the issues raised in a notice of appeal; and

(2) The Planning Commission shall consider the record, all relevant testimony, arguments, and evidence that are accepted at the hearing.

(3) Commission Action. The Planning Commission may affirm, amend, or reverse the final action of the Director.

10.034 Notice of Decision. Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing who requested such notice in writing. The notice of decision shall state the right of appeal of the decision as provided in this Code.

10.035 Appeal. Any appeal of the Planning Commission's decision on the appeal shall follow the procedures for appeal of a Type III decision.

10.040 Appeal of Final Action by the Hearings Officer on Type II Decision.

10.041 Appeal. A final action of the Hearings Officer on a Type II decision may be appealed to the Planning Commission, provided that the procedures of this Section are followed.

10.042 Procedures.

- (1) Any adversely affected or aggrieved person who provided written or oral testimony in the record may appeal the decision by filing a written appeal.

The appeal must be filed with the Director within 12 calendar days from the date the written decision is mailed, on a form provided by the Director. The appeal shall contain:

- (a) A reference to the application or matter sought to be appealed to the Planning Commission, and the date of the decision.
  - (b) The name, address, and phone number of the appellant, and a statement showing that the appellant was a party to the proceedings.
  - (c) The specific grounds relied upon in the request for appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.
  - (d) The required appeal fee.
- (2) Not later than 48 hours after receiving an appeal, the Director shall make a determination whether or not the appeal is complete, whether or not it has been filed on time, and whether or not the appellant was a party to the proceedings. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Hearings Officer's decision shall become final and is not subject to local appeal.
  - (3) Notice of the appeal hearing shall be mailed to the applicant, the appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Hearings Officer's written decision. The manner and content of notice shall be as provided in Section 2.053.
  - (4) The appeal shall be reviewed by the Planning Commission under the Type III procedure as provided in Section 2.050.

(1) Review.

The hearing shall be "de novo", unless prior to or at the outset of the hearing, the Planning Commission specifies that the hearing will be a "limited to issues" hearing or an "on the record" hearing, as described in Section 10.015. This decision will govern who may testify, whether the hearing is limited to issues raised in the appeal, and whether new evidence will be permitted.

(2) The Planning Commission shall review the appeal and consider the record, all relevant evidence and arguments that are accepted at the hearing, or that are already in the record if the hearing is limited to the record.

(3) Commission Action. The Planning Commission may affirm, amend, or reverse the final action of the Hearings Officer.

10.044 Notice of Decision. Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing who requested such notice in writing. The notice of decision shall state the right of appeal of the decision as provided in this Code.

10.045 Appeal. Any appeal of the Planning Commission's decision on the appeal shall follow the procedures for appeal of a Type III decision.

10.050 Appeal of Final Action by the Planning Commission on Type III Decision.

A final action of the Planning Commission on a Type III decision may be appealed to the City Council provided that the procedures of this section are followed.

<sup>2</sup>10.051 Procedures

(1) Filing an Appeal. Any adversely affected or aggrieved person who provided written or oral testimony in the record may appeal the decision by filing a written appeal.

The appeal must be filed with the Director within 12 calendar days of the Planning Commission's oral decision, on a form provided by the Director. The appeal shall contain:

- (a) A reference to the application or matter sought to be appealed to the Council, and the date of the oral decision.
  - (b) The name, address, and phone number of the appellant, and a statement showing that the appellant was a party to the proceedings.
  - (c) The required appeal fee.
- (2) Not later than 48 hours after receiving an appeal, the Director shall make a determination whether or not the appeal is complete, whether or not it has been filed on time, and whether or not the appellant was a party to the proceedings. A negative determination by the Director shall nullify the appeal. If no valid appeals have been received within the time frame given, the Planning Commission's decision shall become final and is not subject to local appeal.
- (3) Filing a Statement of Grounds for Appeal. Within 7 calendar days of the review body's written decision, the appellant shall file a statement specifying the grounds relied upon for the appeal, including a statement of the specific criteria the appellant contends have or have not been satisfied.

If no statement of grounds for appeal has been received within the time frame given, the Planning Commission's decision shall become final and is not subject to local appeal.

- (4) Notice. Notice of the appeal hearing shall be mailed to the applicant, appellant, any adversely affected or aggrieved party requesting notice in writing, and all persons previously noticed as part of the process leading to the Planning Commission's written decision. The manner and content of notice shall be as provided in Section 2.053.

(5) Procedure Type. The appeal shall be reviewed by the City Council using the "Action Hearing Before City Council" portion of the Type IV procedure as provided in Section 2.060.

<sup>3</sup>(6) Review Request by City Council.

Any final action of the Planning Commission may be reviewed by the City Council on its own motion, which motion shall be made no later than 12 calendar days from the Planning Commission's written decision. No separate prior action is required within 12 days of the oral decision. The motion initiating review of the Planning Commission's decision does not include a statement of grounds for appeal.

City Council review of the Planning Commission's decision initiated by the City Council on its own motion shall be reviewed using the same notice and hearing procedures in Subsection (4) and (5) of this Section.

10.052 City Council Action.

(1) The Council shall hear the appeal "de novo", unless, prior to or at the commencement of the hearing, the Council specifies that the hearing will be a "limited to issues" hearing or an "on the record" hearing, as described in Section 10.015. This decision will govern who may testify, whether the hearing is limited to issues raised in the appeal, and whether new evidence will be permitted.

(2) Review. The City Council shall review the appeal and consider the record, all relevant evidence and arguments that are accepted at the hearing, or that are already in the record if the hearing is limited to the record.

(3) The City Council may affirm, amend, or reverse the Planning Commission's decision under appeal.

10.053 Notice of Decision. Within 10 calendar days of the written decision, written notice of the decision shall be mailed to the applicant, appellant, and all parties who appeared, either orally or in writing, before the hearing or provided oral or written testimony in the record leading up to the appeal hearing who requested such notice in writing. The notice of decision shall state

the right of appeal of the decision as provided in this Code.

10.054 Appeal. Any appeal shall follow the procedures for appeal of a Type IV decision.

10.060 Appeal of Final Action on Type IV Decision or Type V Decision

A final action of the City Council on a Type IV decision or a final action of the City Council and Board of Commissioners on a Type V decision may be appealed to the Oregon Land Use Board of Appeals within 21 days of the written decision as provided in ORS 197.830.

10.070 Waiver of Right to Appeal

If all parties to a decision waive in writing their right to appeal, the appeal period shall terminate immediately and the written decision of the review body shall be the City's final decision.

<sup>3</sup>10.080. County Automatic Party Status.

The County shall be deemed to have automatic party status for quasi-judicial proceedings within the Urbanizing Area and for legislative proceedings, as specified in the 1998 Intergovernmental Agreement. The County may appeal a decision in accordance with the appeal provisions of this Article.

10.090. City Council Initiation of Review.

Prior to expiration of the appeal period of a Type I or Type II decision, the City Council on its own motion may require that the Planning Commission review the decision of the previous review body. The motion initiating review of the decision does not include a statement of grounds for appeal, but shall summarize the general reasons for sending the decision to the Planning Commission for review. The review shall be processed in accordance with a Type III procedure.

This authority shall have the same purpose as the City Council review of a Planning Commission decision provided in Section 10.051(6) of this Code, but shall allow for a

decision of a lower review body to be considered by the Planning Commission first, rather than directly by the City Council. The City Council then has the opportunity to review the decision of the Planning Commission in accordance with Section 10.051(6). The City Council shall not initiate said review on behalf of a party to the proceedings who has standing to file an appeal, but shall reserve this authority for situations where further review may be necessary to ensure a decision adequately represents the public interest.

<sup>3</sup>10.100. Final Action Following LUBA Remand.

- (1) Final Action Required Within 90 Days. Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 remanding a decision to a city, the City Council shall take final action on an application within 90 days of the effective date of the final order issued by the board. For purposes of this subsection, the effective date of the final order is the last day for filing a petition for judicial review of a final order of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS 197.830, the 90-day period established under this subsection shall not begin until final resolution of the judicial review.
- (2) 90-day Period Begins Upon Written Request by Applicant. In addition to the requirements of subsection (1) of this section, the 90-day period established under subsection (1) of this section shall not begin until the applicant requests in writing that the city proceed with the application on remand.

The 90-day period may be extended for a reasonable period of time at the request of the applicant.
- (3) The 90-day period established under subsection (1) of this section applies only to decisions wholly within the authority and control of the City Council.
- (4) Subsection (1) of this section does not apply to a remand proceeding concerning an amendment to an acknowledged comprehensive plan or land use regulation or the adoption of a new land use regulation that was forwarded to the Director of the Department of Land Conservation and Development under ORS 197.610.

(5) Procedures

- (a) The City Council may use any procedure permitted by law to consider the issues on remand. Where LUBA's remand does not require an evidentiary hearing, the City Council is not required to conduct an evidentiary hearing, but may choose to do so.
- (b) Absent instructions from LUBA, the City Council may limit the scope of the remand proceedings to correcting the deficiencies that were the basis for LUBA's remand, although it may also choose to expand the scope of remand proceedings beyond the scope of LUBA's remand.

If the City Council chooses to limit the scope of the remand proceedings to correcting the deficiencies that were the basis for LUBA's remand, the Council may also limit testimony to those parties who participated in the LUBA proceedings, including the petitioner, respondent, their authorized agents, and intervenors who spoke on behalf of a party to the LUBA proceedings.

- (c) The City Council shall provide notice consistent with the nature of the proceeding. If the City Council provides an evidentiary hearing, prior to or at the outset of the hearing, the City Council shall specify the scope of issues to be considered and the parties who will be permitted to provide testimony.

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<sup>1</sup> Revised 2-16-94

<sup>2</sup> Revised 11-15-95

<sup>3</sup> Revised 4-20-05



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## Article 12: Zoning Districts

### 12.010 Purpose and Concept

12.011 Purpose. The purpose of this Article is as follows:

- (1) To implement the policies and Land Use Map of the Comprehensive Plan;
- (2) To protect the right to use and enjoy real property;
- (3) To protect the health, safety and welfare of the community;
- (4) To serve as a basis for resolving land use conflict.

### 12.012 Concept

- (1) "Zoning" is the grouping of a homogenous and mutually supporting family of land uses in one area, called a Zoning District, or Zone. Certain land uses obviously conflict with one another, such as a brick factory, for instance, located next to a residential subdivision, affecting the residents with its noise, dust, appearance and 24-hour work schedule. Prior to zoning, the conflict was resolved after the fact with desist and damage suits and inevitable heavy losses to the loser. Zoning became the classic tool for mitigating land use conflict in advance, allowing the purchaser to select property guaranteed to be suitable for his needs.
- (2) Zoning as the primary tool of conflict resolution, however, led to the creation of long lists of allegedly homogenous land uses. Those uses "less homogenous" than others faced added procedures of review (such as the conditional use permit process). As the lists gradually changed over time, the distinction between basic land use categories became blurred, and conflict resolution turned zoning issues once again into courtroom battles.
- (3) Zoning in this Code is not intended as the primary tool for resolving land use conflict. Instead, zoning in this Code forms a basis for establishing generally homogenous land uses. Design and construction standards, together with the necessary review procedures, then function as the primary tools for resolving specific land use conflicts, both within a homogenous group of uses in a single zone and between groups of incompatible uses at the border of two different zones. Procedures of review

may then focus on achieving design solutions and may be greatly simplified as a result.

(4) Zoning in this Code fulfills its purpose in the following manner:

(a) Reflect Comprehensive Plan Policy. The thousands of acres in each Zoning District resulted from the patterns of historical development, careful analysis of lands needed for future growth and development, the need for protection and enhancement of the environment, and the cost and feasibility of extending necessary services. The Zoning Districts thus reflect the policies of the City Council on housing, economic development, environmental protection and service extension, based on this detailed analysis.

Major area-wide changes in, or additions to, the Zoning Districts should therefore return to the policies of the Comprehensive Plan and to the analyses of the data base upon which these policies are based. Major zone changes should be not entered into lightly, and should not be used as the sole basis for conflict resolution. (See Amendment Procedures, Article 4).

(b) Protect Basic Property Rights. The Zoning Districts are defined by broad categories of land use. These categories establish the "basic ground rules" of land use and development, enabling owners of real property to know in advance what to expect from their neighbors, before investing in or developing property. In this Code, these broad categories of land use are given performance definitions, defining not only the categories of use, but also how the use is to function within the category. The list of specific uses is de-emphasized and is kept at an administrative level. Any given land use is expected to function properly within the purpose of the zone when fully developed and active. (See Definitions, Article 30).

(c) Conflict Resolution. The broad categories of land use and the Base Development Standards provided for each category form only the starting point for conflict resolution. This Code anticipates most conflict resolution to occur by meeting performance design and construction standards, or by meeting special conditions arising out of the review

procedure. The design and construction standards are tailored for specific land uses, specific opportunities or constraints of the site, differing types of development and ownership, differing building types, specific buffering situations, environmental concerns, and requirements for service extension and utility installation. Conflict resolution issues that may have a design solution should not be resolved by zone changes or changes in definitions of land use. Instead, these conflict resolution issues should be referred to the performance standard sections of this Code.

12.020 Zoning Districts

12.021 Establishment of Zoning Districts. The location and boundaries of the Zoning Districts designated in this Article are hereby established as shown on the Zoning District Map of the Grants Pass Urban Growth Boundary area. The Zoning District Map may be referred to as the "Zoning Map" within this Code.

12.022 Zoning Map

- (1) All lands within the Urban Growth Boundary shall be classified within a Zoning district, according to the policies of the Comprehensive Plan and the criteria of this Code. The Zoning District shall be shown on a single map at a scale large enough that the zoning districts of individual properties may be identified.
- (2) The Director shall cause the Zoning Map to be on public display at all times during regular office hours.
- (3) Copies of the Zoning Map shall be available for public purchase

12.023 Zoning Map Amendment. The Zoning Map may be amended according to the procedures provided in Schedule 2-1 and the criteria provided in Article 4 of this Code.

12.024 Zoning District Boundary Interpretation. If uncertainty exists as to the boundaries of the Zoning Districts, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways or alleys, streams, rivers, lakes or other bodies of water shall be construed to follow such center lines;

- (2) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main track or tracks;
- (3) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices;
- (4) Boundaries indicated as parallel to, or extensions of natural or manmade features indicated in Subsections (1) through (3) above shall be so construed;
- (5) Distances not specifically indicated shall be determined by the scale of the Zoning Map; and
- (6) Where a lot is divided by zone boundary other than as provided in Subsections (1) through (4) above, the entire lot may be placed in the Zoning District containing the majority of the land area of the lot by an action of the Director, provided that the boundary adjustment is for a distance of twenty feet or less. If an adjustment of more than twenty feet is required, the boundary adjustment shall be treated as a zone change as provided in Section 4.030.

12.025 Land Use Classifications.

- (1) Use types. All land uses shall be classified into use types. The definition of each use type shall be performance oriented, describing a category of uses that have common functional, impact, compatibility or product characteristics. For land use type definitions, see Article 30.
- (2) List of Uses. Each specific land use shall be placed within the appropriate use type according to the definition of each use type category, based upon the functional, impact, compatibility and product characteristics of the specific land use. A list of land uses is arranged by use type category. The classification of a land use by the Director shall be determined and maintained by the Director, and is subject to appeal as provided in Section 10.030 of this Code.

12.026 Summary Schedule: Comprehensive Plan Land Use Map and Zoning Map Designations. The land use designations of the Comprehensive Plan Land Use Map shall encompass the Zoning Districts of this Code according to the Schedule 12-1:

Comprehensive Plan/Zoning District Summary Schedule 12-1	
Comprehensive Plan Land Use Map Designation	Zoning District Map Designation
Residential Designation:	Allows:
Low Density	R-1-12, R-1-10, R-1-8
Moderate Density	R-1-6, R-2
High Density	R-3
High-Rise Density	R-4
Commercial Designation:	Allows:
Neighborhood Commercial	NC
Riverfront Tourist Commercial	RTC-I, RTC-II, RTC-III
General Commercial	GC
Central Business District	CBD
Industrial Designation:	Allows:
Business Park	BP
Industrial Park	IP
Industrial	I
Reserve Designation:	Allows:
Any Residential District	UR

12.027 Permitted Use and Procedures Schedule: Land Use Types by Zoning District. The Land Use types permitted in each Zoning District and procedure types for their review are provided in Schedule 12-2, except for the Riverfront Tourist Commercial (RTC) Districts, which are provided in Schedule 12-3.

For Definitions of each land use type, see Definitions, Article 30.

<sup>24</sup>Schedule 12-2. Permitted Uses and Site Plan Review Procedures

Land Use Types	Zoning Districts												
	Residential						Commercial			Industrial			
	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I	
General activities not covered below, exempt from Development Permit	P-I-EX. See Section 2.033												
General activities not covered below, requiring an administratively issued use permit	P-I-AU. See Section 2.034												
General activities not covered below, where Building Permit serves as Development Permit	P-I-A. See Section 2.035												
1) Agriculture													
a) Intensive	P-I-EX	-	-	-	-	-	-	-	-	-	P-I-EX	P-I-EX	P-I-EX
b) Non Intensive	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX
c) Forestry	P-I-EX	-	-	-	-	-	-	-	-	-	-	-	-
2) Residential Dwelling Unit													
a) Existing	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)	P-I-A (e)
b) New													



Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
1. Detached (1)	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	-	P-I-A	P-I-A	-	-	-
2. Detached (2)	PUD	PUD	P-II	P-I-A	P-I-A	P-I-A	-	P-I-A	P-I-A	-	-	-
3. Duplex	PUD	PUD	P-II	P-IA	P-IA	P-IA	-	P-I-A	P-I-A	-	-	-
4. Multi-Dwelling	PUD	PUD	PUD	P-II	P-I-C	P-I-C	-	P-I-C	P-I-C	-	-	-
5. Manufactured Housing												
“A” Individual Lot	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	-	P-I-A	P-I-A	-	-	-
“B” Manufactured Dwelling Park	-	-	-	P-III (d)	P-III (d)	P-I-C	-	-	-	-	-	-
“C” Health Condition	P-II	P-II	P-II	P-II	P-II	P-II	-	P-II	P-II	-	-	-
c) Group Quarters	-	-	-	-	-	P-II	-	-	P-II	-	-	-
d) Home Occupation												
1. Occupational Use, per 14.211	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX	P-I-EX (f)	P-I-EX	P-I-EX	P-I-EX (f)	P-I-EX (f)	P-I-EX (f)
2. Minor, per 14.220	P-I-AU	P-I-AU	P-I-AU	P-I-AU	P-I-AU	P-I-AU	P-I-AU (f)	P-I-AU	P-I-AU	P-I-AU (f)	P-I-AU (f)	P-I-AU (f)
3. Major, per 14.220	P-II	P-II	P-II	P-II	P-II	P-II	P-I-C (f)	P-I-C	P-I-C	P-I-C (f)	P-I-C (f)	P-I-C (f)
e) Residential Accessory -Building -Use	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX (e)	P-I-A P-I-EX	P-I-A P-I-EX	P-I-A P-I-EX (e)	P-I-A P-I-EX (e)	P-I-A P-I-EX (e)
f) Transient Quarters	-	-	-	-	-	-	-	-	-	P-III	-	P-III
g h) Residential Home, per 14.510	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A (f)	P-I-A	P-I-A	P-I-A (f)	P-I-A (f)	P-I-A (f)

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
h) Residential Facility, per 14.521	P-II	P-II	P-II	P-II	P-I-C	P-I-C	P-I-C	P-I-C	P-I-C	-	-	-
i) Dwelling, Accessory	-	-	-	-	-	-	P-I-C	P-I-C	P-I-C	-	-	-
3) Trade												
a) Retail Indoor	-	-	-	-	-	-	P-II	P-(a)	P-(a)	P-(b)	-	-
b) Retail Outdoor	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
c) Wholesale	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
d) Itinerant Use, per 14.120	-	-	-	-	-	-	-	P-I-AU	P-I-AU	-	-	-
4) Services												
a) Professional Office	-	-	-	-	-	P-II	-	P-(a)	P-(a)	P-(b)	P*-(b)	-
b) Business Office	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	-
c) Limited Office	P-II	P-II	P-II	P-II	P-II	P-II	-	-	-	-	-	-
d) Repair/Maintenance, Commercial	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	P-(b)
e) Auto Service Station	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
f) Eating/Drinking Establishment	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	P-(b)
g) Hotel/Motel	-	-	-	-	-	-	-	P-(a)	P-(a)	-	-	-
h) RV Parks	-	-	-	-	-	-	-	P-III	-	-	-	-
i) Day Care/Family, per 14.310	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A	P-I-A (f)	P-I-A	P-I-A	P-I-A (f)	P-I-A (f)	P-I-A (f)
j) Day Care/Group, per 14.320	P-II	P-II	P-II	P-II	P-II	P-II	-	P-II	P-II	P-II	P-II	P-II

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
k) Group Care	-	-	-	-	P-III	P-III	-	P-(a)	P-(a)	-	-	-
l) Hospitals	-	-	-	-	-	P-III	-	P-III	-	-	-	-
m) Vet. Clinics	-	-	-	-	-	-	-	P-(a)	-	P-(b)	-	-
n) Commercial Accessory -Building -Use		- -	- -	- -	- -	- -	P-(g) P-EX	P-(g) P-EX	P-(g) P-EX	P-(g) P-EX	-	-
o) Bed & Breakfast, per 14.420	P-II	P-III	P-III	P-III	P-III	P-II	-	P-(a)	P-(a)	-	-	-
p) Voluntary Parking -Local Impact -Area Impact	- -	- -	- -	P-II P-III	P-II P-III	P-II P-III	- -	- -	- -	- -	- -	- -
q) Personal Service	-	-	-	-	-	P-II	P-(a)	P-(a)	P-(a)	P-(b)	-	-
5) Recreation												
a) Residential -Local Impact -Area Impact	P-I-C P-II	P-I-C P-III	P-I-C P-III	P-I-C P-II	P-I-C P-II	P-I-C P-II	- -	- -	- -	- -	- -	- -
b) Commercial -Local Impact -Area Impact	- -	- -	- -	- -	- -	- -	P-(a) -	P-(a) P-(a)	P-(a) P-(a)	P-(b) P-(b)	- -	- -
c) Athletic Clubs	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	P-(b)	P-(b)
6) Public												
a) Minor Public	P-II (h)	P-III (h)	P-III (h)	P-II (h)	P-II (h)	P-II (h)	P-(a) (h)	P-(a) (h)	P-(a) (h)	P-(b) (h)	P-(b) (h)	P-(b) (h)
b) Major Public	-	-	-	-	-	-	-	-	-	P-(b)	P-(b)	P-(b)
c) Schools	P-II	P-III	P-III	P-III	P-II	P-II	-	P-(a)	P-(a)	P-(b)	-	-
d) Churches	P-II	P-II	P-II	P-II	P-I-C	P-I-C	P-(a)	P-(a)	P-(a)	-	-	-

Land Use Types	UR	R-1-12 R-1-10 R-1-8	R-1-6	R-2	R-3	R-4	NC	GC	CBD	BP	IP	I
e) Cemeteries	P-III	P-III	P-III	P-III	-	-	-	-	-	P-(b)	-	-
f) Mortuaries	-	-	-	-	-	P-III	-	P-(a)	-	P-(b)	-	-
g) Lodges	-	P-III	P-III	P-III	P-II	P-II	-	P-(a)	P-(a)	P-(b)	-	-
h) Commercial Parking	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	-	-
<sup>20</sup> i) Transportation Facilities outlined in the Master Transportation Plan, and local access streets	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)	P-I-(c)
<sup>21</sup> j) Transportation Facilities not outlined in the Master Transportation Plan, nor part of a subdivision or PUD, nor local access streets	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II	P-II
k) Public Parks	P-III	P-III	P-III	P-II	P-II	P-II	-	P-II	P-II	P-II	-	-
7) Industrial												
a) Repair/Maintenance, Industrial	-	-	-	-	-	-	-	-	-	P-(b)	-	P-(b)
b) Indoor	-	-	-	-	-	-	-	-	-	P-(b)	P-(b)	P-(b)
c) Outdoor	-	-	-	-	-	-	-	-	-	-	-	P-(b)
d) Prohibited	-	-	-	-	-	-	-	-	-	X	X	X
e) Industrial Accessory -Building -Use	- -	- -	- -	- -	- -	- -	- -	- -	- -	P-(g) P-I-EX	P-(g) P-I-EX	P-(g) P-I-EX
f) Outdoor Storage	-	-	-	-	-	-	-	-	-	P-II	-	P-II
8) Temporary Uses	-	-	-	-	-	-	-	P-(a)	P-(a)	P-(b)	P-(b)	P-(b)

**Table Legend:**

- P =Permitted Use
- =Use Not Permitted
- X =Use Specifically Prohibited (Uses defined in Article 30 as “Industrial, Prohibited”)
  
- I-EX =Type I Procedure, Exempt from Development Permit Review, Section 2.033
- I-AU =Type I Procedure, Administrative Use Permit Review Only, Section 2.034
- I-A =Type I Procedure, Building Permit Serves as Development Permit, Section 2.035
- I-B =Type I Procedure, Director’s Decision without Comment Period, Section 2.036
- I-C =Type I Procedure, Director’s Decision with Comment Period, Section 2.037
- II =Type II Procedure, Hearings Officer’s Decision, Section 2.040
- III =Type III Procedure, Planning Commission’s Decision, Section 2.050
- IV-A =Type IV Procedure, City Council Decision without Planning Commission Recommendation, Section 2.060
- IV-B =Type IV Procedure, City Council Decision with Planning Commission Recommendation, Section 2.060
- V =Type V Procedure, Joint Board of County Commissioners & City Council Decision with Planning Commission Recommendation, Section 2.070
  
- \* =Professional Office use permitted in the Industrial Park District only when subject property is located within the Medical Overlay District.

**Table Notes:**

- (a) A Type II Procedure is required if the subject property adjoins a residential zone, otherwise a Type I-C Procedure is required.
- (b) A Type II Procedure is required if the subject property adjoins a residential or commercial zone, otherwise Type I-C Procedure is required.
- (c) Type I-A, except the following are exempt (Type I-EX): operation, maintenance, repair, and preservation of existing transportation facilities; dedication or public acquisition of rights-of-way and easements; authorization of construction and construction of facilities and improvements, where the improvements are within the existing right-of-way or easement area or are consistent with clear and objective dimensional standards; and emergency measures necessary for the safety and protection of property.
- (d) Manufactured Dwelling Parks are not permitted in commercial or industrial zones or commercial or industrial Comprehensive Plan land use districts. Siting of an individual home within an approved manufactured dwelling park requires a Type I-A procedure.
- (e) An existing residential dwelling unit is a permitted use in this zone. In zones where a new residential dwelling unit is not a permitted use, this provision allows the existing residential dwelling unit to continue or expand without being subject to the nonconforming use provisions of the Development Code. There may be nonconforming development provisions that are applicable. If an existing dwelling unit is removed in a zone where a new dwelling unit is not permitted, it shall not be replaced.  

In zones where a new residential dwelling unit is not a permitted use, this provision does not allow for expansion that increases the number of dwelling units.

In zones where a new residential dwelling unit is not a permitted use, this provision allows for a new residential accessory structure or accessory use associated with the existing residential dwelling.
- (f) These uses are permitted within an existing dwelling unit only, since a new dwelling unit is not permitted in the zoning district.
- (g) A commercial or industrial accessory building of 400 square feet or less that comprises less than 25 percent of the existing floor area of buildings and meets the definition of a minor modification in Section 19.058 of this Code is reviewed through a Type I-A procedure. All other commercial or industrial accessory buildings are subject to the applicable site plan review procedures.
- (h) A Type I-A Procedure is required for water and sewer pump stations. All other minor public facilities are reviewed through the procedure specified in the table.

**Schedule 12-3. RTC Zone - Permitted Uses and Review Procedures**

Land Uses	Zoning District		
	RTC-I	RTC-II	RTC-III
1. Residential			
a. Multi-dwelling residential	P-III-r		
b. Condominiums	P-III-r		
2. Lodging and Visitor Accommodations			
a. Visitor information and tourist center		P-III-r	
b. Small scale visitor accommodations such as bed and breakfasts, and inns and resort lodges at a density of no greater than 25 units per acre	P-III-r		P-III-r
c. Large scale visitor accommodations such as a major hotel chain		P-III-r	
d. Youth hostel			P-III-r
e. Campground (to include RVs, tents, and trailers)			P-III-r
3. Meeting and Performing Arts			
a. Conference center		P-III-r	
b. Performing arts complex (inside and outside)		P-III-r	
4. Food and Beverage			
a. Eating and alcohol drinking establishments (inside and outside), only when associated with a restaurant	P-III-r		
b. Eating, alcohol drinking, and dancing establishments (inside and outside)		P-III-r	
c. Beer and wine drinking establishments			P-III-r
d. Fast food restaurants and other small cafes with entertainment and meeting facilities (inside and outside)			P-III-r
5. River-Related Retail			
a. Retail (indoor and outdoor) which support river-type activities	P-III-r		
b. River-related retail (location necessary for existence)			P-III-r

**Schedule 12-3. RTC Zone - Permitted Uses and Review Procedures**

Land Uses	Zoning District		
	RTC-I	RTC-II	RTC-III
6. River-Related Services			
a. Hotel excursion tour boats for river tours down river		P-III-r	
b. Fuel docks		P-III-r	
c. Marine hardware			P-III-r
d. Bait and tackle shop			P-III-r
e. Guided sport fishing			P-III-r
f. River-related club's and organization's facilities			P-III-r
g. Offices and businesses of river-related and recreational activities			P-III-r
7. Other Retail and Services			
a. Specialty and gift shops		P-III-r	
b. Art galleries and displays		P-III-r	
c. Esplanade along the river, small newspaper kiosks, flower carts, specialty food vendors and carts		P-III-r	
d. Small grocery			P-III-r
e. Bicycle, roller skating, moped, and other recreational equipment rental stores			P-III-r
8. Interpretive/Educational			
a. Fish spawning interpretive center	P-III-r		
b. Natural history library and/or bookstore	P-III-r		
c. Educational interpretive center and displays			P-III-r
d. River-related museums and libraries			P-III-r
9. Public Parks	P-III-r	P-III-r	P-III-r

**Table Legend**

P-III-r= Permitted Use, Requires a Pre-application and Type III Review. Prior to Type III Review, all projects will be reviewed by the "Riverfront Review Board", Section 21.211. The Riverfront Review Board (RRB) will make specific recommendations to the Planning Commission on all RTC applications.

12.100 Residential Zoning Districts

12.120 Purpose of the Residential Zoning Districts

12.121 Urban Reserve District (UR). The purpose of the Urban Reserve District (UR) is to reserve urbanizable lands for large-lot, rural residential and agricultural uses, until such lands are converted to the urban designation consistent with the Comprehensive Plan Land Use Map; to encourage conversion to urban uses in an orderly and economic manner, coordinated with the provision of public facilities and services; and to protect the rural character of lands on the fringes of the Urban Growth Boundary from the disruptive effects of premature urban development.

12.122 R-1 Districts. The purpose of the R-1 Districts is to encourage, accommodate, maintain and protect a suitable environment for residential living at low and moderate densities.

12.123 R-2 District. The purpose of the R-2 District is to encourage, accommodate, maintain and protect a suitable environment for residential living at moderate densities.

12.124 R-3 District. The purpose of the R-3 District is to encourage, accommodate, maintain and protect a suitable environment for residential living at high densities.

12.125 R-4 District. The purpose of the R-4 District is to encourage, accommodate, maintain and protect a suitable environment for residential living at high-rise densities, and for professional uses that typically support residential areas; such as professional offices; hospitals, clinics and other suitable uses, but only in a manner designed to support and protect residential livability.

12.131 Land Use Review. Schedule 12-2 shows the specific land uses permitted in each Residential Zoning District, subject to all provisions of this Code and the review procedure associated with each use and zone.



12.140 Determining Residential Density.

- (1) The maximum number of dwelling units (du) allowable under either Base Development Standards or Alternative Development Options shall be determined according to the following formula:

Total Site (Acres) - dedicated public right of way (acres) = Useable Site (Acres) x maximum density allowed by zone (du/acre) = Maximum Dwelling Units allowed on site (round to whole number by dropping all fractions).

- (2) Using the Base Development Standards, the minimum lot size, the particulars of site layout and topography, and the access requirements may result in yielding less than the allowable maximum dwelling units for any given proposal. In this case, the most restrictive requirement shall govern.
- (3) The maximum density for any given zone is not subject to increase using the variance process, the PUD process, or the subdivision option process. The maximum density for any given zone may be increased only by using the density incentives as provided in this Code.
- (4) The maximum density for all residential zones shall be as given in the following schedule:

<sup>1</sup> Maximum Residential Density By Zone Schedule 12-4		
Comprehensive Plan Designation	Zoning Designation	Maximum Density
Low Density	R-1-12	3.6 du/Acre
	R-1-10	4.4 du/Acre
	R-1-8	5.4 du/Acre
Moderate Density	R-1-6	8.7 du/Acre
	R-2	11.6 du/Acre
High Density	R-3	17.4 du/Acre
High-Rise Density	R-4	34.8 du/Acre

12.150 Residential Base Development Standards

12.151 Purpose. The purpose of this Section is to provide the Base Development Standards for all residential uses, including lot size, lot dimension, setbacks, structure height and lot access.

<sup>5</sup>12.152 Lot Requirements

(1) Minimum lot requirements shall be as given in Schedule 12-6:

Minimum Residential Lot Requirements Schedule 12-5							
Zone	Lot Area One Dwelling Unit in sf (See Note 1)	Area/du Two or More Dwelling Units in sf (See Note 1)	Lot Width in ft (See Note 2)	Front Yard in ft (See Note 3)	Ext. Side/Rear Yard in ft	Side Yard in ft (See Note 4)	Rear Yard in ft (See Note 4)
UR	43,560	43,560	150	20	10	10	20
R-1-12	12,000	12,000	80	20	10	6-10 (See Note 5)	6
R-1-10	10,000	10,000	75	20	10	6-10 (See Note 5)	6
R-1-8	8,000	8,000	70	20	10	6-10 (See Note 5)	6
R-1-6	6,000	5,000	60	20	10	6-10 (See Note 5)	6
R-2	5,000	3,750	50	20	10	5	5
R-3	5,000	2,500	50	20	10	5	5
R-4	5,000	1,250	50	10	10	5	5

sf = Square Feet  
 ft = Linear Feet  
 du = Dwelling Unit

Note 1: Where public right-of-way is required to be dedicated from a lot for development permit approval, the area dedicated in excess of that necessary to provide a 60-foot wide right-of-way may be counted towards the minimum lot area.

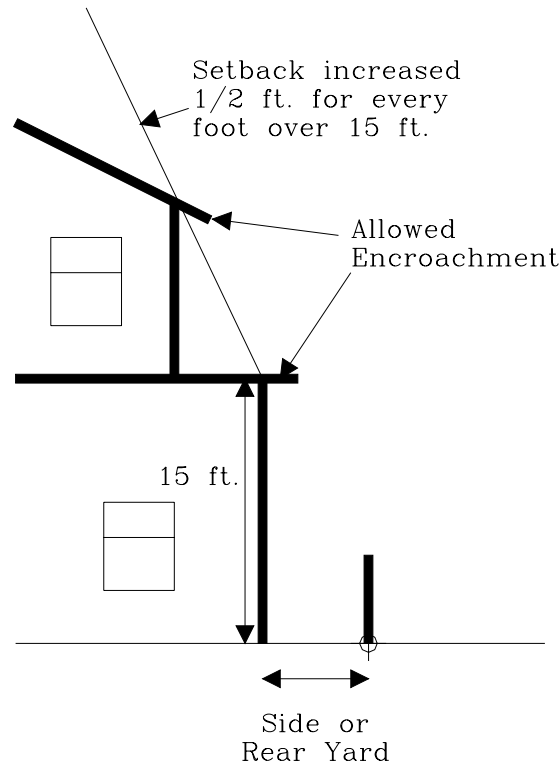
Note 2: Lot depth shall not be greater than four (4) times its width, exclusive of the flagpole of a flag lot.

<sup>22</sup>Note 3: If each property that adjoins an interior side property line of the subject property is developed with a residential structure that has a nonconforming front yard setback, the front yard setback for a single-family residential structure on the subject property may be reduced subject to Subsection (3). See Concept Sketch: Reduced Front Yard Setback

Note 4: The structure shall be constructed so that any point on the structure is set back from the side and rear

property lines the required minimum setback plus one-half (1/2) foot for each foot over fifteen (15) feet that the point is above finish grade. See Concept Sketch: Side and Rear Yard Setback. Also, see Section 12.400 for exceptions to side and rear yard setbacks.

Note 5: Side yard setbacks shall be a minimum of six (6) feet, and the sum of the two side yards shall be a minimum of sixteen (16) feet. Any side yards beyond the first two shall be a minimum of six (6) feet.



Concept Sketch: Side and Rear Yard Setback

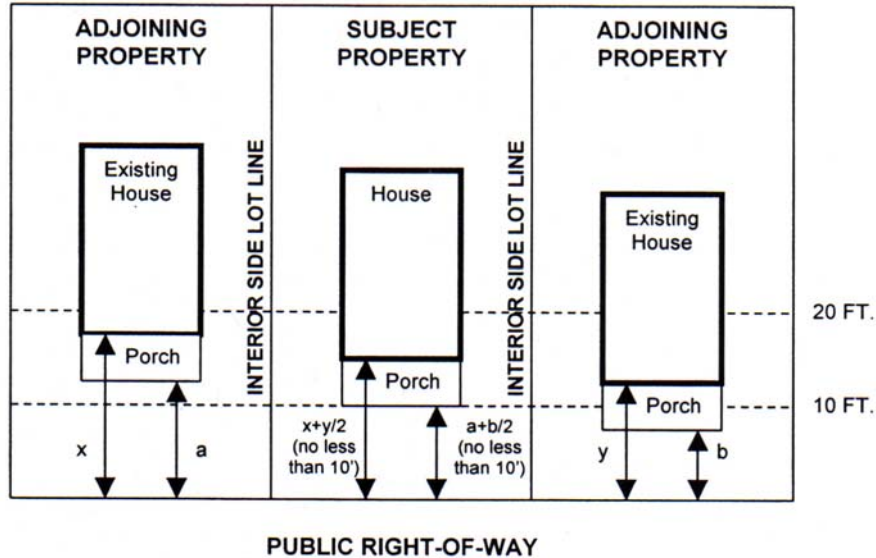
(2) A lot with frontage on two streets requires only one front yard. For a lot with frontage on more than one street, the applicant shall designate one such frontage as the front yard, and all other frontages shall be designated exterior side or rear yards, as appropriate. See also Article 30, Definitions. Exterior side or exterior rear yards shall be as given in Schedule 12-5.

<sup>22</sup>(3) If both properties that adjoin the interior side property lines of the subject property are developed with residential structures that have nonconforming front yard setbacks, the front yard setback for a single-family residential structure on the subject property may be

reduced, subject to the following. If the first adjoining property is a flag lot, the setback of the next property that adjoins the flagpole may be considered.

- (1) The subject property must be in a residential zone, and the properties that adjoin the interior side lot lines must be subject to the same front yard setback requirement as the subject property.
- (2) The front yard setback for the single-family residential structure may be reduced to a distance equal to the average setback of the adjoining residential structures, but to no less than 10 feet. If the subject property is a corner lot, the front yard setback for the single-family residential structure may be reduced to a distance equal to the nonconforming setback of the adjoining property along the same public street frontage, but no less than 10 feet.
  - (a) The minimum setback for a front wall of the single-family residential structure shall be the average of the setback of the nonconforming front walls of the adjoining residential structures, but no less than 10 feet.
  - (b) The minimum setback for a covered porch shall be the average of the setback of the nonconforming front walls or nonconforming covered porches of the adjoining residential structures, but no less than 10 feet, measured from the outermost wall or vertical roof support.
- (3) No reduction in front yard setback for a residential structure or other structure shall be permitted based on the setback of a carport or detached accessory structure on an adjoining property.
- (4) A reduction in front yard setback shall only be permitted for a single-family residential structure; however, no reduction in front yard setback shall be permitted for a wall containing a front-facing garage door. No reduction in front yard setback shall be permitted for a carport or a detached accessory structure.

- (5) If the subject property is adjacent to a corner lot, an exterior side yard of the corner lot shall not be considered a nonconforming front yard.



Concept Sketch: Reduced Front Yard Setback

<sup>3</sup>(4) Compliance with Solar Standards

(a) Solar Setback Standards

Any structure built on a lot to the south of a residentially zoned lot shall comply with the solar setback standards of Section 22.620 of this Code.

(b) Solar Lot Design Standards

All subdivisions in residential zones shall comply with the solar lot design standards of Section 22.630 of this Code.

12.153 <sup>23</sup>Height Requirement

(1) Maximum heights shall be as given in Schedule 12-6.

Maximum Building or Structure Height Schedule 12-8	
Zone	Feet*
R-1-12	35
R-1-10	35
R-1-8	35
R-1-6	35
R-2	35
R-3	35
R-4	45

\* Any gabled or hipped roof feature with a pitch over 5:12 may exceed the maximum height by two additional feet for each additional unit of rise per 12 units of run, up to a maximum of 16 additional feet:

Additional Height for Roof Pitch >5:12 (measured from reference datum to highest point of roof)		
Roof Pitch	Zone	
	R-1-12, R-1-10, R-1-8, R-1-6, R-2, R-3	R-4
5:12 or less	35	45
more than 5:12 up to 6:12	37	47
more than 6:12 up to 7:12	39	49
more than 7:12 up to 8:12	41	51
more than 8:12 up to 9:12	43	53
more than 9:12 up to 10:12	45	55
more than 10:12 up to 11:12	47	57
more than 11:12 up to 12:12	49	59
more than 12:12	51	61

(2) Exceptions. Residential Zoning District height limitations may be exceeded by the following:

(a) Farm buildings and structures

- (b) Chimneys
- (c) Church spires, belfries, cupolas and domes
- (d) Flagpoles, masts and aerials
- (e) Firehouse towers
- (f) Elevator shafts

12.154 Access Requirements

- (1) Each residential lot shall have access to a dedicated public street not less than 20 feet in width.
- (2) Where such access is not provided by lot frontage on a dedicated public street, access may be provided by a flagpole running to a dedicated public street other than a minimum access street, as provided in Article 28, Access.

12.155 Other Requirements. All relevant procedures and standards of this Code apply to use and development within Residential Zoning Districts.

<sup>7</sup>12.156 Alternate Development Options. Residential Development other than as provided in these Base Development Standards may be pursued by the following procedures of this Code:

- (1) Planned Unit Development, Article 18.
- (2) Modified Setback Option, Residential Development Standards, Article 22.
- (3) Variance, Article 6.

12.200 Commercial Zoning Districts

12.220 Purpose

<sup>8</sup>12.221 Neighborhood Commercial District (NC). The purpose of the Neighborhood Commercial District is to provide locations for small businesses which serve the retail and personal services needs within residential zoning districts. The businesses are intended to be limited in size to fit into residential patterns of development without creating land use, architectural or traffic conflicts.

12.222 General Commercial District (GC). The purpose of the General Commercial District is to provide for all commercial and professional uses, excepting those uses requiring on-site manufacture or assembly. Performance development standards are designed to protect adjacent uses and development from impact, and the market factors of supply, demand, location and cost are expected to provide commercial development in appropriate types, amounts and relationships.

12.223 Central Business District (CBD). The purpose of the Central Commercial District is to provide appropriate commercial and professional uses for the Central Business District of Grants Pass. Performance development standards are designed to encourage mixed commercial, professional and high-rise residential uses. The Central Business District recognizes and encourages viable and economic uses, while performance development standards and the Downtown Plan act to maintain and enhance the District's unique architecture and historic qualities.

<sup>9</sup>12.224 Riverfront Tourist Commercial District (RTC). The purpose of the Riverfront Tourist Commercial District is to provide for and to promote special tourist commercial uses adjacent to the Rogue River where either existing or proposed bridges are located. Uses appropriate to the RTC districts would either need to be located adjacent to the river for their existence or utilize the river's scenic quality for economic development. In addition to providing economic opportunity for the City of Grants Pass, these ordinances will preserve the scenic quality wetland habitat and promote river related recreation.

For the purposes of this document, the following descriptions apply:



100-Year Flood Plain: The 100-Year Flood Plain has boundaries determined by the Federal Insurance Administration as the base flood elevation for purposes of flood plain management and is the level at which a flood may occur every 100 years with a one percent (1%) chance of occurring annually.

River Bank: The area that extends out from the mean high water line, measured between June 1 and September 1, as determined by survey. The width of the river bank is the width of the river floodway, or fifty (50) feet from the survey point, whichever is greater.

Floodway: Floodways are stream corridors designed to conduct waters of a 100-year flood out of the area as fast as possible. They are not necessarily a natural feature.

River Corridor: The river corridor establishes the location of the Scenic Overlay Zone and is covered by the same area as the 100-Year Flood Plain.

There are three subdistricts for the RTC zone located approximately at Grants Pass Parkway (Third Bridge crossing), at the Sixth and Seventh St. Bridge crossings and at the future Fourth Bridge crossing. Each of these subdistricts has special characteristics, due to the existing land uses and development patterns and their locations within the City's Urban Growth Boundary.

- (1) River Tourist Commercial District-I (RTC-I). The RTC-I is within an established single- and multi-dwelling residential area. Therefore, it is the purpose of this subdistrict to promote residentially scaled development which will complement these residences. Further, this subdistrict is adjacent to wetland environment, which will necessitate special protection and limited access to the river.
- (2) Riverfront Tourist Commercial District-II (RTC-II). The RTC-II District is located next to the downtown and Central Business District of Grants Pass. The purpose of this subdistrict is to encourage both high quality building density and visitor-serving activities which allow the beauty of the river to be seen. The scale and architectural character must have an urban ambience and sophistication.

- (3) Riverfront Tourist Commercial District-III (RTC-III). The RTC-III District is directly related to the County Fairgrounds/Race Track and the Riverside West All Sports Park. Affordable visitor-serving activities and commercial recreation development are desired. These activities should occur in a park-like setting.

12.230 Commercial Land Uses and Review Procedures

12.231 Land Use Review. Schedule 12-2 shows both the specific and general categories of land uses permitted in each Commercial Zoning District, subject to all provisions of this Code and the review procedure associated with each use and zone, except for the Riverfront Tourist Commercial (RTC) Districts, which are provided in Schedule 12-3.

12.232 Riverfront Tourist Commercial Zones. The Riverfront Tourist Commercial Zones require special review procedures due to the uniqueness and the environmental sensitivity of these districts. The review procedures apply to RTC-I, II and III.

Prior to the Planning Commission hearing for the Type III Review, all projects will be reviewed by the "Riverfront Review Board," Section 21.211. The Riverfront Review Board (RRB) will make specific recommendations to the Planning Commission on all RTC applications. Projects are defined in this situation as follows:

1. Requiring a Building or Development Permit
2. Alteration or removal of riparian vegetation within the 100-Year Flood Plain must be approved by the RRB
3. Grading of more than 50 cubic yards of soil within the RTC Districts
4. Removal of trees (with six (6) inch diameter at four-and-a-half (4-1/2) feet high or greater) within the RTC Districts.

12.240 Residential Densities in Commercial Zones

<sup>20</sup>12.241 New Residential Dwelling Units. New residential dwelling units may be permitted in General Commercial and Central Business Districts. No minimum or maximum density standard applies in these districts. Residential Development in the GC zone must meet the applicable Residential Development Standards of Article 22 for the R-3 zone.

- 12.242 Existing Residential Dwelling Units. Existing residential dwelling units are permitted in all Commercial Zones, provided there is no increase in density. For any increase in density within existing residential dwelling units, Section 12.241 shall apply.
- 12.243 Residential Density Within the RTC-I District. The RTC-I District allows for residential development up to R-3 densities or 17.4 dwelling units/acre.
- 12.250 Commercial Base Development Standards
- 12.251 Purpose. The purpose of this Section is to provide the Base Development Standards for all commercial uses, including lot size, lot dimension, setbacks, structure height and lot access.
- 12.252 Lot Requirements.

- (1) Minimum lot size and dimensions and front, side and rear yard setbacks shall be as given in Schedule 12-7.

13 Minimum Commercial Lot Requirements Schedule 12-7								
Zone	Lot Area in sf	Lot width in ft	Lot Depth in ft	Front yard in ft	Exterior Side/Rear yard in ft	Side yard	Rear yard	Lot Coverage
NC	No min. 21,780 max*	25	100	20	10	None**	None**	35% Max
GC	None	25	100	10	10	None**	None**	None
CBD	None	None	None	None	None	None**	None**	None

Legend:

- sf = Square Feet  
ft = Linear Feet  
Max. = Maximum Requirement; otherwise given as minimum requirement.  
\* = Maximum square footage for contiguous commercially-zoned lot area, regardless of ownership.  
\*\* = See Landscape and Buffering Requirements when adjacent to residential zones.

- (2) A lot with frontage on two or more streets requires only one front yard. The applicant shall designate one such frontage as the front yard, and all other frontage yards shall be designated exterior side or rear yards, as appropriate. See also Article 30, Definitions. Exterior side or rear yards shall be as given in Schedule 12-12.

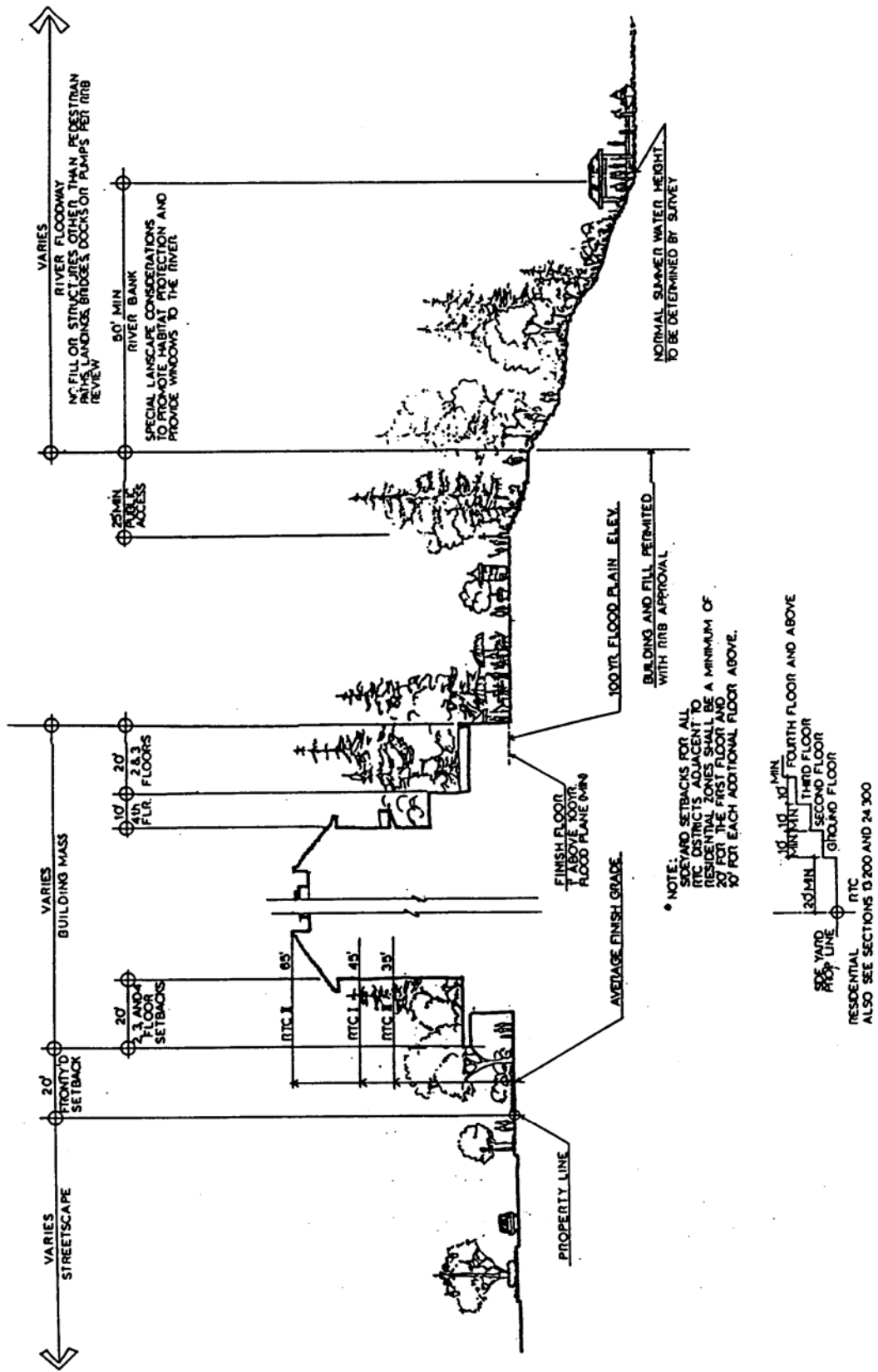
12.253 Lot Requirements for RTC Districts

- (1) Lot Area, Width and Depth for RTC Districts. There are no minimum sizes for lots within the RTC Districts.
- (2) RTC Front and Rear Setbacks. Concept Sketch: RTC District Setbacks delineate the setback requirements for the RTC Zone Districts. These requirements shall supersede the requirements of Section 24.341, Stream Corridor Setback.
- (3) RTC Side Yard Setback. Consideration shall be given to view corridors by the RRB. However, the minimum side yard set back adjacent to a residential zone is 20 feet for the first floor and an additional 10 feet for each extra floor (Refer to Concept Sketch: RTC District Setbacks). No structures or parking may occur in the 20-foot setback area.

A 20-foot wide landscaping area shall be provided according to Section 23.034, Type D: Buffering Between Zones.

- (4) RTC Lot Coverage for Buildable Area (with setbacks)

RTC-I	None
RTC-II	None
RTC-III	None



Concept Sketch: RTC District Setbacks

<sup>23</sup>12.254 Height Requirements

(1) Maximum heights shall be as given in Schedule 12-8.

Maximum Building or Structure Height Schedule 12-8		
Zone	Stories	Feet***
NC	2 1/2*	35*
GC	N/A*	35*
CBD	N/A*	100
RTC-I	3**	45**
RTC-II	4**	65**
RTC-III	2 1/2**	35**
*The most restrictive shall apply.		
**The least restrictive shall apply		

\*\*\* Any gabled or hipped roof feature with a pitch over 5:12 may exceed the maximum height by two additional feet for each additional unit of rise per 12 units of run, up to a maximum of 16 additional feet:

Additional Height for Roof Pitch >5:12 (measured from reference datum to highest point of roof)					
Roof Pitch	Zone				
	NC, GC*	CBD	RTC-I**	RTC-2**	RTC-3**
5:12 or less	35	100	45	65	35
more than 5:12 up to 6:12	37	102	47	67	37
more than 6:12 up to 7:12	39	104	49	69	39
more than 7:12 up to 8:12	41	106	51	71	41
more than 8:12 up to 9:12	43	108	53	73	43
more than 9:12 up to 10:12	45	110	55	75	45
more than 10:12 up to 11:12	47	112	57	77	47
more than 11:12 up to 12:12	49	114	59	79	49
more than 12:12	51	116	61	81	51

(2) Exceptions. Commercial Zoning District height limitations may be exceeded by the following:

- (a) Farm buildings and structures
- (b) Chimneys

- (c) Church spires, belfries, cupolas and domes
- (d) Flagpoles, masts and aerials
- (e) Firehouse towers
- (f) Elevator shafts and cooling towers
- (g) Outdoor theater screens
- <sup>23</sup>(H) Hospitals, provided that no hospital shall exceed a height of 55 feet, with additional height permitted for a roof pitch over 5:12 as provided above.

12.255 Access Requirements

- (1) Each commercial lot shall have access to a dedicated public street across its entire frontage.
- (2) Flagpoles do not constitute frontage for commercial lots. See Section 12.256 for Alternative Development Options.

12.256 Other Requirements. All relevant procedures and standards of this Code apply to use and development within Commercial Zoning Districts.

- (1) RTC Development Standards. Articles 23 through 27 are to be supplemented by Article 21, RTC Development Standards.
- <sup>20</sup>(2) Parking Lot Location in the CBD zone. In the CBD zone, all surface lots shall be located at the rear or side of the building. Where it is not possible to provide parking behind the building, parking may be located along the side of the building providing it comprises no more than 50% of the site frontage of the primary street. The Review Body may waive this requirement if the applicant demonstrates that parking in those locations would not allow reasonable use of the site due to lot configuration, physical site conditions, site access restrictions, or similar site constraints; would pose a risk to public safety by restricting visibility of the lot from the street; or that parking in front of the building would better implement the purpose of this district by, for instance, enabling shared parking or providing superior pedestrian access. Parking areas allowed in front of buildings shall, where possible, be located adjacent to an existing parking area to enable shared parking.

- <sup>20</sup>(3) Building Orientation in the CBD zone. Buildings shall be set back no more than 10' from the property line facing a public or private street, except where parking is allowed in front of the building per Section 12.256(2). Minimum setbacks shall preserve intersection sight distance to ensure safe ingress/egress. A building's main entrance shall be oriented to a street or pedestrian-oriented plaza or park.

12.257 Alternative Development Options. Commercial Development other than as provided in these Base Development Standards may be pursued by the following procedures of this Code:

- (1) Planned Unit Development, Article 18.
- (2) Variance, Article 6.



12.300 Industrial Zoning Districts

12.320 Purpose

12.321 Business Park District (BP). The purpose of the Business Park District is to provide a mixed-use zone for light industrial and commercial uses. Retail trade is permitted as an accessory use or when determined to be compatible with, or can be made compatible with, light industrial or wholesale trade uses via a discretionary review process. Performance Development Standards are designed to ensure the compatibility of the light industrial uses with the commercial uses, and the compatibility with adjacent Commercial and Residential Zoning Districts.

12.322 Industrial Park District (IP). The purpose of the Industrial Park District is to provide for light industrial uses in a campus-like setting. High Performance Development Standards assure compatibility among Industrial Park users and the compatibility with adjacent commercial and residential uses.

12.323 Industrial District (I). The purpose of the Industrial District is to provide for those industrial uses with heavier impacts upon their surroundings and the need for outdoor functions. Performance standards are less than required for other industrial districts and graduated buffering standards ensure compatibility with neighboring zones of lesser intensity of use. It is the express intent of the Industrial District to maintain lands for industrial use, with commercial and residential uses limited to those uses accessory to industrial development.

12.330 Industrial Land Uses and Review Procedures

12.331 Land Use Review. Schedule 12-2 shows *both the specific and general* categories of land uses permitted in each Industrial Zoning District, subject to all provisions of this Code and the review procedure associated with each use and zone.

12.340 Residential Uses in Industrial Zones

12.341 New Residential Dwelling Units. New residential dwelling units are not permitted in any Industrial Zone, except those units serving a direct industrial function, such as a watchman's cottage. In no case shall there be more than one such unit per industrial use or lot.

12.342 Existing Residential Dwelling Units. Existing residential dwelling units are permitted in all Industrial Zones, provided there is no increase in density.

12.350 Industrial Base Development Standards

12.351 Purpose. The purpose of this Section is to provide the Base Development Standards for all industrial uses, regulating lot size, lot dimension, setbacks for structures on the lot, structure height and lot access.

<sup>25</sup>12.352 Lot Requirements. Minimum lot size and dimensions, front, side and rear yards, and building setbacks shall be as given in Schedule 12-9:

<sup>25</sup> Minimum Industrial Lot Requirements Schedule 12-9								
Zone	Lot Area	Lot Width in ft	Lot Depth in ft	Front Yard/ Bldg Setback in ft*	Exterior Side & Rear Yard/ Bldg Setback in ft*	Side Yard/ Bldg Setback in ft*	Rear Yard/ Bldg Setback in ft*	Max. Lot Coverage
BP	None	25	100	10	10	None	None	None
IP	None	25	100	20	10	15	20	50%
I	None	25	100	10	10	None	None	None

Legend:

ft = Linear Feet

Max. = Maximum Requirement; otherwise given as minimum requirement.

\* = See landscape and buffering requirements when adjacent to residential, commercial, and indoor industrial zones and uses of lesser intensity, or corner lots.

12.353 <sup>23</sup>Height Requirements

(1) Maximum heights shall be as given in Schedule 12-10.

Maximum Industrial Height Schedule 12-10	
Zone	Maximum Building or Structure Height*
BP	45 ft.
IP	45 ft
I	45 ft.

\* Any gabled or hipped roof feature with a pitch over 5:12 may exceed the maximum height by two additional feet for each additional unit of rise per 12 units of run, up to a maximum of 16 additional feet:

Additional Height for Roof Pitch >5:12 (measured from reference datum to highest point of roof)	
Roof Pitch	Zone
	BP, IP, I
5:12 or less	45
more than 5:12 up to 6:12	47
more than 6:12 up to 7:12	49
more than 7:12 up to 8:12	51
more than 8:12 up to 9:12	53
more than 9:12 up to 10:12	55
more than 10:12 up to 11:12	57
more than 11:12 up to 12:12	59
more than 12:12	61

(2) Exceptions. Industrial Zoning District height limitations may be exceeded by the following:

- (a) Farm buildings and chimneys
- (b) Chimneys not exceeding 100 feet in height
- (c) Flagpoles, masts and aerials
- (d) Firehouse towers
- (e) Elevator shafts and cooling towers

12.354 Access Requirements

- (1) Each industrial lot shall have access to a dedicated public street across its entire frontage.
- (2) Flagpoles do not constitute access for industrial lots. See Section 12.356 for Alternative Development Options.
- (3) Retail trade uses proposed to locate in the Business Park Zone must demonstrate adequate street capacity as per the City's Traffic Management Plan.

12.355 Other Requirements. All relevant procedures and standards of this Code apply to use and development within Industrial Zoning Districts.

12.356 Alternative Development Options. Industrial Development other than as provided in these Base Development Standards may be pursued by the following procedures of this Code:

- (1) Planned Unit Development, Article 18.
- (2) Minor Variance, Section 6.020.
- (3) Major Variance, Section 6.030.

<sup>19</sup>12.400 General Exceptions to Setback Requirements.

All buildings and structures shall meet the minimum setbacks or separations of this code, except as provided elsewhere in this Code or as follows:

- (1) Architectural features and mechanical equipment attached to the building, such as an eave, balcony, chimney, or window air conditioning unit, may extend up to two feet into a required setback. A fire resistant gutter may extend an additional three inches into a required setback.
- (2) Structures less than six feet high, including railings, may be placed in an interior yard, provided a three foot wide exiting path is maintained as required by the applicable Building Code, and provided the yard is not a required buffer strip per Section 23.034, or a stream corridor setback as per Section 24.340.

- (3) Uncovered porches, decks, stairways, and ramps may encroach up to five feet into a required exterior yard, except that no such structure shall be less than eight feet from a right-of-way line.
- (4) Public utilities such as transformers, utility poles, pump stations, irrigation structures, and reservoirs are not subject to setback requirements.
- (5) Structures less than three feet high may be placed in a required exterior yard, provided not more than 10 percent of the yard area is covered by such structures.
- (6) Hand rails and protective railings may be located within an exterior yard provided they are not more than six feet above grade.
- (7) Signs as permitted in Article 26 and fences as in Section 23.037 may be located in a required yard.
- (8) Retaining walls may be installed as necessary due to topography.
- (9) No items for sale or storage shall be placed within an existing exterior yard or required landscaped area.
- (10) Nothing listed above shall be construed to allow any structure to be constructed over or to extend over a property line.

12.410 Installation of Structure in Public Right-of-Way.

No structure shall be installed in a public right-of-way without permission from the agency responsible for the right-of-way and the City of Grants Pass.

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<sup>1</sup> Revised 3-6-96  
<sup>2</sup> Revised 1-3-96  
<sup>3</sup> Revised 1-3-96  
<sup>4</sup> Revised 1-3-96  
<sup>5</sup> Revised 2-7-96  
<sup>6</sup> Revised 3-6-96  
<sup>7</sup> Revised 3-6-96  
<sup>8</sup> Revised 11-9-98  
<sup>9</sup> Revised 1-3-96  
<sup>10</sup> Revised 2-7-96  
<sup>14</sup> Revised 3-20-97

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- 15 Revised 3-6-96; 5-1-02
  - 16 Revised 12-19-94
  - 17 Revised 3-6-96
  - 18 Revised 3-6-96
  - 19 Revised 10-19-94, 3-6-96
  - 20 Revised 9-4-02
  - 21 Added 8-6-03 (Ordinance 5186)
  - 22 Added 12-17-03 (Ordinance 5205)
  - 23 Revised 2-4-04 (Ordinance 5213)
  - 24 Revised 5-20-05 (Ordinance 5285)
  - 25 Revised 5-20-05 (Ordinance 5286)

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## Article 13: Special Purpose Districts

### <sup>1</sup>13.010 Purpose

The special purpose districts are intended to accommodate development within areas with specific natural, historical, or locational features. The standards herein are intended to mitigate natural hazards, to protect natural or historical features, and/or to mitigate land use conflicts. The special district standards apply in addition to the standards of the underlying zoning district.

### <sup>2</sup>13.020 General Provisions

The Special Purpose Districts shall encompass land areas that:

- (1) have slopes exceeding 15%.
- (2) are located within the boundaries of the 100 year flood plain.
- (3) are located in proximity to hospitals and that are appropriate for medical uses.
- (4) are recognized as historically significant.

<sup>3</sup>13.025 Special Purpose District Overlay Map. There shall be an overlay map to the Zoning Map that depicts boundaries of the special districts shown herein. These maps are incorporated into this Section by reference. The special purpose district maps may be amended as provided in Article 4 of this Code. The maps are general in nature. The applicant for a development shall verify the grades on lands or portions of lands that are the subject of any specific application.

### 13.100 Slope Hazard District

<sup>4</sup>13.110 Purpose. The purpose of the Slope Hazard District is to designate and provide standards to protect sloped areas that help define the character of the Community. This character includes hillsides and trees. The area within the District may be hazardous for development due to slope instability, erosion potential and public safety concerns of steep slopes.

Article 13.100 provides performance standards for development on steep slopes. The standards allow

development to proceed while maintaining the long term attractiveness and safety of the community.

13.111 Definition. A slope hazard area contains slopes of at least 15% and is depicted on the Special Purpose District Map. Slope hazards shall be divided in two classes of slope steepness as follows:

- (1) Class A, 15% to 25%.
- (2) Class B, greater than 25%

13.120 Procedures for Development of Partitions, Subdivisions and Planned Unit Developments

13.121 Procedure

The criteria for development within the Steep Slope Hazard District shall be met in order to receive approval for development. The application submitted for approval shall include the information listed in Section 13.122 and address the criteria listed in section 13.123.

13.122 Complete Submittal.

The applicant shall meet the submittal requirements of the request (see Section 17.311 for Partition submittal; see Section 17.411 for Subdivision submittal; see Section 18.050 for Planned Unit Development Preliminary Plan submittal).

13.123 Criteria for Approval

In addition to the criteria listed in Section 17.312, Section 17.413, or Section 18.043, the Review Body shall base its decision on the following criteria:

- (1) The natural slope shall be maintained in as natural a state as possible.
- (2) Developments on Class B slopes are required to show other development alternatives which the developer considered, and to show the proposal represents the least possible impact to public safety, slope stability and erosion.
- (3) The natural drainage system and other natural land forms shall be left undisturbed where ever practical.
- (4) The removal of significant sized trees shall not exceed the standard of Section 13.142(3).

- (5) The Steep Slope Development Reports and Grading and Erosion Control Plans shall meet the criteria stated in section 13.140.

13.130 Submittal Requirements for Plans and Reports

The following reports and plans shall be submitted and approved prior to the issuance of a Development Permit. Reports for Class A Slopes shall be submitted and signed by an engineer licensed to practice by the State of Oregon. Reports for Class B slopes shall be submitted and signed by a licensed Geo-Technical Engineer.

13.131 Steep Slope Development Report, a written and illustrated report containing all of the following information:

- (1) Soils Analysis. The analysis shall include data regarding the nature, distribution and properties of existing soils, conclusions and recommendations for grading and erosion control procedures, design criteria for corrective measures, and opinions and recommendations covering the capacity of the sites to be developed in a manner imposing the minimum variance from the natural condition. Data and recommendations from the Soil Survey of Josephine County, Oregon may be included in the analysis.
- (2) Geology Analysis. The analysis shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations on how to best develop the sites being reviewed. Data and recommendations from the Soil Survey of Josephine County, Oregon may be included in the analysis.
- (3) Hydrology Analysis. The analysis shall include a description of the hydrology of the site and surrounding area, including movement of soil moisture, groundwater (subsurface), surface flow and the drainage network of the site before and after construction and recommendations and opinions on how to properly handle existing and new surface/underground water if the development proceeds.

13.132 Grading Plan. A plan which shall include all of the following:

- (1) existing and proposed contours of property.

- (2) details of site and area drainage for proposed lots including elevations of proposed house pads, adjacent lots and streets.
- (3) direction of surface drainage flow and the approximate grade of drainageways.
- (4) limiting dimensions, elevations, or finish contours to be achieved by the grading, including per cent grades for all cut and fill slopes, proposed drainageways and related construction.
- (5) detailed plans and locations of all surface and sub-surface drainage devices, walls, dams, sediment basins, detention reservoirs and protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area, the drainage network, including outfall lines and drainageways which may be affected by the proposed development and the estimated runoff of the area served by the drains for a 25 year frequency storm.
- (6) construction schedule which includes:
  - (a) total area and location of soil surface which is to be disturbed during each stage
  - (b) size and type of machinery and vehicles to be used at the site as identified and reviewed by an engineer licensed to practice by the State of Oregon on Class A slopes and by a Geo-Technical Engineer for Class B slopes for the effects of overburden, compaction and soil disturbance, dust control and erosion control and the location of all temporary gravel or crushed rock access points.
  - (c) construction schedule for all steps and phases of construction of public facilities, slope excavation and fill, lot grading, erosion control measures, and revegetation of the site.
- (7) name and address of the engineer licensed to practice by the State of Oregon on Class A slopes and by a Geo-Technical Engineer for Class B slopes referred to as the Responsible Engineer and who shall be responsible to oversee implementation of those elements of construction recommendations by the soils, geology and hydrology analyses, Grading Plan and Erosion Control Plan. (Note: if the Responsible Engineer either leaves or is terminated, the City shall be notified and the

preliminary recommendations from the Engineer shall be provided to the City).

- (8) identification of the significant size trees which are to remain during and after construction and of fencing to protect the significant size trees.
- (9) identification of significant size trees to be removed during the construction of the subdivision for roads, utilities or any other reason.

13.133 Erosion Control Plan. The Erosion Control Plan describes where natural vegetation will be removed and how it shall be replaced. This plan shall use the recommendations of the soils/geology/hydrology analyses to determine the measures to be taken to stabilize slopes, minimize soil erosion, and revegetate areas where natural vegetation will be removed during construction and shall describe the maintenance measures after construction. A revegetation plan shall be part of the Erosion Control Plan.

The Plan shall consider each of the following options:

- (1) use of filter fabrics and swales;
- (2) retaining water with retention and detention areas.
- (3) establishing and maintaining interim water detention and siltation ponds during the construction period.
- (4) leaving natural vegetation in place during and after construction.

13.140 Criteria for Approval of Plans and Reports

To protect hillsides, significant size trees and the safety of the community and to prevent or mitigate possible hazards to life, property or the natural environment, the following standards shall apply to the Steep Slope Development Reports and Grading and Erosion Control Plans.

13.141 Steep Slope Development Reports. The Steep Slope Development Reports shall be approved by the City Engineer.

13.142 Grading Plan. The Grading Plan shall minimize excavation and disturbance and shall demonstrate all of the following:

- (1) All excavation and grading of the site for buildings and driveways, is done in accordance with Appendix Chapter 33 of the 1994 Uniform Building Code, or the appropriate chapter of any subsequently adopted replacement code, and minimizes disturbance of the natural condition of the site. Where there is a discrepancy among standards, the more restrictive shall always apply.
- (2) All the finished cut and fill slopes are designed and contoured to replicate conditions prior to grading. The areas of excavation, fill and scarification shall be shown on the Grading Plan and limited to the area of the roadways. No cuts may include retaining walls greater than 15 feet in height from the finish grade or create any slopes which are greater than 50%. No filling may result in a retaining wall within the required setback greater than 6 feet in height from the finish grade or create any slopes which are greater than 50%.
- (3)
  - a) All significant sized trees shall be retained and protected during construction.
  - b) In lieu of 100% retention of significant sized trees, at the time of application the applicant may opt at the applicant's sole discretion, for the following procedure: Sixty percent of the significant size trees are retained, and are protected during construction. The protection shall include the use of fencing to protect the trees out to the drip lines with no removal or addition of soil within the drip line areas. If the actual or proposed percentage of significant size trees to be retained and protected is less than 60 percent, a Revegetation Fee shall be paid to the City at the time of tentative plat approval. The Revegetation Fee shall be \$350 per significant size tree to a maximum aggregate of \$2,000 per lot. The City shall place the Revegetation Fee into a special fund to be used for the purchase and improvement of public open spaces. In expending monies from the Revegetation Fund, among other factors, the City shall consider the needs and availability of open spaces in or near the applicant's project.
- (4) All construction work is planned to minimize the amount of time the soil is exposed and unprotected. All access points shall be protected with gravel or crushed rock.

- (5) All construction work disturbing the soil or affecting the natural drainage and runoff shall be scheduled to begin not earlier than April 15 and shall terminate not later than October 15. The Director may extend starting and completion dates by no more than 30 days based on the weather conditions prevailing at the time of the extension.

13.143 Erosion Control Plan. The Erosion Control Plan shall minimize erosion with preventive measures maintained throughout the development of the site. It shall meet all of the following standards:

- (1) Revegetation and the use of other temporary erosion control measures shall protect the site, surrounding properties, streams and storm drain system from erosion through the winter months. Revegetation and all other temporary erosion control measures shall be fully in place and established by October 15 (See 13.124) and shall be maintained after storms and at other regular intervals according to the approved plan. The City Engineer may mandate, based on adverse weather conditions, any reseeded installed after September 15 be installed in the form of a mat.
- (2) Native plants shall be used when possible.
- (3) Revegetation of plants, trees, shrubs and grasses shall be installed in accordance with the approved Erosion Control Plan.
- (4) Security for the implementation of the Erosion Control plan shall be provided prior to the issuance of any grading permit.

13.150 Criteria for Approval of the Final Plat.

In addition to the criteria in 17.312 for a Partition, 17.422 for a Subdivision or 18.063 for a Planned Unit Development, the submittal for the Final Plan shall include:

- (1) A letter submitted by the Responsible Engineer stating the Engineer supervised the grading and construction for the entire parcel and individual lots and the grading and construction was completed according to approved Plans.
- (2) As part of the applicable landscaping standards, a "Landscaping Deposit" of \$500 shall be paid at the time of the Final Plat for a subdivision or Final Plan for a Planned Unit Development, for each of the lots created

which include any portion of steep slope. This money shall be available to the property owner for future installation of trees.

A minimum of 3 trees which total not less than \$500 (including installation) per lot shall be installed by the property owner during the fall or spring following the Final Inspection of the home. Said trees shall be a minimum of one and one half inch caliper. Trees planted within 15 feet of a roadway shall be selected from the City's approved list of street trees.

The property owner shall be reimbursed for the purchase and installation of said trees up to the amount of \$500 by providing the City with receipts for said expenditures. If the property owner plants the 3 trees within one year of the Final Inspection of the home and the reimbursement is less than \$500, the remaining monies are also subject to reimbursement for tree planting by the owner for up to 18 months after the Final Inspection. Any monies remaining after that time shall be placed in a City fund for the purchase of trees to be planted throughout the community at the discretion of the City.

If the property owner fails to install the required trees within 12 months of a Final Inspection, the City is authorized to install the trees on the property. In such case, the City shall use the "Landscaping Deposit" for its actual expense and any remaining monies shall be placed in a City fund for the purchase of trees to be planted throughout the community at the discretion of the City.

13.160 Procedures for Approval of Grading or Construction on an Existing Lot

- (1) With an Approved Steep Slope Development Report. If an approved Steep Slope Development Report, Grading Plan and Erosion Control Plan are on file for the existing lot, development of the lot may only proceed in accordance with those documents. If the Building Official determines the Grading Plan is modified substantially at the time of home construction, a Type 1 procedure is required to change the grading plans.
- (2) Without an Approved Steep Slope Development Report, except as noted in subsection 13.160(2). If the Steep Slope Development Report, Grading Plan and Erosion Control Plan have not been approved, the applicant shall file a Grading Plan and Erosion Control Plan prepared by an engineer licensed to practice by the State of Oregon



for Class A Slopes and a Geo-technical Engineer for Class B slopes as described in 13.132 and 13.133 and meet the criteria listed in 13.142 and 13.143.

After an examination of the site and the proposed development of the lot, the City Building Official may waive the requirement for a Grading Plan and Erosion Control Plan for lots which contain slopes of less than 25% after making a written finding that the filing of said plans would not materially assist in the protection of the hillside, the community's safety, or the community's drainage system.

- (3) Front Yard Setback. The front yard setback for the new home can be reduced to 10 feet. The entrance for the garage/carport shall remain at the required setback. The setback in the back yard shall be increased by at least any reduction in the setback for the front yard.
- (4) a) All significant sized trees shall be retained and protected during construction.
- b) In lieu of 100% retention of significant sized trees, at the time of application the applicant may opt at the applicant's sole discretion, for the following procedure: A minimum of 80% of the previously indicated retained significant size trees shall continue to be retained and protected during the construction of the home including construction of driveways, sidewalks and garages. If the actual or proposed percentage of significant size trees retained and protected is less than 80 percent, a Revegetation Fee shall be paid to the City at the time of tentative plat approval. The Revegetation Fee shall be \$350 per significant size tree to a maximum aggregate of \$2,000 per lot. The City shall place the Revegetation Fee into a special fund to be used for the purchase and improvement of public open spaces. In expending monies from the Revegetation Fund, among other factors, the City shall consider the needs and availability of open spaces in or near the applicant's project.

### 13.170 Appeals

Appeals to the interpretations of this Article shall be undertaken as provided in Section 10.030 of this Code.

13.200 Flood Hazard District

The provisions of this article shall apply to all lands within the Flood Hazard District designated by the Federal Emergency Management Agency as having a one percent or greater chance of flooding in any given year. Also referred to as the 100 year flood plain. Designation on maps always includes the letters A or V.

13.210 Purpose. The purpose of the Flood Hazard District is to designate areas that may be hazardous to development due to flooding. The District provides standards that specify how development will minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money and costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

13.211 Designation of Flood Hazard Areas. The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the County of Josephine, State of Oregon" and "The Flood Insurance Study for the City of Grants Pass", with the accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps, and any revision. These reports and maps are

adopted by reference and declared to be a part of this Code. The flood hazard areas shall also be depicted on the Special Purpose District Overlay Map of this Ordinance. The Flood Insurance Study and Flood Maps are on file at the Department of Community Development, and are available for public review.

13.212 Warning and Disclaimer of Liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This article 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 article shall not create liability on the part of the City of Grants Pass, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

13.220 Duties of Director. The duties of the Director shall include, but shall not be limited to, the following:

(1) Permit Review.

(a) Review all development permits to determine that the permit requirements of this article have been satisfied.

(b) Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 13.235 are met.

(2) Use of Other Base Flood Data. When base flood elevation data has not been provided as required by this article, the applicant shall obtain and the Director shall review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer this article.

(3) Information to be Obtained and Maintained by the Director. Where base flood elevation data is provided

through the flood insurance study or required as in Section B of this Section.

- (a) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contained a basement.
- (b) For all new or substantially improved floodproofed structures:
  - 1. Verify and record the actual elevation (in relation to mean sea level), and
  - 2. Maintain the floodproofing certifications required in Section 13.240, and
  - 3. Maintain for public inspection all records pertaining to the provisions of this ordinance.

(4) Alteration of Watercourses.

- (a) Notify adjacent communities and the Oregon Water Resources Department prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

13.225 Location of FIRM Boundaries and Elevations.

- (1) Make all information relating to the 100 year flood plain and floodway location and elevations available to the applicant, including the City and County Flood Insurance Studies with flood sections, the Floodway Map and FIRM rate map showing flood elevations and elevation data reference points, and other development flood plain surveys in the immediate vicinity.
- (2) Certify that the location of the floodway and 100 year flood plain, and existing and proposed elevations, have been made for the applicant by a professional land surveyor registered in Oregon, and that the signature and seal are affixed certifying the accuracy of such determination.

- (3) Certify that the finished flood elevations, and other finished elevations of the proposal affecting the floodway or 100 year flood plain have been constructed or developed to the approved elevations, as certified by a registered professional surveyor over his signature and seal.
- (4) Provide the applicant's lender and insurance agent with the information in items (1) through (3) above.
- (5) Assist the applicant in pursuing a change in flood plain or floodway designation from the Federal Emergency Management Agency.

13.230 Flood Hazard Development Standards

13.231 Construction Materials and Methods.

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).
- (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (4) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

<sup>5</sup>13.232 Residential Construction Floor Elevation.

- (a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation.
- (b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed areas subject to flooding shall provided.
  - 2. The bottom of all openings shall be no higher than one foot above grade.
  - 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

<sup>6</sup>13.233 Non-Residential Construction Floor Elevation and Floodproofing.

- (1) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - (a) Be floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to a level of one foot above the base flood level;
  - (b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  - (c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted

standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall also provide that the provisions of 13.231 are satisfied.

- (2) Non-residential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 13.232(b).
- (3) Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

13.234 Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subsection 13.231(2).

13.235 Floodways Development. Located within areas of special flood hazard are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (1) Designated Floodways. Encroachment, fill, new construction, substantial improvements or other development shall not occur within a floodway designated by any map of "The Flood Insurance Study for the County of Josephine, State of Oregon" referenced in this Code, unless a technical evaluation is carried out to the same standards as the Flood Insurance Studies cited in Section 13.211, and performed and certified by a registered professional engineer, and demonstrates that encroachments, including surrounding properties, shall not result in any increase in flood levels during the occurrence of a base flood discharge.
- (2) If subsection (1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this code.

- (3) Floodways Not Designated. Development shall not occur on any flood plain lands, where a floodway has not been designated for that reach of a stream or river in "The Flood Insurance Study for the County of Josephine, State of Oregon" referenced in Section 13.120 of this Code unless:
- (a) The Director has evidence which in his judgment would indicate the proposed development site is located in an area of shallow flooding and the proposed construction will not divert the flood or cause a rise in the level of the discharge above the base flood elevation; or
  - (b) A technical study is completed which establishes the probable location of the floodway as defined in this Code.
  - (c) If a technical study is completed under the requirements of this section, demonstrating that the encroachment will not increase the flood levels, any permitted construction or substantial improvements shall comply with all other applicable standards of this Code.

13.236 Utilities and Services.

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the system into floodwaters;
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;
- (4) All development proposals shall be consistent with the need to minimize flood damage;
- (5) All development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (6) All development proposals shall have adequate drainage provided to reduce exposure to flood damage; and



- (7) Base flood evaluation data shall be provided for development proposals which have the potential for 5 dwelling units or more, or contain 1 acre or more.

13.237 Subdivision and Partition of Land, PUDs. No proposed subdivision or partition of land or planned unit development plan located in the 100 year flood plain shall be approved without meeting the requirements of this article. All the mapping and certification requirements of this article shall be met at the Tentative Map, Plat or Plan stage of review (See also Article 17, Lots and Creation of Lots, and Article 18, Planned Unit Development.).

13.240 Submittal Requirements

13.241 Development Permit Required. A Development Permit shall be obtained before construction or development begins within the flood hazard district, including construction, manufactured housing placement, landfill and all other development activities. Submittal requirements shall be as follows:

- (1) Plan drawn to scale showing the nature, location, dimensions and elevations in relation to mean sea level of the area in question;
- (2) Existing and proposed structures or manufactured housing pads;
- (3) Existing and proposed roadways;
- (4) Area location and finish elevations of all fill walls and rip-rap;
- (5) Location and elevation of stored materials;
- (6) Location and elevation of drainage facilities;
- (7) Location and elevation of utilities;
- (8) Other plan requirements of this Code as applicable;
- (9) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
- (10) Elevation in relation to mean sea level to which any structure has been floodproofed.

- 13.243 Elevation Certification. All required elevations shall be tied into known bench marks shown on the Flood Insurance Rate Map by a registered professional surveyor. Said surveyor shall attest to the procedure, bench marks used and accuracy of the required elevation over his signature and seal upon the required plan displaying the elevation information.
- 13.244 Design Certification. Certification is required by a registered professional engineer or architect that the floodproofed methods for any commercial or industrial structure are adequate to withstand the flood depths, pressures, velocities, impacts and uplift forces and other factors associated with the base flood.
- 13.245 Review Where Elevation Data Not Available. Where elevation data is not available, applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding and other applicable evidence.
- 13.250 Appeals. Appeals to the interpretations of this article shall be undertaken as provided in Article 10.030 of this Code.

<sup>7</sup>13.300 Medical Overlay District

13.310 Purpose. The medical overlay district is intended to provide land for needed medical facilities within the Grants Pass community. It allows siting of medical uses surrounding a core hospital. It is designed to provide the type of environment suitable for development of medical services and related activities, while reducing the conflicts between uses through appropriate designs.

13.311 Effect. The medical overlay district overlays other zoning districts shown on the zoning district map. The overlay district has the effect of permitting those medical uses listed in Section 13.320 below within the district, notwithstanding that those uses may or may not be permitted within the underlying zone. All other uses permitted within the underlying zone are equally permitted within the overlay district. All standards of the underlying zone, such as setbacks, heights, landscaping, and signage, apply to any use within the district.

13.312 Location. The medical overlay district is designated on an overlay map to the Zoning District Map. The medical overlay map is hereby incorporated into this Article by reference. An overlay district may be created or amended as provided in Section 4.050 of this Code.

13.320 Permitted Uses. The following uses are permitted, along with their accessory uses, within the medical overlay district, notwithstanding that they may or may not be permitted in the underlying zone. For purposes of this Article, they are known as "medical uses".

- (1) Hospitals
- (2) Clinics
- (3) Medical Offices
- (4) Medical Laboratories
- (5) Ambulance or Paramedic Services
- (6) Medical Helipads
- (6) Parking lots to serve one or more of the above.
- (8) Pharmacies or retail sale or rental of durable medical goods, but only if the property is not adjacent to an underlying residential zone.

13.330 Siting a Medical Use within a Medical Overlay District

13.331 Review Procedure Schedule.

Applications for siting a medical use within an existing medical overlay district shall be processed according to Schedule 13-1 as follows:

Procedures for Medical Overlay Review Schedule 13-1	
Medical use adjacent to an underlying residential zone:	Type II
Medical Helipads	Type II
All other medical uses	Type I

13.332 Criteria for Approval.

The review body may approve, approve with conditions, or deny an application for siting a medical use within an existing medical overlay district based on the following criteria:

- (1) The development meets the criteria of Section 19.042 or Section 19.052 of this Code, as applicable.
- (2) Where the property abuts an underlying residential zone that is not within the overlay district, a type D-1 or D-3 buffer shall be provided in accordance with Section 23.034, Schedule 23-4. The review body may modify this requirement where an existing structure would not meet the required setbacks.

13.400 Historic Districts

13.411 Purpose. The purpose of this section is to:

- (1) Effect and accomplish the protection, enhancement and perpetuation of such improvements and of districts which represent or reflect elements of the City's and County's cultural, social, economic, political and architectural history;
- (2) Safeguard the City's and County's historic, aesthetic and cultural heritage as embodied and reflected in such improvements and districts;
- (3) Complement any National Register Historic Districts designated in the City;
- (4) Stabilize and improve property values in such districts;
- <sup>8</sup>(5) Foster civic pride in the beauty of historic buildings, structures, sites, signage and noble accomplishments of the past;
- (6) Protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;

13.412 Definitions. For the purposes of this section only, the following terms are defined as indicated:

<sup>9</sup>(1) Alteration (Exterior): The addition to, removal of or from, or physical modification or repair of, any exterior part or portion of a Landmark or structures in an Historic or Conservation District. Signs shall be considered a form of alteration and shall be treated as such.

<sup>10</sup>(2) Architectural Significance: The structure, site, signage or district:

- (a) portrays the environment of a group of people in an era of history characterized by a distinctive architectural style;
- (b) embodies those distinguishing characteristics of an architectural-type specimen;
- (c) is the work of an architect or master builder whose individual work has influenced the development of the City; or

- (d) contains elements of architectural design, detail, materials or craftsmanship which represent a significant innovation.
- (3) Conservation District: A definable area containing historic sites, buildings or structures or groups of historic buildings, sites or structures separated geographically but linked by the history of the community's development, by natural features such as topography, parks or public open spaces, or by other significant physical features or historic events.
- <sup>11</sup>(4) Demolish: To raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a designated Landmark, structure, site or signage in an Historic or Conservation District.
- (5) Exterior: Any portion of the outside of a Landmark or building or structure in an Historic or Conservation District, or any addition thereto.
- <sup>12</sup>(6) Historical Buildings and Sites Commission: The review authority for items requiring approval under Section 13.440, Historic Districts, of this Code. The Commission shall consist of six individuals who have been appointed by the Mayor and City Council and shall consist of the members specified in Section 7.061 of this Code.
- (7) Historic District: A relatively compact, definable geographic area possessing an obvious concentration, linkage or continuity of sites, buildings or structures united by past events, architectural styles, construction features or other physical features illustrative of the community's historic development.
- <sup>13</sup>(8) Historical Significance: The structure, district, site or signage:
- (a) has character, interest or value, as part of the development, heritage or cultural characteristics of the City, County, State or Nation;
  - (b) is the site of an historic event with an effect upon society;
  - (c) is identified with a person or group of persons who had some influence on society; or
  - (d) exemplifies the cultural, political, economic, social or historic heritage of the community.

- (9) Landmark: Any improvement, any part of which is 40 years old or older which has a special character or special historic interest or aesthetic interest, or value which is part of the heritage of the City or County that has been officially designated and set aside for conservation or preservation.

13.420 District Types and Map

13.421 Historic Types.

- (1) The Historic Map shall allow for the designation of:

- (a) areas with a high concentration of historic structures, designated "Historic Districts",
- (b) areas with a lower concentration, designated "Conservation Districts", and
- <sup>14</sup>(c) structures, sites or signage of historic or architectural significance not located in an Historic or Conservation District, designated as "Landmarks".

- (2) Historic Review shall apply to the following:

- (a) Historic Districts, designated in accordance with this section; and
- (b) Conservation Districts, designated in accordance with this section; and
- <sup>15</sup>(c) Landmarks, sites or signs, designated in accordance with this section.

13.422 Historic Map. There shall be an overlay map to the Zoning Map that depicts Historic Districts, Conservation Districts and Landmarks.

13.423 Landmarks. The following buildings are hereby designated Landmarks, and are to be placed as such on the Historic Map:

- (1) All buildings designated as "exceptional" in the Historic Inventory taken by the Mayor's Advisory Committee on Historic Preservation, dated October 1, 1981, as follows:

122 NE "A" Street	139 SW "I" Street
303 NE "A" Street	417 SW "I" Street
1508 NE "A" Street	
220 NW "A" Street	1501 NW Lawnridge Avenue
310 NW "A" Street	1223 NW Lawnridge Avenue
612 NW "A" Street	1304 NW Lawnridge Avenue
412 NW "B" Street	821 SE "M" Street
421 NW "B" Street	203 SW Oak Street
614 NW "B" Street	
619 NW "B" Street	421 SE Riverside Avenue
1800 NE Beacon Drive	
331 SW Burgess Street	2030 NW Vine Street
219 NW "E" Street	1002 NW Washington Blvd
201 NW Evelyn Street	
	730 NW 2nd Street
314 NE Fetzner Street	
989 Fruitdale Drive	214 NW 3rd Street
1650 Fruitdale Drive	
	604 NW 4th Street
125 SE "G" Street	716 NW 4th Street
111 SW "G" Street	724 NW 4th Street
115 SW "G" Street	750 NW 4th Street
117 SW "G" Street	751 NW 4th Street
125 SW "G" Street	757 NW 4th Street
129 SW "G" Street	758 NW 4th Street
131 SW "G" Street	804 SW 4th Street
137 SW "G" Street	
139 SW "G" Street	612 NW 5th Street
141 SW "G" Street	830 NW 5th Street
145 SW "G" Street	508 SW 5th Street
147 SW "G" Street	
207 SW "G" Street	605 NE 6th Street
211 SW "G" Street	140 NW 6th Street
229 SW "G" Street	208 NW 6th Street
233 SW "G" Street	306 NW 6th Street
241 SW "G" Street	512 NW 6th Street
307 SW "G" Street	762 NW 6th Street
509 SW "G" Street	720 NW 6th Street
532 SW "G" Street	746 NW 6th Street
591 SW "G" Street	
1215 SW "G" Street	701 NE 8th Street
	717 NE 8th Street
140 SW "H" Street	860 NE 8th Street
1021 NW Hawthorne Avenue	
	1109 NE 9th Street
	761 NE 12th Street



13.430 Procedures for Historic Review

13.431 Initiation. An Historic Designation, Amendment, Recision, or Historic Review procedure may be initiated by the following:

(1) A recognized neighborhood group, area association, or any interested person.

<sup>16</sup>(2) Historical Buildings and Sites Commission.

(3) Urban Area Planning Commission.

(4) City Council.

<sup>25</sup>13.432 Pre-application Conference Required. A pre-application conference is required when the designation or review application is initiated by a property owner, neighborhood group, area association, or any interested person.

Prior to submitting an application for review, the applicant shall request a pre-application conference with the Director as provided in Section 3.041 of this Code.

13.433 Complete Submittal. Prior to review of the request, a complete application shall be prepared and submitted to the Director in accordance with the minimum submittal requirements contained in Section 3.050 of this Code.

<sup>17</sup>13.434 Designation and Review Procedures.

(1) Historic Designation applications shall be processed according to Section 4.047 of this Code and the procedures in Schedule 2-1.

(2) Historic Review applications shall be processed according to Schedule 13-2 as follows:

Schedule 13-2: Procedure for Historic Review	
Alteration (Exterior)	III
New Construction in District	III
Demolition in District	III
Demolition of Landmarks	III

- (3) In the conduct of land use procedures for the Historical Buildings and Sites Commission, the designation "Historical Buildings and Sites Commission" shall be substituted for the designation "Planning Commission" in Section 2, Procedural Types, and Section 10, Appeals.
- (4) Historical Buildings and Sites Commission meeting procedure is deemed quasi-judicial, and shall be governed by the Quasi-judicial Hearing Rules, pursuant to Section 8 of this Code.

13.435 Amendment and Recision Procedures. A District or Landmark designation may be amended or rescinded utilizing the same procedure required for District or Landmark designation, as provided in Section 4.047 and Schedule 2-1.

13.436 Appeals. The final action of the Historical Buildings and Sites Commission may be appealed as provided in Section 10.050 for Type III decisions.

<sup>18</sup>13.440 Designation of Historic Districts

13.441 Designation Criteria. An Historic District, a Conservation District, and a Landmark may be recommended for designation by the Historical Buildings and Sites Commission and designated by the City Council, providing all the following criteria are addressed during consideration by the review body.

- (1) The designation of a District or Landmark serves the purpose of this section.
- (2) The boundaries of a District are adequate and suitable for designation.
- (3) Consideration of the positive and negative effects of the designation upon residents, businesses or property owners of the area.

13.442 Historical Buildings and Sites Commission and City Council Action.

- (1) Commission Action. The Historical Buildings and Sites Commission shall take action as provided for the Planning Commission, for Type III review pursuant to Section 2.050, except that the oral decision and the final decision steps shall be combined, (see Section 9 and 2.055(3)) and the final decision shall be accompanied by findings, notice and all other requirements of a final decision.

- (2) Council Action. The Council shall take action as provided for Type IV review pursuant to Section 2.060. In addition, Council may remand the matter to the Historical Buildings and Sites Commission for additional consideration of specific matters.

<sup>19</sup>13.450 Development Review

13.451 Review Required. Except as provided in Section 13.454, no person may alter any structure, site or signage in an Historic District, a designated structure in a Conservation District, or any Landmark in such a manner as to affect its exterior appearance, nor may any new structure be constructed in an Historic District or Conservation District, unless it has previously been reviewed by the Historical Buildings and Sites Commission.

13.452 Criteria for Approval. The Historical Buildings and Sites Commission, in reviewing the appropriateness of the alteration or new construction, shall consider the following:

- (1) The purpose of the Historic Districts, Section 13.411.
- (2) The general compatibility of the signage, exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new building or structure;
- (3) The effect of the proposed new structure on the character of the district; and
- (4) The economic effect of the new structure on the historic value of the district.

13.453 Historical Buildings and Sites Commission Action. The Historical Buildings and Sites Commission shall, upon review, shall take the role of the Urban Area Planning Commission in the Type III Procedure, pursuant to Section 2.050. The Commission shall be empowered to set the conditions of approval based on compliance with the criteria, Section 13.452, and with the purpose of this section, Section 13.411.

13.454 Public Safety Caveat. Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural features which does not

involve a change in design, material or the outward appearance of such feature. The Building Official shall certify such repair is required for the public safety because of its unsafe or dangerous condition and that time is of the essence in such repair.

- (1) Sandblasting shall be excluded as a method for cleaning the exterior of buildings unless specifically approved by the Buildings and Sites Commission.

13.460 Demolition Review

<sup>20</sup>13.461 Review Required.

- (1) If an application is made for a building permit to demolish all or part of a structure which is a Landmark or which is located in a Conservation District or an Historic District, the Director shall transmit to the Historical Buildings and Sites Commission a copy of said transaction within seven (7) days of application acceptance.
- (2) The Historical Buildings and Sites Commission shall hold a public hearing pursuant to the Type III procedures in Section 2.050 within thirty-five(35)days of acceptance of a complete application by the Director.

<sup>21</sup> 13.462 Criteria for Approval. In determining the appropriateness of the demolition as proposed in an application for a building permit, the Commission shall consider the following:

- (1) All plans, drawings, and photographs as may be submitted by the applicant;
- (2) Information presented at a public hearing held concerning the proposed work;
- (3) Applicable Policies of the Comprehensive Plan;
- (4) The purpose of this section (see Section 13.411);
- (5) The criteria used in the original designation of the Landmark or District in which the property under consideration is situated;

- <sup>22</sup>(6) The historical and architectural style, the general design, arrangement, materials of the structure in question or its appurtenant fixtures and signage; the relationship of such features to similar features of the other buildings within the district and the position of

the building or structure in relation to public rights of way and to other building and structures in the area; and

- (7) The effects of the proposed work upon the protection, enhancement, perpetuation and use of the district which cause it to possess a special character or special historical or aesthetic interest or value.

<sup>23</sup>13.463 Historical Buildings and Sites Commission Action.

- (1) Approval of Demolition. The Historical Buildings and Sites Commission may recommend approval of the demolition request to the Director after considering the criteria contained in Section 13.462.

- (2) Delay of Demolition. The Commission may delay the issuance of a demolition permit in the interest of preserving historical value, if it determines that the structure should not be demolished.

- (3) Delay of Landmark or Conservation District Demolition. For a Landmark, which includes structures, sites and signage, or Conservation District demolition request, issuance of the demolition permit may be delayed by the Historical Buildings and Sites Commission as follows:

- (a) The Historical Buildings and Sites Commission may invoke a stay of demolition for a period not exceeding thirty (30) days from the date of public hearing for demolition permit.

- (b) The Historical Buildings and Sites Commission may invoke an extension of the suspension period if it determines that there is a program or project underway which could result in public or private acquisition of such structure or site, and that there is reasonable ground to believe that such program or project may be successful. In such cases the Commission, at its discretion, may extend the suspension period in thirty (30) day increments for an additional period not exceeding ninety (90) days, up to a total suspension period of not more than one hundred twenty (120) days from the date of public hearing for demolition permit.

- (c) During such period of suspension of permit application, no permit shall be issued for such demolition nor shall any person demolish the building or structure.

- (d) If all such programs or projects are demonstrated to the Historical Buildings and Sites Commission to be unsuccessful and the applicant has not withdrawn his application for demolition permit, the Director shall issue such permit, if the application otherwise complies with this Code.
  - (e) Action by the Historical Buildings and Sites Commission suspending issuance of permit for demolition may be appealed to the City Council by the applicant for permit, in the same manner as provided in Section 10.040 for filing an appeal to the final action by the Planning Commission.
- (4) Delay of Historic District Demolition. For an Historic District demolition request, issuance of the demolition permit may be suspended by the Historical Buildings and Sites Commission, as follows:
- (a) The Historical Buildings and Sites Commission may invoke a stay of demolition for a period not exceeding one hundred twenty (120) days from the date of public hearing for demolition permit.
  - (b) The Historical Buildings and Site Commission may invoke an extension of the suspension period if it determines that there is a program or project underway which could result in public or private acquisition of the structure or site, or the preservation or restoration of such structure or site, and that there is reasonable ground to believe that such program or project may be successful. In such cases, the Commission, at its discretion, may extend the suspension period for an additional period not exceeding ninety (90) days, to a total of not more than two hundred ten (210) days from the date of application for demolition permit.
  - (c) During such period of suspension of permit application, no permit shall be issued for such demolition nor shall any person demolish the building or structure.
  - (d) If all such programs or projects are demonstrated to the Commission to be unsuccessful and the applicant has not withdrawn his application for demolition permit, the Director shall issue such permit, if the application otherwise complies with this Code.

(e) Action by the Historical Buildings and Sites Commission suspending issuance of the permit for demolition may be appealed to the City Council by the applicant for permit, in the same manner as provided in Section 10.040 for filing an appeal to the final action by the Planning Commission.

<sup>24</sup>13.464 Public Safety Caveat. In any case where the City Council has ordered the removal or demolition of any structure determined to be dangerous to life, health or property, nothing contained in the section shall be construed as making it unlawful for any person without prior approval of the Historical Buildings and Sites Commission, pursuant to this section, to comply with such order.

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- <sup>1</sup> Revised 12-4-96
  - <sup>2</sup> Revised 3-16-94, 12-4-96
  - <sup>3</sup> Revised 12-4-96, 5-31-97
  - <sup>4</sup> Revised 5-31-97
  - <sup>5</sup> Revised 2-22-94
  - <sup>6</sup> Revised 2-22-94
  - <sup>7</sup> Revised 12-4-96
  - <sup>8</sup> Revised 2-5-92
  - <sup>9</sup> Revised 2-5-92
  - <sup>10</sup> Revised 2-5-92
  - <sup>11</sup> Revised 2-5-92
  - <sup>12</sup> Revised 5-31-01 (Ordinance 5062), 2-5-92
  - <sup>13</sup> Revised 2-5-92
  - <sup>14</sup> Revised 12-4-96, 2-5-92
  - <sup>15</sup> Revised 2-5-92
  - <sup>16</sup> Revised 2-5-92
  - <sup>17</sup> Revised 2-5-92
  - <sup>18</sup> Revised 2-5-92
  - <sup>19</sup> Revised 2-5-92
  - <sup>20</sup> Revised 2-5-92
  - <sup>21</sup> Revised 2-5-92
  - <sup>22</sup> Revised 2-5-92
  - <sup>23</sup> Revised 2-5-92
  - <sup>24</sup> Revised 2-5-92
  - <sup>25</sup> Revised 4-20-05 Ordinance 5285

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## Article 14: Certain Uses

### 14.100 Itinerant Use.

14.110 Applicability. This section applies to any person, group, firm, business, or organization engaged in selling merchandise, goods, wares, or services from a vehicle, trailer, cart, tent, or any other temporary stand or apparatus, whether on public or private property.

14.120 Permit Required. Itinerant Use Permit shall be obtained from the City Manager at least three days prior to the start of the use. The permit shall contain the following information:

- (1) The applicant's true name, permanent address, and an address the City may use for purposes of notifying the applicant.
- (2) The true name and address of a person for whom the applicant is acting as an agent. If the applicant is acting as the agent of a corporation:
  - (a) The address of the registered office of the corporation in Oregon.
  - (b) The name and address of the registered agent of the corporation in Oregon.
- (3) A description of the nature of the business operation the applicant will conduct.
- (4) A description of the goods, wares, merchandise or services the applicant will offer for sale.
- (5) The location from which the applicant will operate.
- (6) The length of time the applicant will conduct the business and the hours of operation.
- (7) Past criminal convictions involving unlawful trade practices as defined by ORS 646.608, fraud, or crimes involving moral turpitude.
- (8) Known consumer complaints made to local or State consumer agencies.
- (9) Proof of compliance with all relevant Federal and State bonding and licensing requirements.

- (10) If use is associated with an established organized annual event.
- (11) Written permission from the owner of the property for which the use is proposed.

<sup>1</sup>14.121 Use and Development Standards.

(1) Duration.

- (a) Itinerant Use Permit is valid for a maximum of three continuous days. Exception: Uses from Thanksgiving to New Years Day shall not exceed 30 days, and charitable, religious, fraternal or civic organizations may be granted permits not to exceed 14 days.
- (b) Not more than two permits shall be issued to any single business, firm, or person during any 30 day period. Exception: Only one permit during any 30 day period for charitable, religious, fraternal and civic organizations.

(2) Safety. All structures, temporary stands, booths, trailers, and similar apparatus shall conform with State and local building, fire life safety, health, and zoning codes.

(3) Appearance. All uses and associated equipment and signs to be maintained in a condition equal to that of existing surrounding businesses. After termination of use, property shall be restored to a neat and orderly condition.

(4) Location. All uses and associated equipment, merchandise, and signs to be located consistent with applicable zone district setback standards. Required parking spaces shall not be used for itinerant use.

14.122 Violation of Permit. Any person, firm, business, or organization determined to be in violation of the provisions of this section shall be subject to the full prosecution of this Code. Repeat offenders will not be eligible for future permits.

<sup>2</sup>14.200 Home Occupation

14.210 Applicability and Purpose.

This section applies to all proposed Home Occupations as defined in Section 30 of this Code. The purpose of this section is to regulate home occupations consistent with the following goals:

- (1) To maintain the residential character of neighborhoods in both appearance and characteristics.
- (2) To allow businesses compatible with residential uses without infringing upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.
- (3) To preserve and to protect adequate public utility services and transportation facilities.
- (4) To ensure that home occupations are subject to standard development review criteria, regardless of the zone district.

14.211 Exemptions. The following occupational uses are not required to apply for home occupation permits. The uses are required to comply with the standards for minor home occupations.

- (1) Building contractors, home builders, building tradespeople, landscaping services, janitorial services, and truck drivers, where the work is conducted entirely off-site, and
- (2) Other businesses where the office in the home serves only as a secondary office.

14.212 Occupational uses exempted under 14.211 shall comply with all of the following restrictions:

- (a) the occupational use shall be consistent with the home occupation purpose goals, as stated in Section 14.210; and,
- (b) the occupational use shall be consistent with the general criteria set forth in Section 14.230 (1) and (2).

14.220 Permit Required. A permit for a Minor Home Occupation and a Development Permit for a Major Home Occupation shall be obtained from the Director of the Community Development Department prior to any said use. Before any appropriate permit can be issued for a Home Occupation, the appropriate criteria shall be met.

14.230 Criteria.

- (1) General Criteria for all Home Occupations and occupational uses exempted from home occupation permits.

Home occupations and those exempted from permits shall comply with the following requirements:

- (a) The occupation will not require more area than that equal to 25% of the floor area of the ground floor of the building. Space used in calculating floor area shall include the dwelling unit and garage, if garage is attached, or the dwelling unit without an attached garage plus the area of one additional detached, on-site building. Total area for the Home Occupation shall not exceed 25% of the floor area or 500 square feet, whichever is less.
- (b) The occupation will be conducted entirely within the dwelling unit, garage or detached building.
- (c) Only members of the family residing in the dwelling shall be employees working at that site.
- (d) The residential character of the dwelling and lot shall be maintained.
- (e) Only one business related vehicle, not parked in a garage, is permitted on the property. No other equipment, materials or business related vehicles, including trailers, other than automobiles and light duty trucks, shall be stored or parked outside on-site. Light duty trucks shall mean vehicles three-quarter ton or less in size.
- (f) The home occupation does not involve on-site retail sales unless the items are incidental to the occupational use, such as the sale of beauty products from salons, lesson books or sheet music for music teachers, or computer software for computer consultants, etc.

- (g) If applicable, name, address and written authorization from the property owner to permit the home occupation on the premises
- (h) The home occupation complies with all environmental performance standards as set forth in Article 24 and does not involve the storage or use of materials which are determined by the Director to be nuisance.

(2) Additional Criteria for Minor Home Occupations.

Minor Home Occupations and occupational uses exempted from home occupation permits shall comply with the following additional requirements:

- (a) There shall be no clients or customers on site.
- (b) No signs advertising the occupational use shall be permitted.
- (c) There shall be no regular (weekly) deliveries.

(3) Additional Criteria for Major Home Occupations.

Major Home Occupations shall comply with the following additional requirements:

- (a) The property complies with all applicable Code standards regarding sidewalk and access and with all on-site improvements, including but not limited to: landscaping, access, parking, paving, trash disposal and utility services.
- (b) Potential land use conflicts have been mitigated through specific conditions of development as required by this Code.

14.240 Mitigation.

- (1) The issuance of a home occupation permit may require the mitigation of potential land use conflicts. Issues needing mitigation may include, but are not limited to: dust, odors, noise, interference with TV/radio transmissions, electrical interference, vibrations, heat, smoke, visual interference including glare and excess lighting, storage of flammable and hazardous materials, traffic, parking and interference with residential character of a neighborhood.

- (2) Methods of mitigation may include, but are not limited to: limiting the hours of operation, limiting the hours of deliveries, buffering, controlling the number of clients on-site at any one given time and the total number of customers per day, controlling the number of on-site parking spaces, and restricting the type of equipment, supplies, chemicals which may be stored on-site and limiting the type and amount of signage.

14.250 Application Information and Issuance of Permit.

- (1) A Minor Home Occupation Permit shall be issued after a Minor Home Occupation Permit application is filed, reviewed and approved by the Director. The Minor Home Occupation Permit application shall include the following information:
  - (a) Name of home occupation for which the permit is being granted and the number of employees.
  - (b) A short description of the home occupation.
  - (c) Applicant's name, address and telephone number.
  - (d) Assessor's map page and tax lot numbers for the property of the applicant's business.
  - (e) Current zoning district designation.
  - (f) If applicant is not the property owner, written authorization from the property owner or rental management company.
- (2) A Major Home Occupation application shall include a site plan with information required in Section 19.072. The home occupation shall not be conducted prior to approval and issuance of the Development Permit. The procedure method for processing the application shall be as determined in Article 12, Zoning Districts, and shall be based on the zone district of the property on which the home occupation is conducted.

14.300 Day Care

<sup>4</sup>The review procedure for Family Day Care or Group Day Care shall be as provided in Schedule 12-2.

14.310 Family Day Care. Family Day Care, as defined in Article 30 of this Code, is permitted in any existing residential dwelling unit which is approved for occupancy. No development permit is required.

14.320 Group Day Care. A development permit for group day care use shall be obtained from the Director prior to any said use. The permit application shall contain the following:

- (1) All submittal requirements for site plan review as found in Section 19.072 of this Code.
- (2) Description of day care use:
  - (a) Number of children/adults per session.
  - (b) Number and duration of sessions.

14.330 Criteria.

- (1) Compliance with requirements of applicable State agencies.
- (2) Adequate access, off-street parking, and turn-around area.
- (3) Sight obscuring fence around outdoor play area, except when other types of fencing are required for public safety purposes.
- (4) No playground equipment in front yard.



14.400 Bed and Breakfast Inn.

14.410 Applicability. This section applies to all proposed Bed and Breakfast Inns as defined in Article 30 of this Code.

14.420 Permit Required. No person, group, firm, business, or organization shall engage in the use or occupation of Bed and Breakfast Inns without first obtaining the necessary approvals and compliance with all required conditions and standards of development.

14.430 Use and Development Standards.

(1) Number of Guest Rooms Permitted. One guest room for every 400 square feet of gross floor living area, plus one unit for the proprietor of the business. Total number of guest rooms shall not exceed 5. For calculation purposes, the outside dimension of each eligible structure may be used. Living area includes any structure on the lot lawfully used for residential purposes. Living area does not include: garages, garage conversion where the conversion has resulted in noncompliance with off-street parking requirements, utility shops, basements, storage sheds and other similar nonresidential structures.

(2) Length of Stay. Not more than 15 days in any 30 day period.

(3) Off-Street Parking. Also see Article 25, Section 25.042(2)(d) of this Code.

(a) Required Number of Spaces. One parking space for each guest room, and one space for the proprietor's unit.

(b) Design Guidelines. These guidelines shall be used by the decision maker of the request to ensure that aesthetic impacts resulting from required off-street parking are minimized.

1) On-site turnaround may be waived if it is determined that the risk to public safety has not been jeopardized.

2) Stacking of vehicles (end-to-end).

3) Use of semi-circular driveways.

4) Masonry pavers seeded with grass.

- 5) The ratio of the parking lot area to the existing yard areas that are located between the Bed and Breakfast structure and the property lines that abut a street shall not exceed 1 : 1.
  - 6) Reduction in number of guest rooms if impacts cannot be mitigated.
- (4) Signage. Also see Article 26, Section 26.024 of this Code. One sign which must be attached to the dwelling, not internally illuminated, and not to exceed 3 square feet in area.
- (5) Structure Type and Appearance.
- (a) Existing Structures. Single family dwellings are the only eligible structures for conversion to Bed and Breakfast Inns. Apartment dwellings and non-residential structures, such as institutional buildings, warehouses, and churches are not eligible.
  - (b) The architecture of new structures shall resemble single family dwellings.
- (6) Access. The street serving the Bed and Breakfast Inn shall have adequate capacity and turnaround area to serve the additional traffic.
- (7) Bed and Breakfast operator must be applicant of the request and reside at the Bed and Breakfast Inn.
- (8) An accurate and up-to-date guest register must be maintained and available for review by the City's Finance Director.
- (9) Breakfast is the only meal to be provided and shall be served only to guests of the Bed and Breakfast Inn. For the purpose of this section, Breakfast is considered to be any meal served between the hours of 2:00 a.m. and 12:00 noon.
- (10) Evidence of compliance with the Uniform Building Code, Fire Life Safety Code, and standards of the State and local Health Departments.

14.500 Residential Care

14.510 Residential Homes. Residential Homes, as defined in Article 30 of this Code, are permitted in any existing residential dwelling unit which is approved for occupancy. No development permit is required.

14.520 Residential Facilities.

14.521 Permit Required. A development permit for a residential facility, as defined in Article 30 of this Code shall be obtained prior to any said use. The permit application shall contain the following:

- (1) All submittal requirements for site plan review as found in Section 19.072 of this Code.
- (2) A copy of the application and supporting documentation for State licensing of the facility.

14.522 Development Standards

(1) Off Street Parking.

(a) Parking shall be provided at the rate of one space per attendant.

(b) Design.

1) An on site turn-around must be provided when the review body determines there is a risk to public safety.

2) Up to two vehicles may be stacked end to end.

(2) The facility shall meet all requirements that would be required of a new single family dwelling on the same lot, except that non-conforming buildings need not meet setback requirements.

(3) The review body may require landscaping or site obscuring fencing when necessary to mitigate conflicts with adjacent properties.

14.523 Criteria for Approval.

(1) The facility is licensed according to State statute, or application has been made for licensing. Proof of licensing must be provided prior to occupancy of the site.

- (2) The development standards found in Section 14.522 of this Code are met.

14.600 Adult Businesses

14.610 Applicability. Sections 14.600-14.650, apply to any "adult business" and "adult use" as those terms are defined in Article 30 and establishes an overlay area where adult businesses are not permitted, notwithstanding any other Development Code provision to the contrary.

14.620 Permit Required.

- (1) An adult business shall be required to obtain a development permit as outlined in this section and shall be processed according to the provisions of Article 12.
- (2) Subject to the restrictions of Sections 14.600-14.650 and Article 12, an adult business is a permitted use in any zone where the activity would be a permitted use if the activity was not restricted to any persons under 21 years of age.
- (3) In addition to the adult business restrictions of Sections 14.600-14.650, an adult business must comply with all Development Code requirements which would be applicable to the activity as if it were not restricted to any persons under 21 years of age.

14.630 Additional Criteria for Permit Approval. A development permit for an adult business shall also comply with all of the following criteria:

- (1)
  - (a) The adult business is located in a Riverfront Tourist Commercial Zone and has 10,000 or more square feet of covered and enclosed building space open to the public; or
  - (b) The adult business is located more than 200 feet from any R-1, R-2, R-3, or R-4 residential zones (measured in a straight line from the closest edge of the property line on which the business is located to the closest edge of property in the residential zone); and
- (2)
  - (a) The adult business is located in a Riverfront Tourist Commercial Zone and has 10,000 or more square feet of covered and enclosed building space open to the public; or
  - (b) The adult business has 10,000 or more square feet of covered and enclosed building space open to the

public, and contains restaurant accommodations that are not restricted at any time by age and which restaurant accommodations have a floor area equal to or greater in size than the portion of the premises where any persons younger than 21 years of age are prohibited; or

(c) The adult business has less than 10,000 square feet of covered and enclosed building space open to the public, and the adult business is located more than 1000 feet from all of the following facilities (measured in a straight line from the closest property line on which the adult business is located to the closest edge of the property line on which the facility is located):

1. A "school, public" as defined by Article 30, with an average weekday attendance (during any continuous 3 month period during the preceding 12 months) of not less than 50 children who are under 18 years of age.
2. A public library.
3. A public park which covers an area of not less than 20,000 square feet and has facilities such as a playground, baseball field, football field, soccer field, tennis court, basketball court, or volleyball court.
4. A commercial or residential recreational facility, as defined in Article 30, which serves children under 18 years of age, and has a total area for indoor and outdoor recreation (not including parking) of not less than 20,000 square feet.

14.640 Modification of an Adult Use in a Non-conforming Adult Business. An adult business which, at the time of adoption of 14.600-14.650, does not conform to the criteria contained therein, shall be governed by the provisions of Article 15 of the Development Code except that the current adult use may not be expanded to include other types of uses which by law are not accessible by persons of any age group under 21 years of age. Any such modification of the adult use shall result in automatic loss of the rights under Article 15 and shall cause the adult business to be in violation of Article 14.

14.650 Modification of a Structure Housing a Non-conforming Adult Business. Any modification to a structure or surrounding properties utilized by an adult business shall be governed by the provisions of Article 15 of the Development Code.

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1. Revised 3-6-96
  2. Revised 9-2-92
  3. Revised 3-21-94
  4. Revised 4-20-05 by Ordinance 5285

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<sup>1</sup>Article 15: Nonconforming Use and Development

15.010 Purpose.

This Article concerns nonconforming uses, development, and lots. It is the purpose of this Article to:

- (1) Encourage uses and development to conform over time with the use and development standards of the zone and any applicable overlay district;
- (2) Allow for limited expansion and alteration of nonconforming use;
- (3) Allow reasonable continuance and maintenance of nonconforming use and development, and replacement of nonconforming development damaged or destroyed by calamity;
- (4) Mitigate the impact of nonconforming use and development upon adjoining property.

For nonconforming development, this Article provides for retention of existing nonconformity, but provides that new expansion shall comply with this Code. Any relief for new construction associated with expansion of a nonconforming development shall be addressed through the provisions of Article 6, Variances, or Article 18, Planned Unit Development.

Alteration or expansion in a manner that brings the property into full compliance with current requirements of this Code is not subject to the requirements of this Article.

Nothing in this Article is intended to modify any provision of the Building Code or Fire Code.

15.020 Definitions.

- (1) Nonconforming Development. Means a "Nonconforming Building" as defined in Article 30, or any other aspect of a property developed in such a way that it lawfully existed prior to the effective date of this Code, its subsequent amendment, or its applicability to the property, but which due to requirements adopted herein, no longer complies with the standards of this Code.
- (2) Nonconforming Lot. See Article 30.
- (3) Nonconforming Use. See Article 30.

15.030 Procedures, Criteria, and Fees.

The procedures, fees, and criteria for applications involving nonconforming use or development shall be according to the following schedule. If there is a conflict between the review procedure in this Section and the procedure for site plan review, the higher procedure shall be utilized.

<sup>2</sup> Schedule 15-1: Review Procedures, Fees, and Criteria for Nonconforming Use and Development				
Action	Procedure	Fees (1)	Criteria (2)	Applicable Standards (3)
<b>Nonconforming Use</b>				
One-Time Expansion of Nonconforming Use <=50%	-Type 3	SPR fee, plus nonconforming use supplemental fee	SPR, plus 15.044	SPR only
Modification or Change of Nonconforming Use	-Type 2	SPR fee, plus nonconforming use supplemental fee	SPR, plus 15.048	SPR only
<b>Nonconforming Development</b>				
Expansion or Alteration of Nonconforming Development <=50%:  -Single Family Dwelling or Duplex, and Items in 2.035, Type I-A Building Permit as Dev. Permit  -Other:	-Type 1, Building Permit as Development Permit  -Type 2	Applicable SPR fee only	SPR only	SPR, plus 15.051 & 15.053
Expansion or Alteration of Nonconforming Development >50%:  -Single Family Dwelling or Duplex:  -Other:	-Type 2  -Type 3	Applicable SPR fee only	SPR only	SPR, plus 15.051 & 15.053
<b>Nonconforming Use or Development</b>				
Replacement of Structure Destroyed by Calamity. -or- Major Repair of Structure Damaged by Calamity.	-Type 3	-SPR fee, plus nonconforming use supplemental fee	SPR , plus 15.060	SPR only
Routine Maintenance (15.080)	-Type 1, Building Permit as Development Permit	Applicable SPR fee only	SPR only	SPR only

Required Strengthening of Unsafe Building (15.090) -or- Minor Repair of Structure Damaged by Calamity:	-Type 1, Building Permit as Development Permit	Applicable SPR fee only	SPR only	SPR only
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- (1) Where "SPR" is noted in the Fee column, it means the applicable fee for minor site plan review, major site plan review, or the planning review fee where building permit serves as development permit.
- (2) Where "SPR" is noted in the Criteria column, it means the applicable minor site plan review criteria of Section 19.042 or major site plan review criteria of Section 19.052. If other criteria are listed, the proposal shall also comply with those criteria.
- (3) When Development includes nonconforming use or development, these standards include special provisions specifying how the nonconformity is to be addressed without full adherence to other provisions of this Code.

15.040 Nonconforming Uses.

Except as provided in this Section, no nonconforming use shall be expanded, modified, or changed; no additional structure, building, or sign shall be constructed on the lot in connection with the nonconforming use of land; and the operating characteristics of a nonconforming use shall not be substantially modified. In no case shall a nonconforming use be moved to another property where it is not a permitted use.

15.041 Continuation of Nonconforming Use.

Where at the time of adoption, amendment, or applicability of this Code, a use of land exists which would not be permitted by the regulations imposed by this Code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, subject to the provisions of this Article.

15.042 Expansion of Nonconforming Use.

- (1) Any of the following shall be considered expansion of a nonconforming use:
  - (a) Expansion of a nonconforming use to occupy a greater area within a building, either horizontal or vertical;
  - (b) Expansion of a building or structure housing a nonconforming use, either horizontal or vertical;

- (c) Expansion of a nonconforming use to occupy a greater area of land.
- (2) A one-time expansion of a nonconforming use up to 50% may be permitted for some situations, as provided below, subject to the provisions of this Article.
  - (a) For any use that became nonconforming with this Code upon its adoption, a one-time expansion or alteration shall be permitted if no expansion has occurred since September 14, 1983, or the effective date of subsequent amendment that made the use nonconforming.
  - (b) For any use that was subject to, and nonconforming with, the Josephine County Urban Growth Area Zoning Ordinance and became nonconforming with this Code on August 5, 1998 through adoption of the 1998 Intergovernmental Agreement, a one-time expansion shall be permitted if no expansion has occurred since September 14, 1983.
  - (c) For any use that was subject to, and conforming with, the Josephine County Urban Growth Area Zoning Ordinance and became nonconforming subject to this Code on August 5, 1998 through adoption of the 1998 Intergovernmental Agreement, a one-time expansion shall be permitted if no expansion has occurred since August 5, 1998.
  - (d) For any use that was subject to the Josephine County Rural Land Development Code, whether conforming or nonconforming, and became nonconforming subject to this Code by inclusion in the Urban Growth Boundary after August 5, 1998, no expansion of a nonconforming use shall be permitted.
  - (e) For any use that was conforming with this Code and became nonconforming by an amendment to this Code after August 5, 1998, no expansion of a nonconforming use shall be permitted.

15.043 Application for One-Time Expansion of Nonconforming Use.

In addition to the submittal requirements for Site Plan Review, the applicant shall provide the following items:

- (1) Supplemental Fee
- (2) Detailed site plan and floor plan drawn to scale showing the extent and location of the nonconforming use before and after the expansion.
- (3) Calculation of area of land occupied by nonconforming use and square footage of building occupied by nonconforming use.
- (4) Narrative explaining proposal, and including the following:
  - (a) nature of nonconforming use
  - (b) operating characteristics of nonconforming use before and after the change, including noise, dust, odor, light and glare, traffic, deliveries, hours of operation, appearance, and any restriction on minors
  - (c) any proposed measures to mitigate impacts resulting from the expansion

15.044 Supplemental Criteria for One-Time Expansion of Nonconforming Use.

In addition to the site plan review criteria, the Review Body shall grant a one-time expansion of a nonconforming use up to 50% only when it finds the proposal satisfies the following additional criteria. The review body may require special development standards or conditions to ensure impacts resulting from the expansion are adequately mitigated.

- (1) The property qualifies for expansion in accordance with Section 15.042, and has not already utilized the one-time expansion.
- (2) Impacts upon adjoining properties can be adequately mitigated. Impacts include changes to the character or operation of the use including, but not limited to, noise, dust, odor, light and glare, traffic, hours of operation, appearance, or any other characteristic that affects the use, enjoyment, or livability of conforming uses in the vicinity or zoning district.
- (3) If the property is nonconforming in respect to site development standards, the site shall be brought into greater conformance with current development standards,

consistent with the provisions of this Article regulating Nonconforming Development.

- (4) The review body may deny expansion of the nonconforming use if the property is within a special district specifically designed to actively redevelop the area and eliminate nonconforming uses, including non-regulatory districts such as urban renewal districts, where expansion would be in direct conflict with the purpose of the special district.

15.045 Change or Modification of Nonconforming Use.

- (1) Less Restrictive Use or Greater Impact. A change of a nonconforming use to a less restrictive nonconforming use or to a nonconforming use with greater impact upon adjoining properties is not permitted. Modification to the character or operation of the existing nonconforming use in a manner that has greater impacts upon adjoining properties is not permitted.
- (2) More Restrictive Use or Less Impact. A change of a nonconforming use to a more restrictive nonconforming use, or to a nonconforming use with less impact upon adjoining properties may be approved. Modification to the character or operation of the existing nonconforming use in a manner that has less impacts upon adjoining properties may be approved.
- (3) Nature of Impacts. Items to be considered by the review body to determine if there is greater or less impact include changes to the character or operation of the land use including, but not limited to, noise, dust, odor, light and glare, traffic, hours of operation, appearance, or any other characteristic that adversely affects the use, enjoyment, or livability of conforming uses in the vicinity or zoning district.
- (4) Restrictiveness of Use. If the proposal is a change of a nonconforming use to a different nonconforming use, the proposed use shall only be authorized if it is closer to the purpose, intended character, and nature of permitted uses in the zoning district and conforming uses in the vicinity of the nonconforming use.

15.046 Application for Modification or Change of Nonconforming Use.

In addition to the submittal requirements for the Site Plan Review, the applicant shall provide the following items.

- (1) Supplemental Fee
- (2) Detailed site plan and floor plan drawn to scale showing the extent and location of the nonconforming use before and after the modification or change of nonconforming use.
- (3) Calculation of area of land occupied by nonconforming use and square footage of building occupied by nonconforming use.
- (4) Narrative explaining proposal, and including the following:
  - (a) nature of nonconforming use, before and after change
  - (b) operating characteristics of nonconforming use before and after the change, including noise, dust, odor, light and glare, traffic, deliveries, hours of operation, appearance, and any restriction on minors.
  - (c) any proposed measures to mitigate impacts resulting from the change

In conjunction with the review for completeness, the Director shall make a preliminary determination whether the modification or change is less restrictive or more restrictive and whether the use has greater or less impact. If the Director determines it is a less restrictive use or has greater impact, the applicant shall be informed of the decision and may withdraw or proceed with the application. The review body shall make the final determination regarding the restrictiveness and impacts of the use

15.047 Supplemental Criteria for Modification or Change of Nonconforming Use.

A modification or change of nonconforming use that does not include expansion may be permitted subject to the criteria of this Section, and is not subject to the "one-time" limitation that applies to expansion of a nonconforming use.



In addition to the site plan review criteria, the Review Body shall approve an alteration, relocation, or change of a nonconforming use, only if it finds the proposal satisfies the following additional criteria. The review body may require special development standards or conditions to ensure there are less impacts as a result of the modification or change of use.

- (1) If the proposal is a change of use, the change of a nonconforming use shall be to a more restrictive nonconforming use, or to a nonconforming use with less impact upon adjoining properties. If the proposal is a modification of use, the modification to the character or operation of the existing nonconforming use shall have less impact upon adjoining properties.
- (2) The modification or change of use shall not expand the nonconforming use. An expansion shall only be reviewed in accordance with the provisions of Section 15.043 for "One-Time Expansion of Nonconforming Use Up to 50 Percent".
- (3) Addition of one or more accessory uses or buildings shall not substantially change the character of the primary use unless it reduces impacts.
- (4) A building housing a nonconforming use shall not be moved to, nor rebuilt at, a different location on the property.
- (5) Where a nonconforming use occupies a portion of a building, the review body may allow such nonconforming use to occupy a different part of the same building, or a different building already existing on the same property, only if it reduces the impacts of the nonconformity. The use shall not occupy more area than was lawfully occupied on the effective date the use became nonconforming. The area previously occupied by the nonconforming use shall only thereafter be occupied only with a conforming use, in accordance with the development standards of this Code.
- (6) Where the nonconforming use includes outdoor elements such as outdoor storage or outdoor retail, the review body may allow such nonconforming elements to be moved to a different location on the same property, only if it reduces impacts of the nonconformity. The use shall not occupy more area than was lawfully occupied on the effective date the use became nonconforming. The

location from which the use is moved shall be improved to current standards for permitted uses. The area previously occupied by the nonconforming use shall only thereafter be occupied only with a conforming use, in accordance with the development standards of this Code.

- (7) If the property is nonconforming in respect to site development standards, any alteration to the site shall bring the property into greater conformance with current development standards, consistent with the provisions of this Article regulating Nonconforming Development.

15.048 Discontinuation or Abandonment of Nonconforming Use.

- (1) If the nonconforming use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the schedule of permitted uses for the zoning district. For purposes of calculating the 12-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
  - (a) On the date when the use of land is physically vacated;
  - (b) On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
  - (c) On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
  - (d) On the date a request for final reading of water and power meters is made to the applicable utility.
- (2) The following items are not sufficient to demonstrate that the nonconforming use has continued:
  - (a) Payment of a utility bill, such as a sewer or water bill, after the nonconforming use has been discontinued.
  - (b) Demonstrating that the property was for sale, after the nonconforming use has been discontinued.
- (3) If the property is subsequently occupied by a permitted use, the subsequent use of land shall conform to applicable development standards and criteria specified by this Code for the use and zoning district in which such land is located, unless retention of existing nonconforming elements is authorized by Section 15.050.

15.050 Nonconforming Development

15.051 General Provisions.

- (1) Right-of-Way Encroachment. If an existing structure encroaches into existing public right-of-way, the City shall not be limited to the provisions of this Article and may require removal of the encroachment at any time, or may require the owner to sign a right-of-way use agreement specifying terms under which continued encroachment is authorized, whether or not in conjunction with any alteration or expansion of the nonconforming development.
- (2) Encroachment onto Adjoining Property. Encroachment of a structure onto an adjoining property is not considered nonconforming development. The City cannot authorize expansion or modification any portion of a structure that encroaches onto adjoining property.
- (3) Relocation. Should any nonconforming structure be moved for any reason and by any distance, it shall thereafter conform to the regulations of the Development Code.

15.052 Continuation of Nonconforming Development.

Where a development exists on the effective date of adoption, amendment, or applicability of this Code that could not be built under the terms of this Code by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot, or other requirements concerning the development; and the development was lawful when constructed, the development may remain on the site so long as it remains otherwise lawful, except as otherwise provided in this Article.

15.053 Alteration or Enlargement.

No nonconforming development may be altered or enlarged in a way that increases its nonconformity, but any portion thereof may be altered or enlarged in a way that satisfies the current requirements of this Code or will decrease its nonconformity, as follows. The following shall apply at the time of application for expansion or alteration.

- (1) Exempt Alterations. Alteration of a nonconforming building that does not include expansion, and that does not alter the footprint or exterior elevation, is subject

only to the applicable site plan review or building permit procedures, and not this Section. Alteration of a site that involves only routine maintenance, or brings existing nonconforming landscaping, paving, or driveway approaches into compliance without changing drainage, parking, traffic or circulation patterns, is subject only to the applicable site plan review or building permit procedures, and not this Section.

- (2) Existing Nonconformity Affecting Right-of-Way, Public Utility Easements, or Creating Hazard; Requirements at Time of Alteration or Enlargement. If, at the time of alteration or enlargement of nonconforming development, an existing nonconforming structure encroaches into an existing or planned public right-of-way or public utility easement, or creates a hazard such as a visual obstruction, the review body may require the existing structure to be partially or fully brought into compliance with setback requirements to the extent needed to eliminate the conflict. If the review body authorizes all or part of such nonconformity to remain, it may require the owner to sign an agreement specifying the terms under which the continuation of the nonconformity is authorized.
- (3) Percentage Expansion Cumulative. When expansion occurs sequentially, determination of the percentage of expansion shall be cumulative from the effective date of adoption, amendment, or applicability of the standards in this Code that made the property nonconforming.
- (4) Change of Use of Residential Accessory Structure. An accessory structure in a residential zone, nonconforming in relation to height or setback, shall only be converted to a primary use if related impacts on adjoining properties can be adequately mitigated. A primary use includes residential living space, bed and breakfast, day care, residential home, residential care facility, professional or limited office, etc.
- (5) Change of Use of Residential Structure. A residential structure in a residential zone, nonconforming in relation to height or setback, shall only be converted to a more intensive use if related impacts on adjoining properties can be adequately mitigated. A more intensive use includes a bed and breakfast, day care, residential care facility, professional or limited office, etc.

(6) Standards for Expansion of Single-Family Dwelling or Duplex.

- (a) Existing Nonconforming Structure. Except as provided in Subsection (2), the Review Body shall allow for an existing structure that is nonconforming in relation to height or setback to:
  - (i) remain; or
  - (ii) be altered in a manner that decreases its nonconformity;
  
- (b) New Enlargement. Any new construction that enlarges the existing development shall satisfy current requirements.
  
- (c) Other Nonconformity. The Review Body shall approve the amount and type of improvements to be made in order to bring existing nonconforming aspects of the site into greater conformance. The type of improvements may include, but are not limited to:
  - (i) Expansion of 50 Percent or Less:
    - (1) Paving of all new driving and parking surfaces.
    - (2) Partial paving of existing driving and parking surfaces, up to a maximum of 50 feet starting at the street, at a rate of ten lineal feet per 100 square feet of expansion, except an expansion of 100 square feet or less is exempt.
    - (3) Architectural Standards of Article 22 if the expansion increases the width of the front façade.
  
  - (ii) Expansion of More than 50 Percent:
    - (1) Frontage improvements or deferral for street, sidewalk and driveway approach, sewer, water, and storm drain.
    - (2) Paving of all existing driving and parking surfaces, up to a maximum of 50 feet starting at the street.
    - (3) Paving of all new driving and parking surfaces.
    - (4) Provision of all required landscaping.
    - (5) Eliminating or modifying nonconforming driveway approaches.

(6) Architectural standards of Article 22.

(7) Standards for Expansion of 50 Percent or Less, Except Single-Family Dwelling or Duplex. When cumulative expansion exceeds 50 percent, the development shall be reviewed under Subsection (8) below.

(a) Existing Nonconforming Structure. Except as provided in Subsection (2), the Review Body shall allow for an existing structure that is nonconforming in relation to height or setback to

- (i) remain; or
- (ii) be altered in a manner that decreases its nonconformity;

(b) New Enlargement. Any new construction that enlarges the existing development shall satisfy current requirements.

(c) Other Nonconformity. The Review Body shall approve the amount and type of improvements to be made in order to bring existing nonconforming aspects of the site into greater conformance. The type of improvements may include, but are not limited to:

- (i) Eliminating or modifying non-conforming driveway approaches;
- (ii) Pedestrian circulation between a building's main entrance and the public right-of-way;
- (iii) Pedestrian circulation between buildings on a site;
- (iv) Bicycle parking;
- (v) Paving of surface parking and exterior storage and display area;
- (vi) Interior parking lot landscaping;
- (vii) Landscaped yards or buffers for surface parking and exterior development.
- (viii) Modify setbacks to preserve intersection sight distance to ensure safe ingress and egress, if different requirements are necessary as a result of existing nonconformity.

(8) Standards for Expansion of Greater than 50 Percent, Except Single-Family Dwelling or Duplex. The following shall apply to a nonconforming development that is enlarged, increased, or extended to occupy a greater area of land or space, greater than 50 percent of what was

occupied at the effective date of adoption or amendment of this Code when the development became nonconforming.

- (a) Existing Nonconforming Structure. Except as provided in Subsection (2), the Review Body shall allow for an existing structure that is nonconforming in relation to height or setback to
  - (i) remain; or
  - (ii) be altered in a manner that decreases its nonconformity;
- (b) New Enlargement. Any new construction that enlarges the existing development shall satisfy current requirements.
- (c) Other Nonconformity. Except for a structure that is nonconforming in relation to height or setback as provided in Subsection (a), all other nonconforming aspects of the structure and property shall be brought into compliance, or a variance obtained.

15.060 Replacement of Structure Destroyed by Calamity

- (1) A nonconforming building or structure, or a building or structure housing a nonconforming use which has been destroyed or damaged by fire, flood, wind, or other calamity may be restored to its original condition, provided such restoration is begun within 12 months of the calamity and is completed within 24 months of the calamity.
- (2) Restoration shall meet current building and fire codes, and right-of-way shall not be encroached upon, unless use of right-of-way is authorized by City Council, and the owner signs an agreement acknowledging the terms under which the right-of-way may be used.
- (3) Restoration that results in alteration or expansion shall only occur if in accordance with the other provisions of this Article.
- (4) Restoration shall make every reasonable effort to conform to current development standards, where physically possible without creating undue financial hardships.

15.070 Repair of Structure Damaged by Calamity.

When a structure is partially damaged by calamity, the Director shall determine whether repair of the damaged structure is minor or major. "Major Repair" shall be processed subject to the provisions of Section 15.060, "Structure Destroyed by Calamity". "Minor Repair" shall be subject to the provisions of Section 15.090, "Required Strengthening of Unsafe Building".

The director shall consider the following in determining whether the repair is major or minor:

- (1) Whether the nature of the repair would reasonably include measures to bring nonconforming aspects of the development into greater conformity.
- (2) Extent of area damaged and in need of repair, whether structural or nonstructural elements.
- (3) Nature of items needing repair, and whether the repair is limited to nonstructural elements, such as electrical, plumbing, or mechanical systems, nonstructural interior walls, drywall, or nonstructural roofing components.

If the Director determines the repair constitutes "Major Repair", he may, prior to review by the Review Body, immediately authorize a building permit for temporary measures to prevent damage to other parts of the building, or to allow safe occupancy of a portion of the building. At the time of review, the Review Body may require modifications to any temporary measures authorized by the Director.

15.080 Routine Maintenance

Routine maintenance and repairs may be performed on nonconforming development and upon structures or sites containing nonconforming uses, without being subject to the requirements of this Article.

15.090 Required Strengthening of Unsafe Building

- (1) A nonconforming building, or a building housing a nonconforming use, which is declared unsafe by the City Building Official may be strengthened or restored to a safe condition.
- (2) Strengthening or restoration shall not involve alteration that increases nonconformity.



15.100 Nonconforming Lots

- (1) Lots of Record. Any lot of record that was created in accordance with City requirements in effect at the time of creation, and is now nonconforming due to area, width and depth of the lot, may be used for development as originally intended.
  
- (2) Development of Nonconforming Lots. Setbacks, landscaping and buffering, building height, off-street parking, utilities, and other development standards of this Code shall be met. Relief from any Code requirement other than lot area, width and depth shall be processed according to the requirements of Article 6, Variance Procedures.

15.110 Variance Development is Not Nonconforming

A development lawful by reason of a Variance shall not be considered a nonconforming use or development. Such development shall be subject to all provisions of Article 6, Variance Procedures.

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<sup>1</sup>Revised 12-17-03 by Ordinance 5205

<sup>2</sup>Revised 4-20-05 by Ordinance 5285

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## 17. Article 17: Lots and Creation of Lots

### 17.010 Purpose

The purpose of this section is to protect the public health, safety, welfare, and convenience and to provide a means to meet the goals of the Comprehensive Community Development Plan for the City of Grants Pass and the Urbanizing Area. It provides procedures, standards, and criteria for the vacation and adjustment of property lines, and for the creation of lots and parcels which are consistent with state statutes and the standards of this Code, and with a consideration for future development. The intention is to create lots and parcels for which development permits and/or building permits can be issued without varying applicable site development standards, and for which urban services and necessary off-site improvements are provided.

### 17.020 Applicability

The provisions of this section apply to all lands within the City of Grants Pass or within Grants Pass Urban Growth Boundary which are under annexation agreement with the City. Unless otherwise provided for in this Code, no property, land, interests in land, unit ownership, lots, or parcels shall be created prior to approval of a partition or subdivision. No property line vacation, property line adjustment, partition, or subdivision shall be made or recorded with the Josephine County Recorder without meeting the requirements of this section.

### 17.030 Procedures

The following procedures are structured to expedite those applications that are minor in scope and impact, and to insure thorough public review and comment for applications that may have greater impact to neighborhoods and public facilities.

17.031 Review Procedure Schedule. Land divisions applications shall be processed according to Schedule 2-1.

17.100 Property Line Vacations

17.101<sup>12</sup> Effect.

The Property Line Vacation process provides an alternative to vacate a property line or property lines, in lieu of the Property Line Adjustment process. Through the Property Line Vacation process, a property line may be vacated by ordinance, rather than through recording of a property line adjustment plat.

A property line vacation shall act to remove the lot, parcel, or property lines separating the properties and consolidate them into a single authorized lot. Once the ordinance vacating the property line(s) is adopted and recorded, the original property lines may not then be recovered except through a partition or subdivision.

17.110 Petition for Property Line Vacation

17.111 Submittal Requirements. Petitions for property line vacations shall be on a form provided by the Director, and shall contain the following:

(1) Location: Location by street address and assessor's map and tax lot number.

(2) Legal Description: A legal description of the property by metes and bounds, subdivision lot or partition parcel number, or similar description.

(3) Existing Uses: General location and/or description of existing uses on each property.

(4) Names: Name, address and telephone number of the property owner(s), applicant(s).

(5)<sup>12</sup> Signatures: Signatures of all property owners indicating their consent and approval to vacate the property lines. The ownership of the original properties must be identical at the time of application for a property line vacation.

17.112<sup>12</sup> Criterion for Approval, Property Line Vacations. The City Council shall approve, approve with conditions, or deny the request, based upon the following criteria. The property line vacation shall be by ordinance.

- (1) The resultant property configuration does not create a substandard condition relative to the requirements of this Code, such as place two single family dwellings on one lot where only one single family dwelling per lot is allowed.
- (2) The proposal is not contrary to the public health, safety, welfare, and convenience or any other purpose of Article 17.

17.114 Filing a Property Line Vacation Order. The Administrative Services Department shall file the approved vacation ordinance with the County Recorder within 30 days of adoption.

17.200 Property Line Adjustments

17.201 Effect. A property line adjustment shall act to vacate and replace the existing property line(s) separating adjacent properties. The number of parcels resulting from the property line adjustment may be equal to or fewer than the number or original lots, parcels, or properties.

17.202 Property to Be Included. All property within any of the original authorized lots proposed for adjustment shall be included within the property line adjustment plat.

17.210 Tentative Property Line Adjustment Plan

17.211 Submittal Requirements. The applicant shall submit two (2) copies of a tentative plan and any supporting materials to the Director. The following shall be included:

- (1) Plan: No smaller than 8 1/2 inches x 11 inches and legible with north arrow, scale (an engineering scale appropriate to the area involved and sufficient to show detail of the plan and related data, such as 1 inch : 30 feet, 1 inch : 50 feet, 1 inch : 100 feet, or less), and date of preparation.
- (2) Location: Location by street address and assessor's map and tax lot number.
- (3) Names: Name, address and telephone number of each of the following: property owner(s), applicant(s), and preparer of the plan.
- (4) Property Dimensions: Existing and proposed property lines and their dimensions, and parcel size in square feet or acres.
- (5) Parcel numbers or letters: Parcel numbers or letters for each property line adjustment parcel.
- (6) Streets: Names and rights-of-way locations.
- (7) Existing Uses: Location and outline of existing buildings and structures with distances in feet to new parcel lines created by the proposed property line adjustment, and an indication if they are to be removed prior to the adjustment.



- (8) Future Divisions: If the proposed property line adjustment results in parcels greater than twice the minimum lot size allowed, indicate by dashed lines how future divisions and streets can be created.
- (9) Signatures: A signature by the property owner or stamp of a registered land surveyor that guarantees that all information shown on the plan is accurate and correct, and the applicant accepts responsibility for same.
- (10) For the area that is adjusted from one parcel to other, the following must be shown:
  - (a) Easements: The location, dimensions and purpose of all recorded and proposed public and private easements.
  - (b) Flood Areas: Location of floodplain and floodway.
  - (c) Slope: Degree and approximate direction of slope and drainage, and an indication of areas within in Slope Hazard District.
  - (d) Natural Features: Location and extent of streams, rivers, their high banks, wetlands, any required setbacks, and significant vegetation (trees over 12 inches diameter as measured 4 1/2 feet from base. Groups of three or more trees with a closed canopy may be indicated using scalloped lines).
  - (e) Utilities: Location and size of all storm drains and other drainageways; sewer mains, laterals, septic tank leach fields, or other facilities; water mains, laterals, wells, or other facilities; irrigation facilities or other pertinent utilities.

17.212 Criteria for Tentative Property Line Adjustment Plan Approval. The review body shall approve, conditionally approve or deny the request based upon the following criteria:

- (1) An additional property is not created by the property line adjustment.
- (2) A property is not reduced in size below the minimum lot size established by the applicable zone district.

- (3) If one or more properties are less than the minimum lot size, no property is reduced smaller than the size of the original smallest property.
- (4) The adjusted property configuration does not create a substandard condition relative to the applicable standards of this Code.
- (5)<sup>12</sup> The proposal is not contrary to the public health, safety, welfare, and convenience or any other purpose of Article 17.

17.213 Expiration and Extension of Tentative Property Line Adjustment Plan.

- <sup>13</sup>(1) Expiration. Within eighteen months following the effective date of the written decision approving a tentative plan, the applicant shall fulfill all conditions of tentative plan approval and submit the final plat and all required documents.
- (2) Extension. The Director may, upon written request by the applicant, grant up to two extensions of the expiration date of six months each. Upon granting such an extension, the Director shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant refileing of the tentative plan and that no other development approval would be affected.

17.220 Final Property Line Adjustment Plat

17.221 Plat Required. Except as exempted in section 17.223 below, all final property line adjustment plats shall be prepared in accordance with all requirements of final partition plats per Section 17.320, except that the City Administrative Services Department need not sign the plat. This requires a survey of all property lines by a registered land surveyor.

17.222<sup>12</sup> Deeds Required. A property line adjustment plat does not convey ownership. When the final plat is submitted to the City for signatures, the applicant shall submit a copy of the deeds that will convey ownership, corresponding to the adjusted property lines.

17.223 Final Property Line Adjustment Map Option. Preparation of a surveyed final property line adjustment plat is the option of the applicant when all properties affected are 10 acres or greater. When the properties are not surveyed, a final map of the property line adjustment shall be prepared and shall be considered the final plat of the property line adjustment. The map shall contain the following:

- (1) The map shall be 18 inches x 24 inches. No part of the drawing shall be nearer to the edge of the sheet than one inch. The map shall reserve a space one inch by three inches in the most upper right corner for County recording information.
- (2) All property lines and their dimensions.
- (3) Revised property descriptions of each property affected by the property line adjustment.
- (4) The names and signatures of the property owners and other applicable parties with the proper acknowledgments.
- (5) References to the original recorded documents.
- (6) Any plat notes, restrictions, notices, and special conditions that were required to be placed on the final plat as part of tentative plan approval.

17.224 Signatures on Final Property Line Adjustment Plat.

- (1) When the property line adjustment is surveyed, the City or County Surveyor shall sign to verify compliance with applicable survey laws of the State of Oregon.
- (2) The Director may sign the final plat and release it for recording if the final plat is in conformity with the approved tentative plan, and when all conditions of tentative plan approval have been met.
- (3) All signatures shall be in black permanent India type ink.

17.225 Filing an Approved Property Line Adjustment Plat. The applicant shall file the approved original plat with the County Recorder and an exact duplicate with the County Surveyor, and shall file one print or copy of the recorded plat with the Director.

17.226<sup>12</sup> Filing Deeds for the Adjusted Properties. Concurrent with filing the plat, the applicant shall record the deeds conveying ownership consistent with the adjusted property lines. After the deed is recorded, the applicant shall file one copy of the recorded deed with the Director.

17.227<sup>12</sup> Expiration of an Approved Property Line Adjustment Plat. The approved final plat shall become null and void if the plat and deeds are not filed and recorded with the County Recorder within 30 days from the date the Director signs the plat.

17.300 Partitions

17.301 Effect. A partition acts to divide land into two or three parcels. All previous property lines within the plat area are vacated by the partition plat.

17.310 Tentative Partition Plan

<sup>2</sup>17.311 Submittal Requirements. The applicant shall submit eight (8) copies of a tentative plan and any supporting materials to the Director. The following shall be included:

- (1) Plan: No smaller than 8 1/2 inches x 11 inches and legible with north arrow, scale (an engineering scale appropriate to the area involved and sufficient to show detail of the plan and related data, such as 1 inch : 30 feet, 1 inch : 50 feet, 1 inch : 100 feet, or less), and date of preparation.
- (2) Location: Location by street address and assessor's map and tax lot number.
- (3) Names: Name, address and telephone number of each of the following: property owner(s), partitioner, and preparer of the plan.
- (4) Parcel Dimensions: Existing and proposed parcel lines and their dimensions, and parcel size in square feet or acres.
- (5) Parcel numbers or letters: Parcel numbers or letters for each parcel.
- (6) Streets and Sidewalks, Existing: Names, rights-of-way locations and widths, curb locations, sidewalk locations, vehicular access points, public or private status, and any recorded reservations or restrictions.
- (7) Streets and Sidewalks, Proposed: Names, rights-of-way locations and widths, curb locations, pavement widths, sidewalk locations, street lights, vehicular access points, public or private status, any recorded reservations or restrictions, approximate radii of curves, grades, and typical cross-sections showing all utility improvements proposed within the street right-of-way and adjacent easements at such scale to clearly show the details thereof.

- (8) Easements: The location, dimensions and purpose of all recorded and proposed public and private easements.
- (9) Utilities: Location and size of all existing and proposed storm drains and other drainageways; sewer mains, laterals, septic tank leach fields, or other facilities; water mains, laterals, fire hydrants, wells or other facilities; irrigation facilities or other pertinent utilities.
- (10) Natural Features: Location and extent of streams, river, their high banks, wetlands, any required setbacks, and existing significant size trees, significant size trees to remain during and after construction and the fencing required to protect the significant size trees, significant size trees to be removed during the construction of the partition.
- (11) Flood Areas: Location of floodplain and floodway.
- (12) Slope: Degree and approximate direction of slope and drainage, and an indication of areas within the Slope Hazard District. If the property is located within the Slope Hazard District, include a Tentative Grading Plan indicating cuts, fills and retaining walls.
- (13) Districts: The designated zoning district, special purpose district, and any zoning district boundary, special purpose district boundary, political subdivision boundary, or the Urban Growth Boundary that are adjacent to or that divide the property.
- (14) Existing Uses: Location and outline of existing buildings and structures with distances in feet to new parcel lines created by the proposed partition, and an indication if they are to be removed prior to final platting.
- (15) Future Development Plan: A future development plan shall be submitted for the property being partitioned in accordance with Section 17.540.
- (16) Future Street Plan: A future street plan shall be submitted in accordance with Section 17.550.
- (17) Signatures: A signature by the property owner or stamp of a registered land surveyor that guarantees that all information shown on the plan is accurate and correct, and the applicant accepts responsibility for same.

<sup>3</sup>17.312 Criteria for Tentative Partition Plan Approval. The review body shall approve, approve with conditions or deny the request based upon the following criteria:

- (1) The plan conforms to the lot dimension standards of Article 12, the base lot standards of Section 17.510, and the requirements of any applicable overlay district.
- (2) When required, the proposed future development plan allows the properties to be efficiently further developed, in accordance with requirements for typical permitted uses in the applicable zone and comprehensive plan district, and in conjunction with other development in the neighborhood.
- (3) When one is required or proposed, the street layout conforms to the applicable requirements of the adopted street plans, meets the requirements of Article 27 and other applicable laws, and best balances needs for economy, safety, efficiency, and environmental compatibility.
- (4) The proposed utility plan conforms to the applicable requirements of adopted utility plans, the requirements of Article 28 and other applicable laws, and best balances needs for economy, safety, efficiency, and environmental compatibility.
- (5) The tentative plan allows for the preservation of significant size natural or historic features of the property.
  - (a) All significant sized trees shall be retained and protected during construction.
  - (b) In lieu of 100% retention of significant sized trees, at the time of application the applicant may opt at the applicant's sole discretion, for the following procedure: Sixty percent of the significant size trees are retained and protected during construction. The protection shall include the use of fencing to protect the tree out to the drip line with no removal or addition of soil within the drip line area. If the proposed percentage of significant size trees to be retained and protected is less than 60 percent, a Revegetation Fee shall be paid to the City at the time of partition approval. The Revegetation Fee shall be \$350 per significant size tree to a maximum aggregate of \$2,000 per lot.

The City shall place the Revegetation Fee into a special fund to be used for the purchase and improvement of public open spaces. In expending monies from the Revegetation Fund, among other factors, the City shall consider the needs and availability of open spaces in or near the applicant's project.

- (c) No cuts shall result in retaining walls greater than 15 feet high from the finish grade or slopes greater than 50%.
- (d) No fills shall result in a retaining wall greater than 6 feet in height from the finish grade nor a slope of greater than 50%.
- (6) The plan complies with applicable portions of the Comprehensive Plan, this Code, and state and federal laws.
- (7) Except as noted herein, if located within the Slope Hazard District, the plan shall meet the criteria listed in 13.123.

After an examination of the site and the proposed development of the lot, the City Building Official may waive the requirement for a Grading Plan and Erosion Control Plan for partitions which cannot be further partitioned and which contain slopes of less than 25% after making a written finding that the filing of said plans would not materially assist in the protection of the hillside, the community's safety or the community's drainage system.

<sup>13</sup>17.313 Expiration and Extension of Tentative Plan.

- (1) Expiration. Within eighteen months following the effective date of the written decision approving a tentative plan, the applicant shall fulfill all conditions necessary for a development permit, obtain a development permit, fulfill all conditions of tentative plan approval necessary to file the final plat, and submit the final plat and all required documents.
- (2) Extension. The Director may, upon written request by the applicant, grant up to two extensions of the expiration date of six months each. Upon granting such an extension, the Director shall make written findings that the facts upon which the approval was based have not



changed to an extent sufficient to warrant refiling of the tentative plan and that no other development approval would be affected.

17.320 Final Partition Plat

17.321 Plat Requirements. After tentative plan approval, the applicant shall submit a final plat to the Director. The plat shall be prepared by a registered professional land surveyor and shall contain the following:

- (1) The plat shall be 18 inches x 24 inches. No part of the drawing shall be nearer to the edge of the sheet than one inch. The plat shall reserve a space one inch by three inches in the most upper right corner for County recording information.
- (2) All requirements of ORS 209.250 and ORS 92 and any other applicable state or federal regulations.
- (3) Any dedications or changes required as part of tentative plan approval. Dedications shall be done in accordance with applicable local or state laws.
- (4) Any plat notes, restrictions, notices, and special conditions that was required to be placed on the final plat as part of tentative plan approval. The review body shall not require that the plat show graphically any information or requirement that is or may be subject to administrative change or variance.
- (5) As a separate document, a land division guarantee from a title company.

17.322 Signatures on a Final Partition Plat.

- (1) The surveyor who prepared the plat, the property owner(s), and all other parties required to sign under ORS Chapter 92 shall sign the plat.
- (2) The City or County Surveyor shall sign to verify compliance with applicable survey laws of the State of Oregon.
- (3) The City Administrative Services Department shall sign to verify that all financial obligations on the property have been met.

- (4) The Director may sign the final plat and release it for recording if the final plat is in conformity with the approved tentative plan, and when all conditions of tentative plan approval have been met.
- (5) All signatures shall be in black permanent India type ink.

<sup>4</sup>17.323 Filing an Approved Final Partition Plat. The applicant shall file the approved original partition plat as per ORS 92.120. After recording, the applicant shall also file one print with the Director.

17.324 Expiration of Final Partition Plat. The approved final plat shall become null and void if not filed and recorded with the County Recorder within 30 days from the date the Director signs the plat.

17.400 Subdivisions

17.401 Effect. A subdivision acts to divide land into four or more lots. All previous property lines within the plat area are vacated by the subdivision plat.

17.402 Exclusion of Property. All property within the original authorized lot or lots being proposed for platting shall be included on the plat, except that an area may be excluded from a final subdivision plat provided all of the following conditions are met:

- (1) The area to be excluded is equal to or greater than to 2.5 acres.
- (2) Only one such area is created per subdivision.
- (3) The approved future development plan allows for the property to be further partitioned or subdivided.
- (4) The remaining area is not developed until it is further partitioned or subdivided in accordance with the provisions of this Code, or all facilities are provided to that area as if it were a lot in the subdivision.

17.410 Tentative Subdivision Plans

<sup>5</sup>17.411 Submittal Requirements. The applicant shall submit fifteen (15) copies of a tentative plan and any supporting materials to the Director. The following shall be included:

- (1) Plan: No smaller than 8 1/2 inches x 11 inches and legible with north arrow, scale (an engineering scale appropriate to the area involved and sufficient to show detail of the plan and related data, such as 1 inch : 30 feet, 1 inch : 50 feet, 1 inch : 100 feet, or less), and date of preparation.
- (2) Location: Location by street address and assessor's map and tax lot number.
- (3) Vicinity map: A vicinity sketch shall be shown on the plan at a small scale (i.e., 1 inch : 400 feet) showing all existing and adjacent subdivisions, streets, property lines of acreage properties, names of the recorded owners of properties adjoining the land to be divided and between it and the nearest existing or proposed public

street, adjacent railroad rights-of-way, and adjacent political subdivisions.

- (4) Names: Name, address and telephone number of each of the following: property owner(s), subdivider, and preparer of the plan.
- (5) Lot Dimensions: Existing and proposed lot lines and their dimensions, and lot size in square feet or acres.
- (6) Lot numbers or letters: Lot numbers or letters for each lot.
- (7) Streets and Sidewalks, Existing: Names, rights-of-way locations and widths, curb locations, sidewalk locations, vehicular access points, public or private status, and any recorded reservations or restrictions.
- (8) Streets and Sidewalks, Proposed: Names, rights-of-way locations and widths, curb locations, pavement widths, sidewalk locations, street lights, vehicular access points, public or private status, any recorded reservations or restrictions, approximate radii of curves, grades, and typical cross-sections showing all utility improvements proposed within the street right-of-way and adjacent easements at such scale to clearly show the details thereof.
- (9) Easements: The location, dimensions and purpose of all recorded and proposed public and private easements.
- (10) Utilities: Location and size of all existing and proposed storm drains and other drainageways; sewer mains, laterals, septic tank leach fields, or other facilities; water mains, laterals, fire hydrants, wells or other facilities; irrigation facilities or other pertinent utilities.
- (11) Natural Features: Location and extent of streams, rivers, their high banks, wetlands, any required setbacks, and significant size trees, significant size trees to remain during and after construction and the fencing required to protect the significant size trees, significant size trees to be removed during the construction of the subdivision.
- (12) Flood Areas: Location of floodplain and floodway.

- (13) Slope: Topographic contour lines having the following minimum intervals:

Overall Site Slope	Contour Interval
0 to 5 percent	2 feet
5 to 15 percent	5 feet
15 percent or more	10 feet

Slope hazard areas shall be indicated as follows:

Slopes 15% to 35%	light shading
Slopes exceeding 35%	heavy shading

A Tentative Grading Plan indicating cuts, fills, and retaining walls.

- (14) Districts: The designated zoning district, special purpose district, and any zoning district boundary, special purpose district boundary, political subdivision boundary, or the Urban Growth Boundary that are adjacent to or that divide the property.
- (15) Existing Uses: Location and outline of existing buildings and structures with distances in feet to new subdivision lines created by the proposed subdivision, and an indication if they are to be removed prior to final platting.
- (16) Future Development Plan: A future development plan shall be submitted for the property being subdivided in accordance with Section 17.540.
- (17) Future Street Plan: A future street plan shall be submitted in accordance with Section 17.550.
- (18) Signatures: A signature by the property owner or stamp of a registered land surveyor that guarantees that all information shown on the plan is accurate and correct, and the applicant accepts responsibility for same.
- (19) Title: The proposed name and the title "Tentative Plan".
- (20) Dedication: locations of all areas to be dedicated or reserved for public use, with the purpose, condition, or limitations of such reservations clearly indicated.

- (21) Deed Restrictions: Previously recorded and proposed deed restrictions.
- (22) Phasing: If the subdivision will be platted in phases, indicate the lots to be included in each phase, all street, utility, and other improvements to be constructed in conjunction with each phase, and proposed timing for each phase.
- (23) Solar Lot Design Standard: Documentation shall be provided indicating compliance with Section 22.630 of this Code.
- (24) Watermaster compliance: If groundwater is proposed as a source of water for the subdivision, and the subdivision is located in a designated area of groundwater availability concern, the applicant shall submit a certificate of compliance with applicable ground water testing ordinances.
- <sup>11</sup>(25) The City Engineer may require a traffic analysis, as per Section 27.131(3), for any new development to determine the development's potential impact on the existing transportation system. At a minimum, the impact of development on transportation facility performance shall be mitigated to the standards set forth in Section 27.121(2).

17.412 Referral for Review. The Director shall distribute copies of the tentative plan to such agencies as would have an interest in reviewing the plan, which may include:

- (1) Applicable School District.
- (2) Applicable Citizen Participation Committee.
- (3) Grants Pass Irrigation District.
- (4) Affected Governmental Agencies and Other Special Districts.
- (5) Affected Public and Private Utilities.
- (6) Applicable Site Plan Review Committee.
- (7) Department of Environmental Quality.
- (8) Josephine County Public Works Department.

- (9) Oregon State Highway Division.
- (10) Oregon Department of Fish and Wildlife.
- (11) Others, as determined by Director.

<sup>6</sup>17.413 Criteria for Tentative Subdivision Plan Approval. The review body shall approve, approve with conditions or deny the request, based upon the following criteria:

- (1) The plan conforms to the lot dimension standards of Article 12, the base lot standards of Section 17.510, and the requirements of any applicable overlay district.
- (2) When required, the proposed future development plan allows the properties to be further developed, partitioned, or subdivided as efficiently as possible under existing circumstances, in accordance with requirements for typical permitted uses in the applicable zone and comprehensive plan district, and in conjunction with other development in the neighborhood.
- (3) When one is required or proposed, the street layout conforms to the applicable requirements of the adopted street plans, meets the requirements of Article 27 and other applicable laws, and best balances needs for economy, safety, efficiency, and environmental compatibility.
- (4) The proposed utility plan conforms to the applicable requirements of adopted utility plans, the requirements of Article 28 and other applicable laws, and best balances needs for economy, safety, efficiency, and environmental compatibility.
- (5) The tentative plan allows for the preservation of significant size natural or historic features of the property, and allows access to solar energy to the extent possible under existing circumstances.
  - (a) All significant sized trees shall be retained and protected during construction.
  - (b) In lieu of 100% retention of significant sized trees, at the time of application the applicant may opt at the applicant's sole discretion, for the following procedure: Sixty percent of the significant size trees are retained, and are

protected during construction. The protection shall include the use of fencing to protect the tree out to the drip line with no removal or addition of soil within the drip line area. If the actual or proposed percentage of significant size trees to be retained or protected is less than 60 percent, a Revegetation Fee shall be paid to the City at the time of tentative plat approval. The Revegetation Fee shall be \$350 per significant size tree to a maximum aggregate of \$2,000 per lot. The City shall place the Revegetation Fee into a special fund to be used for the purchase and improvement of public open spaces. In expending monies from the Revegetation Fund, among other factors, the City shall consider the needs and availability of open spaces in or near the applicant's project.

(c) No cuts shall result in retaining walls greater than 15 feet high from the finish grade or slopes greater than 50%.

(d) No fills shall result in a retaining wall greater than 6 feet in height from the finish grade nor a slope of greater than 50%.

(6) The plan complies with applicable portions of the Comprehensive Plan, this Code, and state and federal Laws.

(7) If located within the Slope Hazard District, the plan shall meet the criteria listed in 13.123.

17.414 Revised Tentative Subdivision Plan. Prior to receiving a development permit for the tentative plan, the applicant shall submit a revised tentative plan demonstrating compliance with the conditions of tentative plan approval. The review body may waive this requirement if no significant modifications are required.

<sup>13</sup>17.415 Expiration and Extension of Tentative Subdivision Plan.

(1) Expiration. Except as provided in Section 17.416 for a phased development, within 18 months following the effective date of the written decision approving a tentative plan, the applicant shall fulfill all conditions necessary for a development permit, obtain a development permit, fulfill all conditions of tentative plan approval necessary to file the final plat, and submit the final plat application, including the plat and



all required documents. For a phased development, the applicant shall obtain a development permit, complete construction, and file the final plat for each phase in accordance with the approved phasing schedule.

- (2) Extension. The Director may, upon written request by the applicant, grant up to two extensions of the expiration date of six months each. Upon granting such an extension, the Director shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant refileing of the tentative plan and that no other development approval would be affected.

17.416 Phased Development. When an applicant desires to record and develop a subdivision plat in phases, then the approving body may authorize a time for the submittal of the final plat and development of various phases. The time period may exceed eighteen months but in no case shall the total time period for all phases exceed five years without resubmission of the tentative plan for review and approval. Each phase so platted and developed shall conform to the applicable requirements of this Code. Phases platted after eighteen months are subject to modifications in accordance with any changes in the Comprehensive Plan or implementing regulations.

17.420 Final Subdivision Plat

<sup>13</sup>17.421 Non-conforming Plats. When a final subdivision plat is received, the Director shall determine whether or not the final plat substantially conforms with the approved tentative plan. If the final plat substantially conforms to the approved tentative plan, it shall be reviewed through the procedure specified in Schedule 2-1. If the final plat does not substantially conform to the approved tentative plan, then the final plat shall be reviewed using the same review procedure that the tentative plan required.

<sup>7</sup>17.422 Criteria for Final Plat Approval.

The approved tentative plan shall be considered to have met the requirements outlined in the approval for the tentative plan if it meets all of the following:

- (1) A letter has been submitted by the Responsible Engineer stating he/she supervised the grading and construction for the entire parcel and individual lots and the grading

and construction was completed according to approved plans.

- (2) All water, sewer and storm facilities have been installed, tested and tentatively approved per the approved plans. The final testing and acceptance of the water, sewer and storm facilities may be secured per Article 29.
- (3) All street facilities have either been installed, tested and accepted per the approved plans, or security has been posted per Article 29.
- (4) Notwithstanding Article 29 regarding Security, construction of all remaining improvements not including sidewalks and tree planting if required, shall be completed within seven months of the recording of the final plat. Occupancy of homes shall not be permitted until all public improvements have been installed, tested, and accepted by the City, and final inspection of the home has occurred.

<sup>8</sup>17.423 Plat Requirements. After completing the requirement for tentative subdivision plan approval, the applicant shall submit a final plat and fourteen (14) prints to the Director. The plat shall be prepared by a registered professional land surveyor and shall contain the following:

- (1) The plat shall be 18 inches x 24 inches. No part of the drawing shall be nearer to the edge of the sheet than one inch.
- (2) All requirements of ORS 209.250 and ORS 92 and any other applicable state or federal regulations.
- (3) Any dedications or changes required as part of tentative plan approval. Dedications shall be done in accordance with applicable local or state laws.
- (4) When a future development plan is required, a note stating that development of the property is subject to the conditions of such plan.
- (5) Any plat notes, restrictions, notices, and special conditions that was required to be placed on the final plat as part of tentative plan approval. The review body shall not require that the plat show graphically any

information or requirement that is or may be subject to administrative change or variance.

- (6) Statement or certifications verifying the source of water and sewage disposal in accordance with ORS 92.090.
- (7) A letter from the Responsible Engineer stating the Engineer had supervised the grading and construction for the entire parcel and individual lots and the grading and construction was completed according to approved plans.
- (8) If located within the Slope Hazard District, the tree fee as listed in 13.160.
- (9) As a separate document, a land division guarantee from a title company.

<sup>9</sup>17.424 Signatures on a Final Subdivision Plat.

- (1) The surveyor who prepared the plat, the property owner(s), and all other parties required to sign under ORS Chapter 92 shall sign the plat.
- (2) The City or County Surveyor shall sign to verify compliance with applicable survey laws of the State of Oregon.
- (3) The City Administrative Services Department shall sign to verify that all financial obligations on the property have been met.
- (4) The Director of any special district shown on the final plat or any other official required by law shall sign the plat or provide certifications as required by law.
- (5) The Director may sign the final plat if the final plat is in conformity with the approved tentative plan, and when all conditions of tentative plan approval have been met.
- (6) The County Assessor shall sign certifying that all taxes on the property have been paid or bonded for in accordance with state law.
- (7) Following (5) above, the Chairperson or the Board of County Commissioners shall sign.
- (8) All signatures shall be in black permanent India type ink.

<sup>10</sup>17.425 Filing an Approved Final Subdivision Plat. The applicant shall file the approved original subdivision plat as per ORS 92.120. After recording, the applicant shall also file one print with the Director.

<sup>13</sup>17.426 Expiration of Final Subdivision Plat. The approved final plat shall become null and void if not filed and recorded with the County Recorder within 30 days from the date the Director signs the plat.

17.500 General Provisions

17.501 Subdivision Name. New subdivisions shall not bear a name similar to or pronounced the same as the name of any other subdivision in the Josephine County, 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 contiguous subdivision bearing that name.

17.502 Lot and Parcel Numbers or Letters. All lots in a subdivision and parcels in a partition or property line adjustment shall be numbered or lettered consecutively. No partition or subdivision shall use block numbers or letters unless the subdivision is a continued phase of a previously recorded subdivision, bearing the same name, which has previously used block numbers or letters. All parcel and lot numbers or letters shall begin with the number "1" or the letter "A", except for a subdivision that is a continued phase of a previously recorded subdivision, bearing the same name, in which case the lots shall be numbered consecutively following the highest numbered or lettered lot of the previous phase(s).

17.503 Properties Split by the Urban Growth Boundary. When only a portion of a property is within the Urban Growth Boundary, only the portion of the property inside the boundary shall be required to meet the standards of this Code.

17.504 Recording Multiple Plats During One Calendar Year.

- (1) Only one partition or subdivision plat may be recorded on the same land during the same calendar year, unless the subsequent plat fully encompasses all the land contained in the previous plat.

- (2) A partition or subdivision plat may be recorded on one or more of the parcels of a property line adjustment plat that was recorded previously that calendar year as long as the property proposed to be platted is under, and has been under since the beginning of the year, separate legal ownership from all other abutting parcels in the property line adjustment.

17.505 Creation of Street without Partitioning or Subdividing and Properties Split by Streets. Streets may be created through processes other than partitioning or subdividing provided the street is constructed according to the standards of Section 27 of this Code or other applicable standards, is officially accepted by the City or other governing body responsible for the street, and is deeded and/or recorded with the County Recorder in accordance with all applicable laws. Any property divided by such a street shall be considered one property until it is partitioned or subdivided.

17.506 Arterial Access. Where possible, when driveway access from arterial or major collector streets is necessary for several abutting properties, the review authority shall require that such properties be served by a combined access driveway in order to limit possible traffic hazards on such streets. An access control line shall be placed along all properties abutting arterial streets requiring access onto the lesser class street where possible.

17.507 Reciprocal Easements. Where a common drive is to be provided to serve more than one property, a reciprocal easement which will insure access rights shall be shown on the final plat.

17.508 Blocks. Blocks shall not exceed 1200 feet in length without street separation and shall not exceed 800 feet without improved pedestrian way separation, except blocks adjacent to arterial streets or unless previous adjacent layout or topographical conditions justify a variation. The recommended minimum distance between arterial street intersections is 1800 feet.

17.510 Base Lot Standards

All new lots shall conform to the provision of Article 12, other applicable sections of this Code, and the following standards:

- 17.511 Lot Width to Depth Ratio. Lot depth shall not exceed four times lot width. This standard may be exceeded where a portion of a lot is located within the floodway and the portion outside of the floodway cannot be further divided.
- 17.512 Buildable Lots. The lot arrangement shall be such that there will be no foreseeable difficulties, by reason of topography or other conditions, in securing development permits or building permits for typical permitted uses allowed in that zone in compliance with this Code, with the exception of properties designated for open space use.
- 17.513 Through Lots. Lots that have frontage on more than one street, except corner lots, shall be avoided except where necessary to provide separation of residential developments from streets of collector and arterial street status or to overcome specific disadvantages of topography and/or orientation.
- 17.514 Side Property Lines. As far as practical the side property lines of a lot shall run at right angles to the street upon which it faces, except that on a curved street the side property line shall be radial to the curve.
- 17.515 Curved Property Line at Street Intersections. At all street intersections, an arc along the property line shall be established to allow construction of standard curb and sidewalk wholly within the right-of-way.

17.520 Flag lots

No flag lot shall be approved by the review body unless the following requirements are met:

- (1) A street cannot reasonably or practically be created to serve the properties.
- (2) The flag pole shall be at least the minimum width allowed in the appropriate zone. The maximum length for a flag pole shall be twice the width of the lot, or twice the length of the lot, whichever dimension is less.
- (3) The flag pole shall be designed such that a driveway meeting the standards of Section 27.121 (8) could be constructed within the flag pole, unless an alternative

access is provided by easement. The access shall not encroach upon or cross a live stream, ravine, irrigation ditch, or similar topographic feature without provision of an adequate structure, fill, or culvert to provide access for emergency vehicles. Any such required structure shall be constructed prior to final plat or plan approval. The review body may require the structure to be certified by a registered engineer as meeting this standard.

- (5) Flag lots shall not be created off minimum access streets.
- (6) Not more than two abutting flag poles are permitted.

17.530 Authorized and Unauthorized Lots

17.531 Authorized Lots. The following are considered discrete units of land for purposes of this Code:

- (1) A parcel in a partition or property line adjustment, or a lot in a subdivision.
- (2) A property resulting from a property line vacation.
- (3) A unit of land that was created by deed or land sales contract, duly recorded with the County Recorder, where both of the following apply:
  - (a) The property was created prior to September 3, 1980 for properties inside city limits, or was created prior to July 13, 1978 for properties outside city limits.
  - (b) The property was created in accordance with the lot frontage, dimension, or similar standards in effect at the time of its creation.
- (4) A unit of land on one side only of a public right-of-way which was created by the conveyance of that right-of-way through an original property, where the unit of land had been approved in writing by the City of Grants Pass or Josephine County as a single unit of land for planning, zoning, and land use and development purposes prior to August 5, 1991.
- (5) Any other unit of land which had written approval by the City or County to be a discrete unit of land for

planning, zoning, and land use and development purposes, prior to requirements for partitioning or subdividing.

- (6) A unit of land created by the sale, grant, or other conveyance of property that was formerly all or part of a public road, street, highway, or other right-of-way, that meets the applicable lot dimension standards in effect at the time of its creation.
- (7) A unit of land that remained after the recording of a subdivision or condominium plat, and that was not included as a lot or lots in the subdivision or condominium, and that has been provided all required public facilities as if it were a lot in a subdivision.
- (8) A unit of land declared to be a lot by the appropriate review body in accordance with the provisions of Section 17.534.

17.532 Unauthorized Lots. Notwithstanding Section 17.531 above, the following are not considered discrete units of land for purposes of this Code.

- (1) Any unit of land that was not created in compliance with all applicable planning, zoning, property line adjustment, partition, and subdivision regulations in effect at the time of its creation, or that was not duly recorded with the County Recorder.
- (2) A unit of land resulting from a lien foreclosure or foreclosure of a recorded contract for the sale of real property.
- (3) A unit of land that existed prior to proper recordation with the County Recorder of a superseding plat, property line vacation, or similar legal deed or document.
- (4) A cemetery lot.
- (5) A public street, road, highway, square, right-of-way or open space.
- (6) A private street or unit of land reserved as private open space.
- (7) A unit of land on one side only of a public right-of-way which was created by the conveyance of that right-of-way through an original property, unless the unit of land had been approved in writing by the City of Grants Pass or



Josephine County as an single unit of land for planning, zoning, and land use and development purposes prior to August 5, 1991.

- (8) A unit of land adjusted in dimension through the sale, grant or other conveyance of the property for a public road, street, or highway that, as a result of said conveyance, does not meet the applicable lot dimension standards of this Code.
- (9) A unit of land created by the sale, grant, or other conveyance of property that was formerly a public road, street, highway, square, or other right-of-way, that did not meet the applicable lot standards in effect at the time of its creation.
- (10) A unit of land that remained after the recording of a subdivision or condominium plat, and that was not included as a lot or lots in the subdivision or condominium, and that has not been provided all required public facilities as if it were a lot in a subdivision.
- (11) A unit of land that was previously required by the City or County to be consolidated with another unit of land, unless the City or County has approved the unit to be discrete lot in accordance with applicable regulations in effect at the time.
- (12) A unit of land created solely to establish a separate tax account.

17.533      Signatures Required when Platting Unauthorized Lots.  
Where application is made to plat lots or parcels which were previously unauthorized lots, the review body may approve the plat even though less than all of the owners of the existing authorized lot have applied for plat approval or have signed the plat.

17.534      Lot Authorization

In unusual circumstances the review body may authorize an unauthorized lot provided all of the following criteria are met:

- (1) Either the unauthorized lot was created prior to adoption of applicable subdivision and partitioning laws, or it was not created in conflict with applicable subdivision regulations.

- (2) No other procedure provided in this Code could be used to authorize the lot, such as partitioning.
- (3) No safety problems, significant public harm or undue public burden would result from declaring the property a lot.
- (4) Potential negative impacts to the public are mitigated to the extent possible.

17.540 Future Development Plan

17.541 Applicability. Whenever property is proposed to be partitioned or subdivided and there is potential for additional partitions or subdivisions of the property in accordance with the provisions of this Code, the partitioner/subdivider shall submit a future development plan for approval.

17.542 Submittal Requirements, Future Development Plan. The future development plan shall be submitted with the tentative subdivision or partition plan, either on the face of the plan or on a separate document included with each plan. The plan shall be prepared by a registered surveyor or similar professional, and shall contain the following:

- (1) The label "Future Development Plan."
- (2) Potential future lots and their dimensions, and approximate lot sizes in square feet or acres.
- (3) The location of current and potential future street rights-of-way with pavement widths that would adjoin or go through the property, including those streets planned in the Street Plan.
- (4) A future street plan when required by section 17.551 below.
- (5) Present and proposed future access points and street plugs for the subject and affected surrounding properties.
- (6) Present and proposed future storm drains, water mains, sewer mains, and utilities, including those identified in adopted public facility plans.

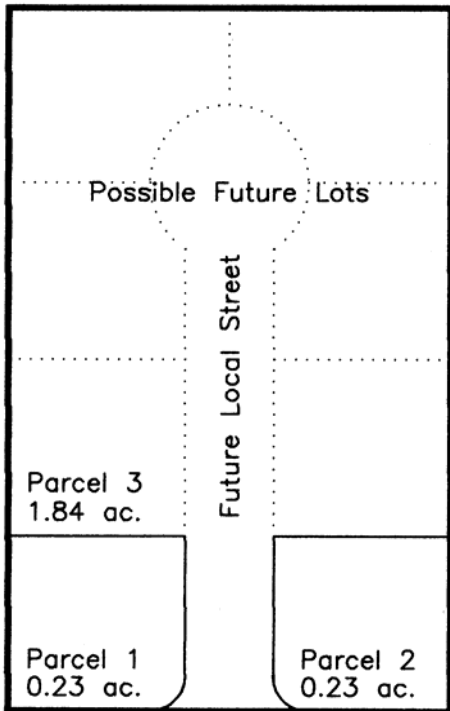
17.543 Criterion for Future Development Plan Approval. The review body may approve, approve with conditions, or deny the proposed future development plan in accordance with the following criterion:

The proposed future development plan allows the properties to be further developed, partitioned, or subdivided as efficiently as possible under existing circumstances, in accordance with requirements for typical permitted uses in the applicable zone and comprehensive plan district, and in conjunction with other development in the neighborhood.

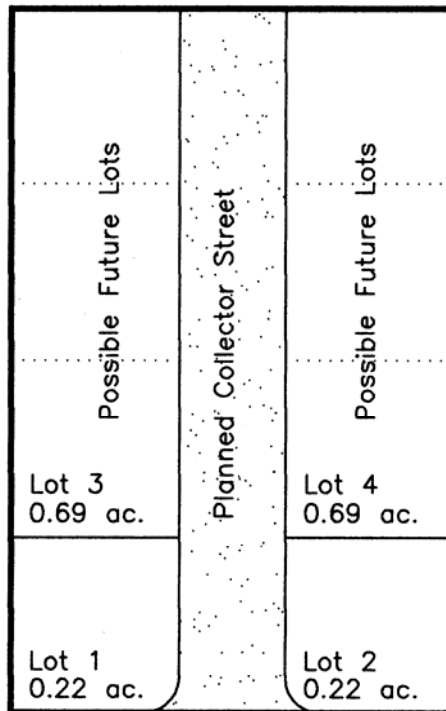
17.544 Conditions of Approval for Future Development Plan. To the extent necessary to meet the criterion for approval of a future development plan, the review body may make any of the following requirements (See Concept Sketch 17 - Future Development Requirements):

- (1) For properties smaller than 2.5 acres, require construction and dedication of streets and utilities in accordance with the provisions of Article 28.
- (2) For properties equal to or larger than 2.5 acres, require dedication of easements for streets and rights-of-way shown on adopted street and utility plans that abut or cross the property.
- (3) Restrict or allow present and/or future access at specific locations. The review body may require easements, street plugs, or access control lines to be placed on the plat to fulfill this purpose.
- (4) Require standards and locations for future street and utilities.
- (5) Require that certain utilities, streets, or accesses be abandoned at such a point that the City or County, as applicable, deems necessary.
- (6) Require that future structures meet setbacks from future property lines.

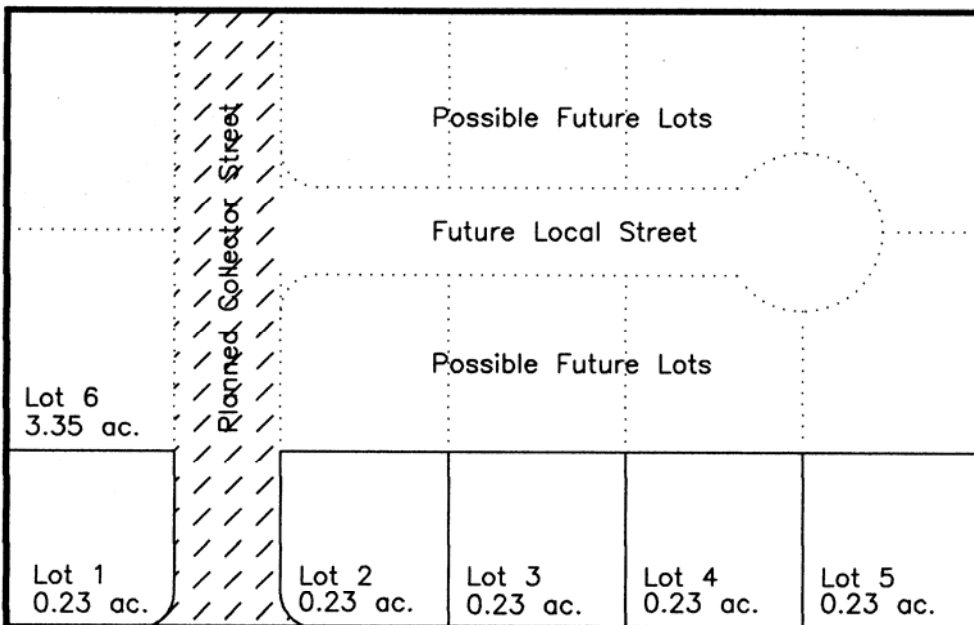
17.545 Filing a Future Development Plan. The future development plan shall be recorded with the County Recorder as an exhibit to the approved plat. When a plan is amended, that amendment shall reference the original plan, and shall be recorded with the County Recorder.



Scenario 1: No Street Dedication Required



Scenario 2: Street Construction Required



Scenario 3: Dedication of Easement for Collector Required

**Concept Sketch: Future Development Requirements**

17.546 Code Revisions. In the event that this Code or other regulations change after the approval of a future development plan to the extent that future development plan could not be permitted under the new regulations, the applicant shall not be required to meet those portions of the plan not so permitted.

17.547 Amendment to an Approved Future Development Plan. At any time after the approval of a future development plan, the owner of the property may submit a revised future development plan to supersede the previously approved plan. The revised plan shall be submitted in accordance with the requirements outlined above. The plan shall meet the applicable criterion and may be subject to conditions as listed above.

17.550 Future Street Plan

17.551 Applicability. A future street plan shall be submitted along with a tentative subdivision or partition plan when either the tentative plan or the future development plan would affect the creation of streets on properties adjacent to the property being planned, other than streets already planned on the Street Plan. Otherwise, an owner of the subject properties, the Planning Commission, the City Council, or the Board of County Commissioners may initiate review of a future street plan for properties that are not under review for subdivision or partition.

17.552 Submittal Requirements, Future Street Plan.

The future street plan shall be submitted either on the tentative plan, the future development plan, or on a separate sheet. The plan shall contain the following:

- (1) Labeled as a future street plan for the streets involved.
- (2) North arrow, scale (an engineering scale appropriate to the area involved and sufficient to show detail of the plan and related data, such as 1 inch : 100 feet or 1 inch : 400 feet).
- (3) Existing and proposed property lines in the vicinity of the streets being created and their approximate size and dimensions.
- (4) Existing public rights-of-way and street names in the vicinity.

- (5) Existing uses that would affect street layout.
- (6) The general location and general right-of-way width for any future street that would be affected by the proposed subdivision or partition development.

17.553 Criterion for Future Street Plan Approval. The review body may approve, amend, or deny the proposed future street plan based on the following criterion:

The street layout conforms to the applicable requirements of the adopted street plans, meets the requirements of Article 27 and other applicable laws, and best balances needs for economy, safety, efficiency, and environmental compatibility.

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<sup>1</sup> Revised 2-16-94

<sup>2</sup> Revised 5-31-97

<sup>3</sup> Revised 5-31-97

<sup>4</sup> Revised 11-15-95

<sup>5</sup> Revised 5-31-97

<sup>6</sup> Revised 5-31-97

<sup>7</sup> Added 5-31-97

<sup>8</sup> Revised 5-31-97

<sup>9</sup> Revised 11-15-95

<sup>10</sup> Revised 11-15-95

<sup>11</sup> Revised 9-4-02

<sup>12</sup> Revised by Ordinance 5240 Adopted 6/21/04

<sup>13</sup> Revised by Ordinance 5285 Adopted 4/20/05

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Article 18: Planned Unit Development (PUD)

18.010 Purpose and Effect

18.011 Concept. The Planned Unit Development is a process of design and review, and the results of this process are variable. The results may include different building types, land divisions and development types. The Base Development Standards of the Zoning Districts, Article 12, and the Base Lot Standards of Land Divisions, Article 17, represent the historic method of insuring a safe, livable and economic community. The Planned Unit Development process is intended to permit development using alternate standards to occur, and yet maintain the safety, livability and economy of the community.

18.012 Purpose. The purpose of the Planned Unit Development process is as follows:

- (1) To provide an alternate development process and alternate development standards to the Base Development and Lot Standards set forth in Articles 12 and 17 of this Code, and embodied in much of the established areas of the City.
- (2) To encourage land use and development based upon the unique physical opportunities and constraints of each particular site, so that the outdoor living environment becomes an integral rather than an incidental feature of the design, and the overall appearance and livability of the community is enhanced.
- (3) To encourage diversity in building types, site arrangement and ownership of real property.
- (4) To encourage the greatest economic use of the land, and to lower unit development costs, in exchange for better use of open space, more recreational facilities, and greater resource conservation than possible using the Base Standards of this Code.
- (5) To provide a development product which is equal to or superior to that possible under the Base Standards of this Code.
- (6) To recognize the need to protect and buffer dissimilar development in the established districts, and to set a good precedent for future development in developing districts.

18.013 Effect. The Planned Unit Development, as finally approved, shall have the effect of varying the Base Development Standards of all Zoning Districts as contained in Article 12 of this Code, and the Base Lot Standards of Partitions and Subdivisions, Section 17.510 of this Code, without need of other variance procedure, but only insofar as indicated in the approved Planned Unit Development Plan and attached conditions. All other provisions of this Code shall apply.

18.020 General Provisions

18.021 Applicability. The provisions of this Section apply to all land within the City Limits or proposed for annexation to the City. For all Planned Unit Developments, no land, interests in land, unit ownership or tax segregation shall be created for sale prior to final approval of the Planned Unit Development. For those Planned Unit Developments including the subdivision or partition of lands, no land, interests in land, unit ownership or tax segregation shall be created for sale prior to final approval of both the Planned Unit Development and the Subdivision or Partition.

18.022 Permitted Uses and Building Types

- (1) Residential PUD. Uses are permitted consistent with the applicable Zoning District. In addition, open space, playgrounds, recreation facilities, and recreation and community centers are also permitted, but only when serving PUD residents, their families and nonpaying guests, unless otherwise permitted in the applicable Zoning District. Building types are permitted as provided in Section 12.131 of this Code.
- (2) Commercial or Industrial PUD. Uses are permitted consistent with the applicable Zoning District.
- (3) Mixed Use Residential/Commercial PUD. Uses are permitted consistent with the applicable Zoning District.

18.023 Subdivision Concurrent With PUD

- (1) Requirement. For PUD requests involving partitioning or subdividing of land, interests in land, unit ownership, or involving tax lot segregation, a Preliminary Map or Plan and a Final Map or Plat shall be prepared as provided in Article 17 of this Code.

- (2) Combined Map or Plat. Where practical, the Partition Maps or Subdivision Plats required by the Sections cited in Section 18.023 (1) above may be combined with the PUD Plan required by this Article, provided that all of the submittal requirements for each Section are satisfied.
- (3) Procedure Type. A concurrent subdivision or partition and Planned Unit Development application shall be processed as a Planned Unit Development, except that the procedure type shall be the highest type required by either Article 17, Lots and Creation of Lots, or Article 18, Planned Unit Development.
- (4) Criteria. For a concurrent application, the approval, approval with conditions or denial of the PUD Plan shall be based upon the criteria for a Planned Unit Development while the approval, approval with conditions, or denial of the Partition Map or Subdivision Plat itself shall be based upon the criteria for a partition or subdivision, excepting only Section 17.510, Base Lot Standards.

#### 18.030 Procedures

18.031 Pre-application Conference Required . Prior to submitting a Preliminary Plan for review, the applicant shall request a pre-application conference with the Director as provided in Section 3.033 of this Code.

18.032 Applicant Ownership. Application for PUD's may be filed by a person(s) having an equitable interest in the property. The application shall be filed in the name(s) of the recorded owner(s). The applicant shall evidence a full ownership interest in the land, legal title or the execution of a binding sales agreement, prior to final approval of the application.

<sup>6</sup>18.033 Review Procedure Schedule. The procedures are structured to ensure adequate public review for Planned Unit Developments requiring through extensions of streets, requiring changes to the Official Street Map, and located adjacent to a Zoning District of a less dense or less intensive land use, and to expedite all other Planned Unit Development review. PUD applications shall be processed according to Schedule

18.034 Appeals. The final action of the Hearings Officer or Planning Commission on either the Preliminary or Final Plan may be appealed as provided in Section 10.040 or 10.050 of this Code.

18.040 Preliminary Plan Review and Action

18.041 Complete Submittal. Prior to review of the requests, a complete application must be accepted by the Director as provided in Section 3.050 of this Code.

18.042 Referral for Review. As provided in Section 3.071 of this Code, the Director shall distribute copies of the Preliminary Plan to:

- (1) Applicable School District.
- (2) Applicable Citizen Participation Committee.
- (3) Grants Pass Irrigation District.
- (4) Affected Governmental Agencies and Other Special Districts.
- (5) Affected Public and Private Utilities.
- (6) Applicable Site Plan Review Committee.
- (7) Others, as determined by the Director. Any comments received will be included in the staff report as part of the official record and distributed to the reviewing body.

<sup>2</sup>18.043 Criteria for Approval. The review body shall approve, approve with conditions or deny the request, based upon the following criteria:

- (1) Development of any remaining contiguous property under the same ownership can be accomplished as provided in this Code.
- (2) Adjoining land under separate ownership can either be developed or be provided access that will allow its development in accordance with the Comprehensive Plan and this Code.
- (3) The proposed street plan affords the most economic, safe, efficient and least environmentally damaging circulation of traffic possible under existing circumstances.
- (4) The Preliminary Plan complies with applicable portions of the Comprehensive Plan, this Code, and State and Federal laws.

- (5) The project results in an equal or superior product than would have resulted from following the Base Development Standards of the applicable Zoning District, as provided in Article 12 of this Code, or the Base Lot Standards of Land Divisions, as provided in Article 17 of this Code.
- (6) The proposal results in a balanced exchange: for the developer, flexible development standards, maximum land utilization and alternate ownership options; for the Community, greater preservation of natural features and natural resources, greater proportions of useable open space and recreation facilities; for both, a greater opportunity for housing at all income levels.
- (7) Potential impacts to adjoining properties have been adequately mitigated through site design and attached development conditions. These conditions include the following protections:
  - (a) All significant sized trees shall be retained and protected during construction.
  - (b) In lieu of 100% retention of significant sized trees, at the time of application the applicant may opt at the applicant's sole discretion, for the following procedure: Sixty percent of the significant size trees are retained, and are protected during construction. The protection shall include the use of fencing to protect the tree out to the drip line with no removal or addition of soil within the drip line area. If the actual or proposed percentage of significant size trees to be retained or protected is less than 60 percent, a Revegetation Fee shall be paid to the City at the time of tentative plat approval. The Revegetation Fee shall be \$350 per significant size tree to a maximum aggregate of \$2,000 per lot. The City shall place the Revegetation Fee into a special fund to be used for the purchase and improvement of public open spaces within the development. In expending monies from the Revegetation Fund, among other factors, the City shall consider the needs and availability of open spaces in or near the applicant's project.
  - (c) No cuts shall result in retaining walls greater than 15 feet high from the finish grade or slopes that are greater than 50%.

- (d) No fills shall result in a retaining wall greater than 6 feet in height from the finish grade or slopes that are greater than 50%.
- (8) All utilities, access ways, open space and recreation areas not dedicated to the public are owned and maintained by a Homeowners' Association or other acceptable private legal entity with the responsibility for and capability of adequate maintenance and care of such facilities, to the satisfaction of the City Attorney and City Engineer.
- (9) The applicant has demonstrated the ability to finance the project through final completion.
- (10) If located within the Slope Hazard District, the plan shall meet the criteria listed in 13.123.
- 18.044 Conditions. Conditions of approval may be attached to the Preliminary Plan by the review body as required to comply with the provisions of this Code or State and Federal laws. Additional conditions may be imposed, but only those conditions necessary to mitigate the impacts resulting from varying Base Development Standards and the Base Lot Standards of this Code. All conditions of approval shall be satisfied prior to Final Plan approval.
- 18.045 Appeals. The final action of the Director or the Planning Commission may be appealed as provided in Sections 10.030 or 10.040.
- 18.046 Expiration of Preliminary Plan. Within 18 months following the effective date of approval of a Preliminary Plan, the Final Plan shall be submitted to the Director and shall incorporate any modification or condition required by the approval of the Preliminary Plan. The Director may, upon written request by the applicant, grant an extension of the expiration date of up to six months. Upon granting such an extension, the Director shall make written findings that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the Preliminary Plan and that no other development approval would be affected.
- 18.047 Staged Development. When an applicant desires to develop Planned Unit Developments in stages, then the review body may authorize a time for the submittal of the Final Plan and development of various stages. The time period may exceed one year, but in no case shall the total time period for all stages exceed five years without resubmission of the Final Plan for review and

approval. Each stage so developed shall conform to the applicable requirements of this Code. Stages developed after one year are subject to modifications in accordance with any changes in the Comprehensive Plan or this Code. For staged development of a PUD involving partitioning or subdivision of land, see Article 17.

18.050 Submittal Requirements - Preliminary Plan

<sup>3</sup>18.051 Preliminary Plan. The Preliminary Plan shall contain the following information:

(1) Contour Map and Natural Features Map.

(a) Existing contour and natural features map at 2, 5, or 10 foot intervals, as appropriate, drainage, irrigation, 100 year flood plain (showing floodway channel and floodway fringe, as applicable) and other water courses; prominent landforms including slope description at the following intervals:

0% - 15%  
35% - 60%  
60% +

(b) Existing vegetation, showing specific locations of riparian habitats, forest cover, and significant size trees.

(c) Significant size trees to be protected and remain during and after construction

(d) Fencing to protect the significant size trees out to the drip line. In lieu of fencing, survey tape may be used to cordon off areas that cannot be graded or filled during development.

(e) Significant size trees to be removed during the construction of the partition.

(2) Buildings and Structures. Location and floor area, size of all existing and proposed structures, and other features including maximum heights, types of dwelling units, and non-residential structures; renderings and elevations of typical structures.

(3) Public Areas. The location and approximate size of all areas to be dedicated for public ownership and use, including streets, parks and schools.

- (4) Open Space: Public, Private and Common. The location and size of all areas for use as outdoor open space. The map shall delineate limits of individually owned lots (private), patio-garden areas for individual unit use (private easement) and all remaining areas to be commonly owned and maintained (public and common).
- (5) Circulation - Access. The location, widths and material of all areas proposed for vehicle, pedestrian, and bicycle circulation. Statement as to private or public street ownership, and areas proposed for on-street parking, if any.
- (6) Off-Street Parking. Location and number of required parking spaces.
- (7) Utilities. Existing and proposed utility systems, including sanitary sewer, storm drains and storm water detention areas, water, fire hydrants, electricity, gas, telephone lines, and cable T.V. Any required public or private easements to be shown on Final Plan.
- (8) Landscape Plan. A general landscape plan indicating location and amounts of areas to be landscaped, and general landscape material to be used. A specific landscape plan shall be submitted for review and approval prior to issuance of a building permit.
- (9) Surrounding Land Use. Indicate the relationship between the proposed PUD and the existing and proposed adjacent land uses; provide information showing existing zoning and land and uses within a 250 foot radius from the PUD's perimeter.
- (10) PUD Perimeter Buffering. Show proposed treatment of the PUD perimeter, including screens, fences, setbacks, windows and walls.
- (11) Grading Plan. A tentative grading plan indicating cuts, fills, retaining walls and resulting slope steepness.
- (12) Phasing. If phased development is proposed, the Plan shall show the limits of each phase. Phasing shown on the Plan shall be consistent with the development schedule.
- (13) Statement of Proposed Financing. A general statement showing commitment of lenders or applicant's ability to finance the project through to completion.



<sup>4</sup>(14) Solar Standards. Documentation shall be provided indicating that the planned unit development either complies with Solar Setback requirements of Section 22.620 of this Code and the Solar Lot Design Standards of Section 22.630 of this Code, or that applicant proposes to vary these standards through the Planned Unit Development process.

<sup>5</sup>(15) The City Engineer may require a traffic analysis, as per Section 27.121(3), for any new development to determine the development's potential impact on the existing transportation system. At a minimum, the impact of development on transportation facility performance shall be mitigated to the standards set forth in Section 27.121(2).

18.052 General Requirements. In addition to the Preliminary Plan, the submittal shall contain the following:

(1) Project Intent. A statement describing the objectives to be achieved through the PUD process that cannot be achieved through the conventional land development process. The statement shall include a description of the character of the proposed project and some of the rationale in choosing the development concept.

(2) Development Schedule. A statement indicating the approximate construction dates for beginning and ending the project, including any proposed phases or stages of development.

(3) Ownership Status. A statement of intention to the future selling or leasing of all or portions of the PUD, such as land areas, dwelling units, etc.

(4) Land Use Data. A quantitative description of the following:

(a) Total Acres Site (Acres)

(b) Area Dedicated to Public Right of Way (Acres)

(c) Useable Acres Site (Acres - item [a] minus item [b])

(d) Density Factor Used (du/Acre)

(e) Maximum Allowable Dwelling Units (du - item [c] times item [d])

(f) Actual Dwelling Units (du)

(g) Area Recreation/Open Space (Acres and % Useable Site)

(h) Area Impervious Surface (Acres and % Useable Site)

18.060 Final Plan Review and Action

18.061 Complete Submittal. Prior to review of the Final Plan, a complete application must be accepted by the Director, as provided in Section 3.050 of this Code.

18.062 Determining Review Procedure. Within 18 months of Preliminary Plan approval, or not later than the extension date authorized by the Director, a Final Plan shall be submitted to the Director for review. Within 25 days of submission, the Director shall determine whether the Final Plan conforms to the approved Preliminary Plan and conditions, and conforms with the applicable requirements of this Code. If the Director determines that the Plan fails to conform, then the applicant shall be advised and afforded an opportunity to make corrections. When the Final Plan is found to conform, the Plan shall be processed for approval under the Type I procedure. If the Final Plan, even if revised, fails to conform, the Plan shall be processed using the same procedure type as the preliminary plan.

18.063 Criteria for Approval. The Director or Planning Commission shall approve or deny the request based upon the following criteria:

- (1) Conformance with the approved Preliminary Plan.
- (2) Compliance with conditions of approval.
- (3) Adoption of proposed Future Street Plan by the governing body, or conformance with the Official Street Map or previously adopted Street Plan.

18.064 Appeals. The final action of the Director or the Planning Commission may be appealed as provided in Sections 10.030 or 10.040 of this Code.

18.065 Agreement to Meet Conditions. As part of the approving action, the developer must demonstrate to the satisfaction of the review body that all required offsite and onsite improvements and conditions of approval have

been satisfied or guaranteed in accordance with the provisions of Article 28, Utility Standards

18.066 Filing an Approved Final Plat as Part of a PUD. If a subdivision of land is included as a part of the PUD, and after obtaining all required approvals and signatures as provided in Section 17.225, the applicant shall:

- (1) File the Map or Plat with the County Clerk within 30 days. Failure to file within 30 days will render the Final Plat null and void, and will require resubmission of the Preliminary Plat to the Planning Commission.
- (2) Immediately after Final Plat approval, file a report with the Real Estate Division, Department of Commerce, State of Oregon, pursuant to ORS Chapter 92.
- (3) File copy of survey with the County Surveyor and City Engineer.

18.067 Filing Approved Final Plan. Within 30 days of final approval of the Final Plan, if units of ownership not involving the subdivision or partitioning of land are to be offered for sale, the applicant shall file a report with the Real Estate Division, Department of Commerce, State of Oregon, pursuant to ORS 92. Failure to file within 30 days shall render the Final Plan null and void, and will require resubmission of the Preliminary Plan to the review body.

18.070 PUD Development

18.071 Development in Conformity to Approved Final Plan.

- (1) The applicant shall enter into a Development Agreement which binds him, his successors and assigns to the approved Final Plan and development conditions. Deed restrictions shall be recorded by the applicant which will serve to notice future owners and/or developers to the development requirements of the approved Final Plan.
- (2) The approved Final Plan and authorized staged development schedule shall control the issuance of development and building permits. Minor changes to an approved Final Plan may be authorized by the Director if such changes are consistent with the purpose, general character and attached conditions of the Final Plan. All other changes shall be processed in the same manner as the original

application and shall be subject to the same procedural requirements.

18.072 Failure to Comply. Failure to comply with preliminary or final plans, conditions of approval, or staged development schedule, shall constitute a violation of this Code as prescribed in Section 1.060.

18.073 Revocation of Development Permit. In the event of failure to comply with approved plans, conditions of approval, or staged development schedule, the Director shall initiate, and the Planning Commission may revoke a PUD Development Permit as provided in Section 1.062.

18.080 Submittal Requirements - Final Plan

18.081 Submittal Requirements. The Final Plan shall be sufficiently detailed to indicate fully the ultimate appearance of the development, and shall include all information of the Preliminary Plan, plus the following:

- (1) Detailed building, elevation, and landscaping plans.
- (2) The size and location of signs.
- (3) Locations and dimensions of all easements.
- (4) Plans and profiles for street improvements.
- (5) Grading and erosion control plans.
- (6) Copies of legal documents required for dedication or reservation of public facilities, and for the creation of a homeowners' association.
- (7) When the sale of individual units or parcels of land within a PUD is proposed, the Final Plans shall include adherence to the provision for land divisions, Article 17.

18.090 PUD Development Standards

18.091 Density Determination.

- (1) Potential Units. Unlike conventional development, which must use public streets for access, a Planned Unit Development may use private streets, and thereby not have to deduct these private rights of way from the total site area prior to determining maximum dwelling units. Increases in actual density of 10% to 20% are often

accomplished. The degree to which the applicant benefits from this potential increase in actual density shall depend on the effectiveness of the PUD design in meeting the purpose and approval criteria for the PUD as provided in Sections 18.012 and 18.043.

- (2) Density Range. The applicant, therefore, has a range to work with in terms of maximum dwelling unit yield. At the low end of the range, applicant deducts actual area utilized for streets (public or private) and then determines potential units.

Example: 6 acres (total site area) minus 1.2 acres (streets) equals 4.8 acres (usable site area used to calculate number of units). Multiply 4.8 x 5.5 (density factor for Low Density Comp Plan) = 26.4 units = 26 units. If actual street area is unknown, deduct a normal standard of 20%.

At the high end of the range, applicant deducts only the area dedicated for public right of way.

Example: 6 acres (total site area) minus .5 acres (public streets) x 5.5 (density factor for Low Density Comp Plan) equals 30.25 units = 30 units.

The review body may require density at the low end of the range, or at any intermediate point up to the high end of the range, depending on how well the applicant meets the criteria and purpose of the PUD. Therefore, the applicant has an incentive to pull together the best possible design to achieve his maximum potential units.

18.092 Residential Development Standards Apply. The development standards for residential dwelling units as provided by Article 22 of this Code shall apply to all residential development utilizing the PUD approach.

18.093 Indoor Recreation Area

- (1) In all Planned Unit Developments having 50 living units or more, indoor recreation area shall be established using the following minimum guidelines:
- (a) Ten square feet of indoor recreation area for each living unit in the development.

- (b) Play equipment, athletic facilities, and/or gameroom facilities and equipment in amounts commensurate with the size of the building or room, to be maintained by the property owner or owners' association.
  - (c) At least one restroom for all indoor recreation buildings or rooms under 600 square feet and two restrooms for all indoor recreation buildings or rooms 600 square feet or greater.
  - (d) All indoor recreation rooms and buildings shall be fully lighted, heated and shall meet all uniform building codes and should be designed primarily for the use of the residents of the PUD, their families and nonpaying guests.
  - (e) The off-street parking requirements for recreation rooms and buildings shall be one space per each 150 square feet of floor area. This requirement shall be in addition to any parking required for residents.
- (2) Alternative to Indoor Recreation Area. The requirement for indoor recreation area may be waived by the review body where increased opportunity for outdoor recreation is provided in addition to the requirements of Section 18.093(1). Such opportunities may include court sports, playgrounds, golf, swimming, or other exceptional treatment of open spaces.

18.094 Maintenance of Facilities by Homeowners' Association

- (1) Whenever private outdoor living area is provided for the use of all residents of the PUD, whether by common ownership or by easement or other legal device, the review body shall require that an association of owners be created under the laws of the State of Oregon. Owners of subject property shall automatically be members, and shall be subject to assessments levied to maintain the private outdoor living area held in common for the purposes intended, and in a manner meeting the requirements of the City Municipal Code.
- (2) Prior to and as a requirement of approval of the Final Plan, the City Attorney and the City Engineer shall review and approve the Owners' Association bylaws, articles of incorporation and restrictive covenants and conditions.

18.095 Ownership

- (1) The property included in a PUD must be in one ownership, joint ownership, or under control of the applicant.
- (2) Unless otherwise provided as a condition of PUD approval, the applicant may divide and transfer title of phases of units within a PUD provided that either state law regarding condominiums is adhered to, or state and local provisions regarding subdivisions and are adhered to. In both situations, the Preliminary Plan shall include a proposal for the division, as applicable. Any complete phases of a PUD that are partitioned or subdivided and sold must be complete entities in themselves in terms of meeting all open space, recreation, landscaping, parking, public facilities and services, and any other special requirements for PUD's.

18.096 Professional Design

- (1) The applicant shall certify in writing that each of the following categories of design professionals shall be utilized in the planning process for development:
  - (a) Licensed architect or certified architectural designer.
  - (b) Landscape architect or certified nurseryman, or landscape designer as approved by the Director.
  - (c) Registered engineer or land surveyor.
- (2) The applicant or his designated representative shall be responsible for conferring with the Director with respect to the concept and details of the Plan.

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1. Revised 3-6-9
  2. Revised 5-31-97
  3. Revised 5-31-97
  4. Revised 1-3-96
  5. Revised 9-4-02
  6. Revised 4-20-05, Ordinance 5285

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## Article 19: Site Plan Review

### 19.010 Purpose

The purpose of this article is to establish a review process insuring that new development complies with the provisions of this Code and is therefore compatible with existing and future development. The review process will include procedures, submittal requirements, criteria, and decision authority.

### 19.020 Applicability

The provisions of this article apply to all new construction, expansion of commercial, industrial, and multiple family residential uses (if not part of a previously approved site plan), change of use, and other development requests covered by this Code. For development requests involving partitions, subdivisions, and Planned Unit Developments, refer to Articles 17 and 18 of this Code.

### 19.021 Concept

- (1) The site plan review process provides the basic means of implementing the policies of Comprehensive Plan and the standards of this Code. For routine, smaller projects requiring Administrative Review, a minor site plan review process is established. The function of the minor site plan review is to insure conformity with the Base Development Standards of this Code. For larger, more complex projects requiring discretionary review, a major site plan review is established. The function of the major site plan review is to insure conformity with the Base Development Standards, Special Development Standards, and other development standards that may be required as part of a Special Purpose District classification, Area Plan, or other Code provisions.
- (2) In addition to determining compliance with development standards of this Code, another major function of site plan review is to identify potential land use conflicts resulting from the proposed development, and mitigating those conflicts through specific conditions of development.

<sup>12</sup>19.022 Site Plan Review Committee. The Site Plan Review Committee is hereby established to review major site plan applications. The Site Plan Committee shall consist of the following, or their designee:

- (a) Director, of Community Development, Chair
- (b) City Engineer
- (c) City Building Official
- (d) Senior Planner
- (e) Director, Public Safety
- (f) Director, Field Operations
- (g) Director, Utilities

19.030 Procedures

Prior to the issuance of a development permit, the applicant shall secure site plan approval in accordance with this Article, following the procedure type specified in Article 12, Schedule 12-2 or 12-3 as applicable.

19.031 Pre-application Conference. Prior to submitting an application for review, the applicant shall request a pre-application conference with the Director as provided in Section 3.041 of this Code.

<sup>1</sup>19.032 Minor and Major Site Plans.

(1) Minor Site Plans are:

- (a) Residential: Request for development permit for one or two family dwellings on lot of record.
- (b) For Commercial and Industrial, involving only Change of Use, and minor expansions less than 25% of existing square footage of building.

(2) Major Site Plans are all other Land Use requests.

19.033 Appeals. The Final Action of the review body may be appealed as provided in Article 10 of this Code.

<sup>12</sup>19.034 Expiration. The land use decision shall expire in accordance with the provisions of Section 3.075 of this

Code. The development permit shall expire in accordance with the provisions of Section 3.092 of this Code.

19.040 Minor Site Plan Review

19.041 Complete Submittal. Prior to review of the request, a complete application shall be prepared, submitted to the Director in accordance with the minimum submittal requirements contained in Section 19.072 of this Code.

19.042 Criteria for Approval. The Director shall approve, approve with conditions, or deny the request based upon the following criteria:

- (1) Complies with applicable Base Development Standards of the Zoning District or standards as previously approved under the provisions of an optional development plan or other approved permit.
- (2) Complies with adopted public utility and access plans, policies, and standards.
- (3) Adequate basic urban services are available or can be made available by the applicant as part of a proposed development, or are scheduled by the City Capital Improvement Plan.
- (4) Complies with all other applicable provisions of this Code, including off-street parking, landscaping, signage, and Special Purpose District requirements.
- (5) Potential land use conflicts have been mitigated through specific conditions of development as required by this Code.
- <sup>10</sup>(6) Internal circulation is accommodated in commercial, institutional and office park uses with walkways and bikeways as provided in Article 27.
- <sup>11</sup>(7) If the property contains existing nonconforming use or development to remain, the application and the Review Body's decision shall also be consistent with the provisions of Article 15, including any additional standards, relief from the Code, or conditions imposed.

<sup>2</sup>19.043 Conditions Which May be Attached to Site Plan. Where it has been determined that potential land use conflicts will result from the proposed development, specific conditions of development may be required as follows:

- (1) Require screening and/or buffering to minimize intrusion of privacy from parking and driveway areas.
- (2) Require specific window placement to minimize intrusion of privacy impact from new two story construction to existing adjacent single story residential.
- (3) Modify parking design to insure safe maneuvering of vehicles and pedestrians.
- (4) To preserve significant landform, waterways, vegetation, and property rights, require additional setbacks, and allow variances to base standards.
- (5) Extension of public utilities, street improvements, and sidewalks may be required in accordance with Article 27 of this Code.
- <sup>10</sup>(6) Where not already required by provisions of this code, require that uses, buildings, and/or building entrances be located close to each other, to public rights-of-way, to pedestrian ways, and/or to bikeways as needed to allow for pedestrian and bicycle circulation.
- <sup>10</sup>(7) Where not already required by provisions of this code, require construction and maintenance of private pedestrian ways between uses or buildings on a site, between a use or building and a public right-of-way, pedestrian way, or bikeway, or between a use or building and a current or potential use or building on an abutting parcel.

19.045 Filing of Approved Minor Site Plan Map. As a result of site plan review, a Final map shall be prepared, including all required modifications and conditions, and must be filed with the Director prior to issuance of a development permit, or the development permit land use decision shall expire as provided in Article 3.

19.047 Development Agreement. If conditions of approval are attached to the approved Map, the applicant shall enter into a Development Agreement as provided in Section 19.057 of this Code. If no conditions are attached, the approved Final Map shall constitute the legal binding conditions of site development.

19.050 Major Site Plan Review

19.051 Complete Submittal. Prior to review of the proposed request, a complete application shall be prepared and submitted to the Director in accordance with the submittal requirements contained in Section 19.072 of this Code.

<sup>3</sup>19.052 Criteria for Approval. The Review Body shall approve, conditionally approve, or deny the request based upon the following criteria:

- (1) Complies with applicable development standards: Base Standards of Zoning District, Special Development Standards, Residential Development Standards, or standards as previously approved under the provisions of an optional development plan or other approved permit.
- (2) Complies with applicable elements of the Comprehensive Plan, including: Traffic Plan, Water Plan, Sewer Plan, Storm Drainage Plan, Bicycle Plan, and Park Plan.
- (3) Complies with all other applicable provisions of this Code, including off-street parking, landscaping, buffering and screening, signage, environmental standards, and Special Purpose District standards.
- (4) Potential land use conflicts have been mitigated through specific conditions of development.
- (5) Adequate basic urban services are available, or can be made available by the applicant as part of a proposed development, or are scheduled by the City Capital Improvement Plan.
- (6) Provision of public facilities and services to the site will not cause service delivery shortages to existing development.
- (7) To the extent possible, identified significant resources, such as intermittent and perennial creeks, stands of pine, fir and oak trees, wildlife habitats, historic sites, and prominent land features have been preserved and designed into the project. Alternatives shall be considered and the proposal shall represent the most effective design to preserve these resources.

- (8) The characteristics of existing adjacent development have been determined and considered in the development of the site plan. At a minimum, special design consideration shall be given to:
- (a) Areas of land use conflicts, such as more restrictive use adjacent or across street from proposal. Mitigate by orienting business operations away from use, additional setbacks, screening/buffering, landscaping, direct traffic away from use.
  - (b) Setbacks. Where existing buildings are setback deeper than required by Code, new setbacks to be compatible.
  - (c) Building Size and Design. Existing surrounding architecture and building size to be considered to insure compatible scale and balance to the area.
  - (d) Signs. New signs shall not block primary view to existing signs, and shall be sized consistent with Code or existing signs, whichever is less.
  - (e) Lighting. Exterior lighting shall not impact adjacent development or traveling motorist.
- (9) Traffic conflicts and hazards are minimized on-site and off-site, as provided in Article 27.
- (10) If phased development, each phase contains adequate provisions of services, facilities, access, off-street parking, and landscaping.
- (11) There are adequate provisions for maintenance of open space and other common areas.
- <sup>10</sup>(12) Internal circulation is accommodated for commercial, institutional and office park uses with walkways and bikeways as provided in Article 27.
- <sup>11</sup>(13) If the property contains existing nonconforming use or development to remain, the application and the Review Body's decision shall also be consistent with the provisions of Article 15, including any additional standards, relief from the Code, or conditions imposed.

<sup>4</sup>19.053 Conditions Which May Be Attached to Site Plan Approval.  
To the extent necessary to satisfy the criteria for site plan review, and to mitigate potential impacts to existing surrounding development, the site plan committee may impose any of the following as conditions of development; however, any conditions applied under this provision shall not unreasonably reduce housing densities, unreasonably increase costs, or otherwise be used to exclude needed housing types.

(1) Require dedication of public right-of-way or easements for:

(a) Streets

(b) Sidewalks

<sup>5</sup>(c) Pedestrian Connector Routes or other appropriate pedestrian ways.

(d) Utility easements

<sup>6</sup>(e) Bikeways

(2) To mitigate land use conflict require:

(a) Site obscuring fence, or

(b) Additional setback, or

(c) Vegetative screen/buffer, or

(d) Orient traffic flow away from use, or

(e) Relocate structure openings (doors, windows), or

(f) Require noise attenuating barrier, or sound baffle or other device, or

(g) Limit hours of operation, or

(h) Any combination of the above.

(3) When public facilities and services are near capacity, require phased development to match availability of services.



- (4) Require extension of facilities (water, sewer, storm drains, fire hydrant) consistent with adopted public facility plans and Article 28 of this Code.
- (5) Require construction of street frontage improvements, including sub-base, base, paving transition, curb, gutter, and sidewalks consistent with Article 27 of this Code.
- (6) When extension or construction of facilities and services is not feasible, require security guarantee consistent with City policy.
- (7) As a means to satisfy future obligation for public improvements, require participation in a future improvement district, without remonstrance.
- (8) Require vision clearance area to be free of structures, signs, or other material having potential to obstruct vision.
- (9) Underground all on-site utilities.
- <sup>10</sup>(10) Insure traffic congestion and hazards are avoided through limiting the number and strategically locating driveways, and requiring traffic control and other access management measures such as median barriers, access to the road network via a lower street classification, or reciprocal or cross access easements between adjoining properties.
- (11) For residential uses require a common drive to serve two or more lots which access onto a collector or arterial street.
- (12) To insure open space requirements comply with the standards of Article 22, require clustering of units, two story construction, or elimination of units, as needed.
- (13) Require submittal of specific landscape plans, prepared in accordance with Article 23.
- <sup>10</sup>(14) Where not already required by provisions of this code, require that uses, buildings, and/or building entrances be located close to each other, to public rights-of-way, to pedestrian ways, and/or to bikeways as needed to allow for pedestrian and bicycle circulation.
- <sup>10</sup>(15) Where not already required by provisions of this code, require construction and maintenance of private

pedestrian ways between uses or buildings on a site, between a use or building and a public right-of-way, pedestrian way, or bikeway, or between a use or building and a current or potential use or building on an abutting parcel.

<sup>10</sup>(16) Require improvements necessary to mitigate any off-site, frontage, and off-site impacts identified in a submitted traffic impact analysis report.

<sup>10</sup>(17) Require off-site road improvements in rough proportion to the impact created by a development, including those transportation system management techniques outlined in the Master Transportation Plan. Where such improvements are required, they shall include facilities accommodating convenient pedestrian and bicycle travel, including bikeways along arterials and major collectors.

<sup>10</sup>(18) Require transportation demand management-related facilities such as carpool/vanpool spaces.

19.054 Filing an Approved Major Site Plan Map. As a result of site plan review, a Final Map shall be prepared, including all modifications and conditions, and filed with the Department of Community Development prior to the issuance of a development permit, or the land use decision shall expire as provided in Article 3.

19.055 Development Agreement. To finalize the site plan process, a development agreement shall be effected between the applicant and the City of Grants Pass. The agreement contains the terms, conditions and approved Final Map. The purpose of the agreement is to insure that the terms and conditions of Site Plan Approval are understood and that they are binding upon the applicant to implement and fulfill prior to use and occupancy. Upon satisfactory completion of site development, the City will provide public facilities and services.

19.056 Modification to Approved Plans. The applicant may petition for modification of a previously approved site plan. The petition shall include reasons for modifying the plan standards of this Code. If, at time of building permit request, the approved site plan has been modified, issuance of a building permit will be postponed until the revised map has been processed in accordance with the provisions of this section.

- (1) Major Modification. When modification to an approved plan is determined to be a Major Modification, the plan shall be resubmitted, with fee, to the Site Plan Committee for review and decision. A major modification constitutes one or more of the following:
- (a) Increase in number of dwelling units.
  - (b) Increase in gross floor area exceeding 10% of previously approved building size, or to the extent requiring an additional parking space, whichever is less.
  - (c) Decrease in amount of open space or landscaping exceeding 10% of previously approved area, provided decrease doesn't drop below minimum standards as required by this Code.
  - (d) Relocation of vehicle access points and parking areas where the change will potentially affect the safety of off-site and on-site traffic circulation.
  - (e) Reduction or elimination of any project amenities such as recreational facilities, significant natural resources (streams, creeks, landform), fencing and other screening material.
  - (f) Modification to facilities and utilities which do not conform to adopted facility plans.
  - (g) Modification of any other component of the plan which does not conform to standards of this Code.
- (2) Minor Modification. A minor modification to an approved plan or conditionally approved plan may be made by the Director provided the Director determines that the modification does not constitute a major modification.

19.060 Security and Assurances.

All required improvements shall be constructed and completed prior to use and occupancy of the site. Where weather conditions preclude certain improvements from occurring at time of construction, use and occupancy may occur provided security is given in accordance with City policy. Security may be posted for the following types of improvements:

- (1) Areas required to have asphaltic concrete, such as parking lots, drives, streets. Postponement allowed due to winter time closure of paving plants.
- (2) Landscaping, except that erosion control vegetation shall be installed.
- (3) As approved by the City Engineer, certain public facilities if not needed to implement the development nor practical to be installed at time of construction.
- (4) Improvements which are deferred due to inclement weather conditions, shall be installed and completed during the next construction season, as soon as weather and site conditions permit.

19.070 Submittal Requirements.

Applications for site plan review shall be prepared in accordance with the following requirements.

19.071 Application. The Department of Community Development shall make available applications for site plan review. The applicant shall complete the application and submit it with the site plan map.

19.072 Site Plan Map.

- (1) Minor Site Plan Map.
  - (a) Scale, north arrow, date of preparation.
  - (b) Location: Street address, and assessor's map page number and tax lot number.
  - (c) Dimension of parcel (feet) and size of parcel (acres).
  - <sup>8</sup>(d) Location and size of existing utilities and required utilities on and adjoining the site, including all storm drains and other drainageways; sanitary sewer mains, laterals, septic tank and leach fields, or other facilities; water mains, laterals, wells, or other facilities, power, gas, telephone, cable T.V., and other pertinent utilities.
  - (e) Proposed and existing buildings: location, dimension, size setbacks to property lines, distance between buildings, height.

- (f) Percent lot coverage of structures.
- (g) Vehicular access point, off-street parking area.
- <sup>9</sup>(h) A landscape plan prepared in accordance to Section 23.042 shall be required at time of application submittal unless no additional landscaping is required.

Exception: Applicant may opt for the Concept Plan option described in Section 23.043 of the Development Code if approval is granted by the Director of the Community Development Department prior to submittal of the site plan application.

- <sup>9</sup>(i) An irrigation plan as described in Section 23.042 shall be required if additional landscaping is required, or if an irrigation system was required as a condition of a previous land use approval.

(2) Major Site Plan Map.

- (a) Eight copies of the map to be drawn on a sheet not less than 8 1/2" x 14".
- (b) Scale: An engineering scale appropriate to the area involved and sufficient to show detail of the plan and related data, such as 1 inch : 10 feet, 1 inch : 20 feet, 1 inch : 50 feet, or less.
- (c) North arrow, date map prepared, preparer's name.
- (d) Proposed name of project.
- (e) Location: Street address, assessor's map, township, range, section, and tax lot number, size, (acres or square feet), and dimension (feet) of parcel.
- (f) Location, size, height and dimensions of existing and proposed building and structures, including distances between buildings.
- (g) Percentage of lot covered by structures, driveways, sidewalks, patios and other impervious material.
- (h) If residential, number of dwelling units and density, and percent open space both recreational and pervious.

- (i) Typical elevations of building and structures sufficient to indicate the general architectural intent and character of the proposed development may be submitted on separate sheets).
- (j) Points of vehicular entry and exit, driveway width dimension and general circulation pattern (arrows).
- (k) Location and layout of off-street parking and loading requirements, including number of spaces, dimension both typical and compact, aisle width, type of surface material, and number of handicap spaces, bumper rails, striping and directional signage. See Article 27.
- (l) Location of existing and proposed streets (public and private) including right-of-way and paving dimensions, ownership and maintenance status, other uses of the street (i.e., parking, bike or pedestrian route). See Article 27.
- (m) Locations, dimensions and reasons for all easements on and abutting the property. See Article 28.
- (n) Drainage, storm water detention and erosion control plan. See Article 28.
- <sup>8</sup>(o) Location and size of existing utilities and required utilities on and adjoining the site, including all storm drains and other drainageways; sanitary sewer mains, laterals, septic tank and leach fields, or other facilities; water mains, laterals, wells, or other facilities, power, gas, telephone, cable T.V., and other pertinent utilities.
- (p) Location and construction material of existing and proposed fences and walls.
- (q) Location, size, height and building material of all proposed signs. See Article 26.
- (r) As applicable, general grading plan to indicate land-form relationships before and after site grading and preparation. Contour map to be provided at 2 foot contours for slopes exceeding 15% (light shading) and 35% (heavy shading). Identify and graphically depict cut and fill areas.

- (s) Indicate adjoining zoning and land uses, including approximate distances to adjacent structures.
- (t) Exterior lighting plan, including type, height, direction and area covered by illumination.
- <sup>9</sup>(u) Submit a Landscape Plan and Irrigation Plan prepared in conformance with Article 23.

Exception: Applicant may opt for the Concept Plan option described in Section 23.043 of the Development Code if approval is granted by the Director of the Community Development Department prior to submittal of the site plan application.

- (v) Flood Areas: location of 100 year Floodway and 100-year Floodway Fringe, and all other areas subject to seasonal ponding. See Article 13.
- (w) Pedestrian Ways: location, width and construction material of all proposed sidewalks and pedestrian accessways.
- (x) Natural Features: location of perennial and seasonal streams, creeks, drainageways, significant vegetation (trees over 8 inches in diameter when measured 3 feet above the ground).
- (y) Areas of trash and garbage disposal.
- (z) Area and dimensions of all property to be conveyed, dedicated or reserved for common open spaces, recreational areas, and other similar public and semi-public uses.
- (aa) If phased development, show boundary limits of each proposed phase.

(3) Supplemental Information.

- (a) Proposed deed restrictions and maintenance responsibility.
- (b) Land Use Tabulation. Total area, percent dedicated for public use, percent landscaped, and percent impervious surface (streets, structures, walks, and other areas not allowing direct soil percolation of water).

- (c) Proposed use of site.
- (d) Total floor area (if applicable, subtotal by stories).
- (e) If staged development, demonstration that each state is self-contained relative to utilities, parking, open space, landscaping, and recreation amenities.
- <sup>10</sup>(f) The City Engineer may require a traffic analysis, as per Section 27.121(3), for any new development to determine the development's potential impact on the existing transportation system. At a minimum, the impact of development on transportation facility performance shall be mitigated to the standards set forth in Section 27.121(2).

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<sup>1</sup> Revised 3-6-96

<sup>2</sup> Revised 5-24-93

<sup>3</sup> Revised 1-3-96

<sup>4</sup> Revised 5-24-93

<sup>5</sup> Added 5-25-93 (Ordinance 4768)

<sup>6</sup> Added 5-25-93 by (Ordinance 4768)



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**1Article 21: Riverfront Tourist Commercial Development Standards**

21.010 Purpose

The purpose of this article is to provide development standards for the Riverfront Tourist Commercial Districts.

21.020 Concept

(1) As mentioned in the Comprehensive Plan, the Rogue River is an important community asset to the City of Grants Pass by offering:

- (a) A natural habitat
- (b) A recreational value
- (c) A scenic attraction, and
- (d) An economic opportunity

(2) Therefore, the following development standards are to be used by developers and the City to create a special environment for the Riverfront Tourist Commercial Districts. The provisions of this article are supplementary to the Base Development Standards contained in Article 12 of this code.

21.030 Applicability. A development permit or building permit is required for any parcel or lot where compliance with the provisions of this article has not been met. The standards specifically apply to the RTC I, II and III zone districts.

<sup>3</sup>21.040 Procedures. The RTC zones require special review procedures provided in Schedule 12-3 due to the uniqueness and the environmental sensitivity of these districts, as stated in Section 12.232. In addition, the applicant shall request a pre-application conference with the Director as provided in Section 3.041 of this code.

21.100 RTC Districts

A description of RTC I, II and III Districts is found in Article 12 (12.224.1, 12.224.2 and 12.224.3).

21.200 Riverfront Review Board

21.211 Purpose. The general purpose of the Riverfront Review Board (RRB) is to insure that a high standard of design is maintained in development and construction within the RTC Zone Districts. Specifically, the RRB purpose is:

- (1) To protect the beauty and ecological balance of Grants Pass riverfront property,
- (2) To insure development and buildings consistent with the policies of the Comprehensive Plan and Development Code,
- (3) To promote high standards in architectural design and the construction of aesthetically pleasing structures along the river,
- (4) To improve the general quality of the environment and promote conservation of natural and man-made resources of the river,
- (5) To promote the design integrity of each RTC District by congruity in architecture and cohesiveness in style,
- (6) To preserve the river and tributary creeks through restoration, maintenance and enhancement, and to discourage the removal of trees and riparian foliage, and
- (7) To encourage the use of pedestrian trails and esplanades and bike paths between each RTC District and the downtown CBD.

21.212 Jurisdiction. The RRB shall review and take action to recommend approval or conditionally approve, disapprove or deny to the Planning Commission, applications within the RTC Districts for:

- (1) Development and building permits
- (2) Grading permits of 50 cubic yards or more of soil. The RRB shall review and take action to approve, conditionally approve, disapprove or deny the following:
  - (a) Exterior colors
  - (b) Signs
  - (c) Removal of trees (6" diameter at 4-1/2' high or greater) and removal of riparian foliage within the 100 year flood plain.

21.213 Establishment and Composition. The RRB shall be composed of seven (7) members appointed by the City Council and serving without pay. Members shall be residents of the City or adjoining unincorporated areas of Josephine County. At least one (1) member shall be a licensed architect, two (2) members shall be conversant with landscaping and plant materials. One (1) member shall be a licensed builder and three (3) members shall be interested citizens unrelated to any of the above requirements.

21.214 Rules and Meeting Procedures

- (1) Robert's Rules of Order: The Board will adopt Robert's Rules of Order for the formal conduct of meetings; however, since the review of architectural drawings is somewhat technical in nature, the general meeting procedures are informal.
- (2) Discussions Outside of Regularly Noticed Meetings: Notification shall occur according to 2.040 Type II Procedure, except that the notice period shall be ten (10) days instead of twenty (20) days. It shall be a general policy of RRB that private discussions between applicants and Board members, or groups of Board members, will not reflect the consensus of the entire Board, nor should it be construed as an interpretation of the Board's policies. Board members shall inform the RRB of such discussions at regularly scheduled meetings. Such meetings shall not be initiated by Board members.

When one or more Board members visit a site or review plans as representatives of the full Board, any decision or action they take must be ratified by the full Board.

- (3) Quorum: Four members shall constitute a quorum. (Recommendation for approval shall not be given unless four members vote on the motion.) A Board member may step down from an item but remain in the room and still be considered present for the purpose of a quorum.
- (4) Abstention: Upon request of the applicant or upon the member's own initiative, a member shall not vote or comment on a project if the member (i) was not present during the consideration of the project at the most

recent meeting at which the project was considered, or (ii) has not reviewed the plans and listened to the tape recording or read the minutes of the relevant portions of that meeting.

- (a) An applicant's request that a member abstain from voting or commenting at a meeting, and a member's expression of intent to abstain, shall be made prior to the start of the applicant's presentation at the meeting.
- (b) If there is a dispute between an applicant and a member about abstention, the chairperson of the RRB shall make a determination on the request for abstention and that determination shall be final.
- (c) This policy on abstention shall not apply to concept review.
- (d) If members abstain under this policy so that fewer than four members are eligible to vote on a project, the applicant can (i) withdraw all of the requests for abstention and waive any objection, or (ii) request a continuance. If the applicant does not withdraw its request for abstention and waive any objection or request a continuance, then the project shall be deemed withdrawn as of the end of that meeting.

21.215 General Meeting Times and Filing Deadlines

- (1) Meeting Dates:
- (2) Deadlines:

21.216 Election of Officers. As soon as practical following the first day of July of every year, the Riverfront Review Board shall elect a Chairperson and Vice-chairperson.

21.217 Level of Review. The RRB shall provide specific recommendations for approval or denial of a project to the Urban Area Planning Commission. The applicant can return to the RRB prior to going to the UAPC with amended designs to request favorable recommendations. The application may request concept review without action in order to obtain initial comment on a project.

21.218 Submittal Requirements. The following information shall be submitted with every application:

- (1) Photographs of site and adjacent property and buildings
- (2) Topographic survey by a licensed surveyor indicating grades, physical features and location of existing trees
- (3) Site design at an appropriate scale delineating the building footprint, paving for parking and landscape areas
- (4) Floor plans at 1/10 inch equals one foot scale minimum
- (5) Exterior elevations at 1/8 inch equals one foot minimum scale
- (6) Color and materials
- (7) Optional submittal may be provided or required
  - (a) Colored renderings and perspectives
  - (b) Detailed landscape design
  - (c) Models
  - (d) View potential study (Section 21.330)

21.219 Decisions. In reviewing all proposed plans, the RRB is required to consider and be guided by the protection and preservation, as nearly as is practicable, of the natural charm and beauty of the river as well as the design and habitat guidelines for the RTC Districts. In order to recommend approval of a project, the RRB shall make a finding that the project is consistent with all applicable laws and with this section of the Development Code and the Guidelines. In order to recommend disapproval or denial of a project, the RRB shall make findings relating to the project's inconsistency with policies of this section of the Code and the Guidelines.

21.220 Action, Appeals and Expiration of Approval

- (1) Action by RRB: The RRB is required to take action to recommend (approval, conditional approval, denial or granting a continuance to the PC) on an application no

later than fifteen (15) days from the date of the meeting at which the application first appears on the agenda. An application may be continued (i) at the request of the applicant, (ii) by action of the RRB if a continuance is found by the RRB to be necessary to receive reports from other agencies or departments which pertain to the project, or (iii) by the RRB if the applicant does not object.

21.221 Plan Check and Building Permit. If any changes are made to the plans that would alter the exterior appearance of the building(s), staff may decide that the revised plans be re-reviewed by the RRB. When the plans have completed the plan check process and all corrections have been made, RRB staff of the Planning Department will stamp the plans and sign the building permit in the appropriate space. The applicant will then submit the plans for a building permit. To insure compliance with the approved design after construction, the city building official will review the construction and compare with the design drawings prior to issuance of a certificate of occupancy.

21.310 Design Guidelines

21.311 Purpose and Concept

- (1) The purpose of these Design Guidelines is to provide design criteria for the development of the RTC Zone Districts. Further, the recommended and suggested Design guidelines are to be used by the Riverfront Review Board (RRB) and to assist developers, property owners and design professionals in the design of projects.
- (2) These guidelines are to supplement existing articles in the development code. Articles 12, 23, 24, 25, 26, 27, 28 and 30 should be reviewed in conjunction with these development standards and guidelines. Also, it is important to mention the interrelationship between sections (RRB, Design Guidelines and Habitat Guidelines) in this article. These sections are meant to complement and to be used in a coordinated effort.
- (3) In general, the visual quality of a community or its "Urban Design" is comprised of the built environment, geographic features and the exotic and native plant life. The guidelines presented below will offer specific recommendations for the interaction and design treatment for these elements.

21.320 Building Design. These guidelines do not recommend either a specific architectural style or historic theme for the buildings in the RTC Districts; however, performance standard criteria will be used. These performance standards will address special site characteristics such as RTC classification, the riparian habitat, terrain, vegetation and the large amount of undeveloped and underdeveloped land areas. The design intent of each district is disclosed in the City's Comprehensive Plan and Article 12 of this document. The criteria are as follows:

- (1) Utilization of the River. The building's relationship to the river shall be recognized by orienting of the public and private spaces toward the river.
- (2) Neighborhood Compatibility. In general, buildings shall have a harmonious relationship with adjacent buildings both on and off the subject parcel. As mentioned in Article 12, each RTC subdistrict has special characteristics due to the existing land uses and development patterns and their location within the City's Urban Growth Boundary. Each subdistrict's qualities shall be incorporated into the design to establish the scale, building bulk, density, building details and character for building.
- (3) Style Compatibility. Buildings shall demonstrate compatibility in materials and consistency in style throughout all exterior elevations. Building components such as windows, doors, arches and parapets shall have proportions appropriate to the architecture of the structure.
- (4) Roofscape. The forms of the roof in the RTC subdistricts are important because of the individual character of each district and the maintenance of view corridors by the reduction of building bulk. Flat and fake mansard (surface applied) roofs shall be avoided. In addition, all roof top mechanical equipment shall present an integrated appearance with the overall building.
- (5) Secondary Architectural Features. Fences, walls, clock towers, arcades, kiosks, flagpoles, etc. are considered secondary architectural features. These features are functionally necessary and aesthetically desirable. These features shall be integrated with the architectural style and building materials of the project.



- (6) Additions. All additions shall relate to the existing building in design intent, detailing, colors and materials.
- (7) Colors. Building colors shall complement the architectural details and the surrounding buildings or dominant structures. Larger buildings shall have a simpler color palette while smaller buildings may be more varied. In selecting colors, consideration must be given to the proximity to the riparian environment.
- (8) Energy Efficiency and Solar Standards. Buildings should be designed and oriented to maximize energy efficiency and conservation. Section 22.600 Solar Standards shall apply to residential uses in the RTC Districts but not to commercial uses in the RTC Districts. Day lighting strategies (orientation of windows and skylights to maximize natural light in a building) shall be encouraged in buildings for energy conservation as well as for visual effect.
- (9) Signage. In general, signage for each RTC District shall be compatible with the scale, materials and colors of the buildings within the district. The signage standards developed for the Grants Pass Parkway shall be used as guidelines.
- (10) Exterior Building Materials. Each district shall utilize the following recommended exterior building materials:
- (11) RTC-1
  - (a) Walls - finished wood siding, wood shingle, brick, field stone or the combination of the above.
  - (b) Roof - wood shingles, (fire treated or regular) or flat tile (concrete or ceramic).
- (12) RTC-II
  - (a) Walls - textured concrete, exterior plaster, unit masonry, finish stone (granite or marble) finished wood or the combination of the above.
  - (b) Roof - flat tile (concrete or ceramic) colored metal, copper.

(13) RTC-III

- (a) Walls - rough textured wood, unit masonry (split face or textured concrete block) field stone, or combination of the above.
- (b) Roof - metal, asphalt shingle, wood shingle (fire treated or regular).

21.330 Site Design. In conjunction with the building design criteria, each subdistrict in the RTC shall have its own site design theme. In general, the site theme for RTC-I is informal, residentially scaled with intimate public spaces contrasted with RTC-II, which is formal, urban and dense, with spacious public spaces. The RTC-III District is also informal but has large open spaces for recreational activities within a park-like environment.

(1) Relationship to The River. The river shall be considered the primary design component for siting of buildings in all RTC subdistricts. The "River Corridor" shall be preserved and enhanced by:

- (a) Allowing no habitable structures on the riverbank or floodway;
- (b) Decreasing intensity and density of development the closer buildings are to the river;
- (c) Decreasing height or "stepping down" of buildings as they get nearer to the riverbank or floodway;
- (d) Allowing only stone or heavy timber construction (non-habitable structures) on the riverbank;
- (e) Restoring riparian vegetation within and adjacent to the river bank, and
- (f) Designing buildings which relate and are integrated to existing landforms and contours of the site.

(2) Building Orientation. Because of the strong visual appeal of the river, buildings shall be oriented toward the river. View potential study (Section 21.218) of all new development shall be provided to the RRB to prevent view blockage from public spaces and other buildings. Public activities shall be located closer to the river while service activities and auto vehicle access shall be farthest.

- (3) Streetscape. The main access streets within the RTC Districts shall have a boulevard quality. This quality is indicative of a planted center median and a planted parkway between the street and the sidewalk. On-street parking shall not be allowed. Off-street parking lots shall be screened from view from the street with landscape techniques such as berms, medium high shrubs and low walls and fences. Only 30% of the perimeter area of the parking lots shall be adjacent to public streets.<sup>2</sup>The sharing of parking lots and driveways between buildings or uses is strongly encouraged.
- (4) People Amenities. People amenities are those structures and activities which encourage pedestrian use. Examples of amenities include esplanades, outside cafes, street vendors, viewpoints, information kiosks and protected (sun and rain) walkways and arcades. Each new development shall incorporate these amenities wherever possible and appropriate.
- (5) Buffers. Buffers are visual and physical screening and shall be provided between conflicting uses and activities. Buffers are especially important between the sensitive riparian habitats and the built environment; for example, the fish spawning area and building development in RTC subdistrict I.
- (6) Utilities. Utilitarian facilities such as electrical transformers, fire backflow devices, dish antennae, loading docks, maintenance or trash areas shall be located near service drives, away from the riparian corridor and screened from view (see above). All utility lines on and off property shall be underground.
- (7) Lighting. Auto lighting along main arterials shall be both highway scale for the roadway and pedestrian scale for sidewalks and the esplanades. Lighting in environmentally sensitive areas shall be kept to a minimum or appropriately screened to avoid disruption of the habitat. Lighting shall be arranged and constructed so that it does not produce direct glare on adjacent residential properties or streets.
- (8) Open Space. Overbuilding of any site within the RTC subdistricts shall be avoided. Useable open space shall be planned for and incorporated into all new development. Open space can be any landscape area for private or public use. This open space would be ideally located

between the building and the riverbanks. See the People Amenities Section for possible activities which may occur within the open space.

- (9) Plant Materials. Plant materials are trees, shrubs and ground cover. To protect and enhance the river, appropriate riparian vegetation shall occur within and adjacent to the banks. Exotics or introduced plant material may occur outside the bank areas if they are:
- (a) Appropriately scaled to buildings,
  - (b) Low water use varieties,
  - (c) A variety of leaf texture and color and
  - (d) Both deciduous and evergreen species in appropriate locations.

Removal of existing trees with a diameter of 6" at 4-1/2' high is prohibited in the riverbank areas and only allowed outside the bank areas after approval by the RRB. Replacement of removed trees shall be at a ratio of 5 new trees for every 1 removed tree.

Installation of erosion-controlling plant material on the riverbank is highly desirable and is encouraged. It is important to note that openings in the landscape "windows" are desirable in order to provide views to the river from developed areas. The habitat criteria of these guidelines should also be reviewed.

- (10) Street Trees. For visual effect, only one species of street tree for each street is recommended. Adequate growing area for each species shall be considered by the mature spread and height of the trees. All street trees shall be installed with "root barriers" to prevent lifting of pavement.
- (11) Hardscape. Hardscape is all paved areas and shall complement the adjacent architecture and plant materials. Hardscape shall be textured (scored) concrete, stamped concrete, unit masonry or a combination. The Trails and Esplanade Section should also be reviewed.
- (12) Street Furniture. Street furniture, such as benches, newsracks, light fixtures, etc., shall have a pedestrian quality and complement the architecture.

- (13) Grading. In general, natural features shall be protected/preserved and utilized in the landscape design. Grading shall be kept to a minimum outside the river floodway and not allowed within the bank area.

21.350 Trails, Paths and the Esplanade.

- (1) It is the general intent of this section to provide linkage by foot and bicycle to all RTC subdistricts and the downtown. As stated in the Comprehensive Plan, trails and access points shall be acquired by the City either through easements, development conditions and (or) direct public purchase.
- (2) Therefore, all new commercial and multi-dwelling development shall be required to provide trails, paths and an esplanade (which ever is appropriate within the subdistricts) through the development area. The route for these paths shall be reviewed by the RRB and based upon the Rogue River Riverfront and Development Plan.
- (3) The following design criteria are recommended for the trails, paths and the esplanade:
- (a) Pedestrian Trails and Paths. Paths and trails for pedestrian use, located within the river bank areas shall be limited to avoid disruption of the habitat and shall be surfaced with permeable material, such as decomposed granite or gravel. Widths shall be five (5) feet with appropriate riparian plant material bordering the path or trail. Those paths and trails shall be screened from view from the river and opposite bank to preserve a wooded setting along the riverbank. Railing, when required, shall be made of wood. Stairs, when required, shall be made of heavy timber construction and elevated on poles over steep riverbanks. For shallower trail grades, imbedded railroad ties or other large sided timber is acceptable. Informational signage shall be limited to 144 square inches and be carved wood. Wood benches shall be located periodically for river viewing and to provide rest stops.
- (b) Bikeways. Bikeways shall be located outside the riverbanks in the public access areas. These bikeways shall be eight (8) feet wide minimum and preferably separated from motor vehicles whenever possible. Surfaces for bikeways shall be

appropriate hard surface such as asphalt paving or concrete. Periodic rest areas and view points shall be provided at appropriate locations.

- (c) Esplanade. An esplanade is a special walkway or promenade located adjacent to a body of water. Due to the urban quality of this feature, the esplanade for Grants Pass shall be located in the RTC-II district. The esplanade shall be a minimum of fifteen (15) feet wide. The esplanade shall be located outside of the riverbanks adjacent to the buildings and be paved with textured paving such as stamped concrete and unit masonry. Activities such as outside cafes, street vendors, informational kiosks and view points shall be located along the esplanade. Decorative walls and railing shall separate the esplanade from the riverbanks. Pedestrian scaled, decorative light fixtures, benches, etc. shall match the architecture and be located periodically along the esplanade.
  
- (d) Terraces. Due to the geography of the river, terracing down toward the river is highly desirable. The intensity of activities varies from low (adjacent to the river) and high (up the slope toward the buildings and public streets). The terrace structures and necessary retaining walls shall vary depending upon the location of the terrace to the river. Terrace walls adjacent to buildings shall match the architectural style and materials of the building, while terraces adjacent to or in the riverbanks shall be retained with rock or rock faced structural walls.

21.400 Riparian Habitat Protection and Restoration Guidelines

21.410 Purpose and Concept

- (1) As discussed in the City's Comprehensive Plan (Scenic and Natural Resource Section) the river will be most affected by increased development intensity. Further, conflicts will occur between private property development versus the increased demand for public access and public utilization of the river's amenities. Also, conflicts will occur between the demand for recreational activities

and the protection of the riparian habitat. It is the intent of this section to provided balance between these competing activities to insure opportunity for all and to not overburden the river's capability to restore.

- (2) It must be understood that the river through the city is no longer a pristine natural environment. Manmade processes and development have greatly altered and impacted the river environment; however, the river remains a viable riparian environment. Therefore, it is the purpose of this section to provide the necessary guidelines and standards which will both protect the existing habitat as well as restore areas which are degraded.
- (3) These guidelines are to be used in concert with the above Design Guidelines and Article 24 - Environmental Standards.

21.510 Vegetation Enhancement and Protection.

- (1) A significant method to reverse the urbanization process along the river is with plants. Plants (trees, shrubs and ground cover) provide the ingredients to protect and promote wildlife (both in and out of the river). To support this concept, the following strategies shall be incorporated into new development projects:
  - (a) No trees shall be removed from any RTC District without approval from the RRB. Planting of both conifers and hardwoods is desirable.
  - (b) No shrubs or ground cover shall be removed within the RTC Districts without approval from the RRB. Replacement along the banks of plant material shall be a minimum of one (1) tree for every twenty (20) linear feet, one (1) shrub per two (2) linear feet and 100% for coverage for ground covers. This plant material can be clustered to provide "view windows" for development, however, at no time shall the river banks be void of plant cover.
  - (c) The above shall be enforced with a penalty as provided in the Municipal Code.
  - (d) There shall be a minimum of 40% of plant area for each new development. The area for calculation shall not include the riverbanks.

21.520 Pollution Prevention.

- (1) Pollutants enter the river in a variety of ways. The pollutants can be in the form of insecticides and petroleum products, as well as sediment and debris from up-bank erosion caused by excavation and grading. The following strategies shall be incorporated into the new construction and ongoing maintenance of each development along the river:
  - (a) Grading and excavation shall be limited to the dry portions of the year.
  - (b) Within the floodway, the minimum size of construction equipment (preferably by hand) shall be used.
  - (c) No grading shall be allowed within the river floodway without approval of the RRB.
  - (d) Gravel shall not be removed from the river without approval of the Riverfront Review Board.
  - (e) Culverts entering shall not exceed 4% grade and shall have energy dissipaters included. These energy dissipaters shall be native rock. Further, sump pits which will filter out pollutants shall be included for drainage of streets adjacent to the river.
  - (f) All exposed riverbanks shall be revegetated with appropriate riparian, erosion controlling plant material. Riparian vegetation is plant material which naturally occurs along a stream, creek or river and is suited to the micro climate within the Grants Pass community. Erosion controlling plant materials have a root structure which tend to reinforce soil in sloping terrain.
  - (g) Herbicides shall not be used to control vegetation in ditches, paths and trails adjacent to and within the River Corridor.
  - (h) Use of insecticides and inorganic fertilizers shall be limited within and adjacent to the River Corridor.



- (i) Discharge of water at warmer temperatures from power plants shall be limited and located away from fish spawning areas.

21.530 Limitation on River Activities

- (1) The Rogue River provides a wealth of recreational activities; however, many of these activities impact this wetland habitat. Eliminating these activities would not be either practical or desirable; therefore, balance between recreational use and habitat protection is recommended. The following strategies shall be incorporated:
  - (a) Trails within the riverbanks shall be limited and constructed per the above Design Guidelines. Location of trails within the bank areas shall be up-slope of benches and be approved by the RRB. Paths shall meander and be screened with plants to provide a more natural looking environment. The esplanade shall be located outside the riverbank areas.
  - (b) Lights from new development shall be directed away from the riverbanks.
  - (b) Refueling docks for jet boats shall be limited to the RTC-II portion of the river.
  - (c) Jet boat trips shall be scheduled and grouped together.
  - (d) Noise levels generated by boats shall be limited in accordance with Article 24 of the Development Code.
  - (e) Docks, ramps, landings and other such structures shall not be permitted within the riverbanks unless necessary for the functioning of a recreational activity. All structures shall conform to the Design Guidelines and be approved by the RRB.
  - (f) The on-site sale, rental, repair or maintenance of jet skis shall be a prohibited use in the RTC districts.

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<sup>1</sup> Adopted 10-12-90

<sup>2</sup> Revised 9-4-02

<sup>3</sup> Revised 4-20-05, Ordinance 5285

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## 1Article 22: Residential Development Standards

### 22.010 Purpose

The purpose of this Article is to provide development standards for single and multi-dwellings, manufactured homes and recreational vehicle parks.

### 22.020 Concept

The provisions of this Article are supplementary to the Base Development Standards contained in Article 12 of this Code. These standards are intended to insure an acceptable living environment for future residents of a development proposal and to minimize impact to adjacent residents and property owners.

### <sup>2</sup>22.030 Applicability

A development permit shall not be issued for any parcel or lot where compliance with the provisions of this Article has not been met.

The standards specifically apply to:

- (1) Planned Unit Development (PUD) Development Standards (Section 18.090)
- (2) Multi-Dwelling Projects
- (3) Modified Setback Option
- (4) Manufactured Housing
  - (a) Individual lots within the Manufactured Housing District
  - (b) Manufactured Dwelling Parks
  - (c) Health condition
- (5) Single detached and duplex residences
- (6) Recreational Vehicle Parks

°22.040 Procedures

For procedure types for site plan review for various categories of housing development, see Schedule 12-2, and Schedule 12-3 for the RTC zones.

22.041 Pre-application Conference

The applicant shall request a pre-application conference with the Director as provided in Section 3.041 of this Code.

22.100 Multi-Dwellings

The provisions of this section apply to development containing multi-dwellings.

22.101 Density. Potential and actual densities shall not exceed that allowed by the applicable zoning district and comprehensive Plan designation. The ability to achieve maximum density may be affected by the degree of compliance with the standards of this section and, in particular, the provision for open space.

22.102 Open Space

(1) Purpose: Open space is area outdoor of residences that is generally open to air and sunlight and free of structures. Open space has many benefits. It buffers between uses and reduces feelings of overcrowding. It provides access to the sunlight and air. It often provides aesthetic or environmental benefits. Recreational open space provides opportunities for outdoor recreation and socializing. Pervious open space reduces storm runoff and recharges ground water.

(2) Types of Open Space: Open space as required by this section may be one of two types:

(a) Recreational Open Space: Recreational open space is area on a lot that is suitable for recreational use such as play, picnics, gardens, or sports. While recreational open space generally contains pervious surfaces, it may include impervious surfaces necessary to the recreational activity such as decks or sports courts. Recreational open spaces may be any of the following:

- (a) lawn or similar living ground cover that allows active recreational use. This does not include areas covered with decorative rock, landscaping bark, shrubs, or similar materials.
  - (b) decks, patios, balconies, picnic areas, gazebos, or similar facilities that are designed solely for recreation.
  - (c) active recreation facilities such as playgrounds, swimming pools, and sports courts.
  - (d) walking, jogging, biking, or similar trails, including adjoining natural areas. This does not include trails within a required exterior yard.
  - (e) cultivated gardens.
- (b) Pervious Open Space: Pervious open space must include surfaces permeable to water. This includes required landscaped yards, buffer areas, other landscaped areas, ponds, creeks, and other natural areas. It does not include streets, accessways, parking areas, areas covered by structures, or areas covered by asphalt, concrete, or decorative rock.
- (3) Minimum Requirements. All multi-dwelling projects shall provide open space as shown in Schedule 22-1.

Multi-Dwelling Open Space Requirements Schedule 22-1			
Zone	Minimum Percent of Lot Required to be Open Space		
	Recreational*	Pervious*	Total
UR	15%	25%	40%
R-1	15%	25%	40%
R-2	15%	25%	40%
R-3	15%	20%	35%
R-4	15%	15%	30%

\*Recreational open space with pervious surfaces may be used to fulfill minimum requirements in either category.

22.103 Separation Between Buildings. To provide privacy, light, air and access to the dwellings within the development, the following minimum standards shall apply:

- (1) Between the walls of principal buildings, at least one-half (1/2) the sum of the height of both buildings.
- (2) Separations between the walls of principal buildings may be less than required by 22.103(1) if one of the following design standards exist:
  - (a) Buildings with windowed walls facing blank building walls - 15 feet minimum.
  - (b) Buildings with blank walls facing buildings with blank walls, or with windows oriented so as not to face another building - 10 feet minimum.
- (3) Where buildings exceed a horizontal distance of 60 feet, the minimum wall separation shall be increased. For each 15 feet of horizontal distance exceeding 60 feet, the building separation shall be increased by one foot.

22.104 Separation Between Buildings at Property Lines. As required by applicable zoning district.

22.105 Exterior Elevations. To preclude large expanses of uninterrupted building surfaces, exterior elevations shall incorporate design features such as offsets, balconies, projections, or similar elements along each face of the building facing a public right-of-way or abutting property. Along the vertical face of the structure, offsets shall occur at a minimum of every 30 feet by providing any two of the following:

- (1) Recesses (elevated decks, patios, entrances, etc.) with a minimum depth of four (4) feet, or
- (2) extensions (elevated decks, patios, entrances, floor area, etc.) with a minimum depth of four (4) feet, or
- (3) offsets or breaks in roof elevations of three (3) or more feet in height.

22.200 Modified Setback Option.

22.210 Purpose. The purpose of this provision is to allow structures in residential zones to locate on or near side or rear property lines. This allows flexibility in housing types and design, better utilization of remaining yard areas, and reduction of development costs.

22.211 Applicability

- (1) The modified setback option allows modification of the residential interior side and rear yard requirements given in Section 12.152, Schedule 12-6. See Concept Sketch: Modified Setback Option. The modified setback must meet the standards of Section 22.220 below.
- (2) The modified setback option may not be used for exterior yards or for yards subject to a zone buffer as given in section 23.034 of this Code.
- (3) The modified setback option requires the consent of the abutting property owner according to Section 22.230 below.

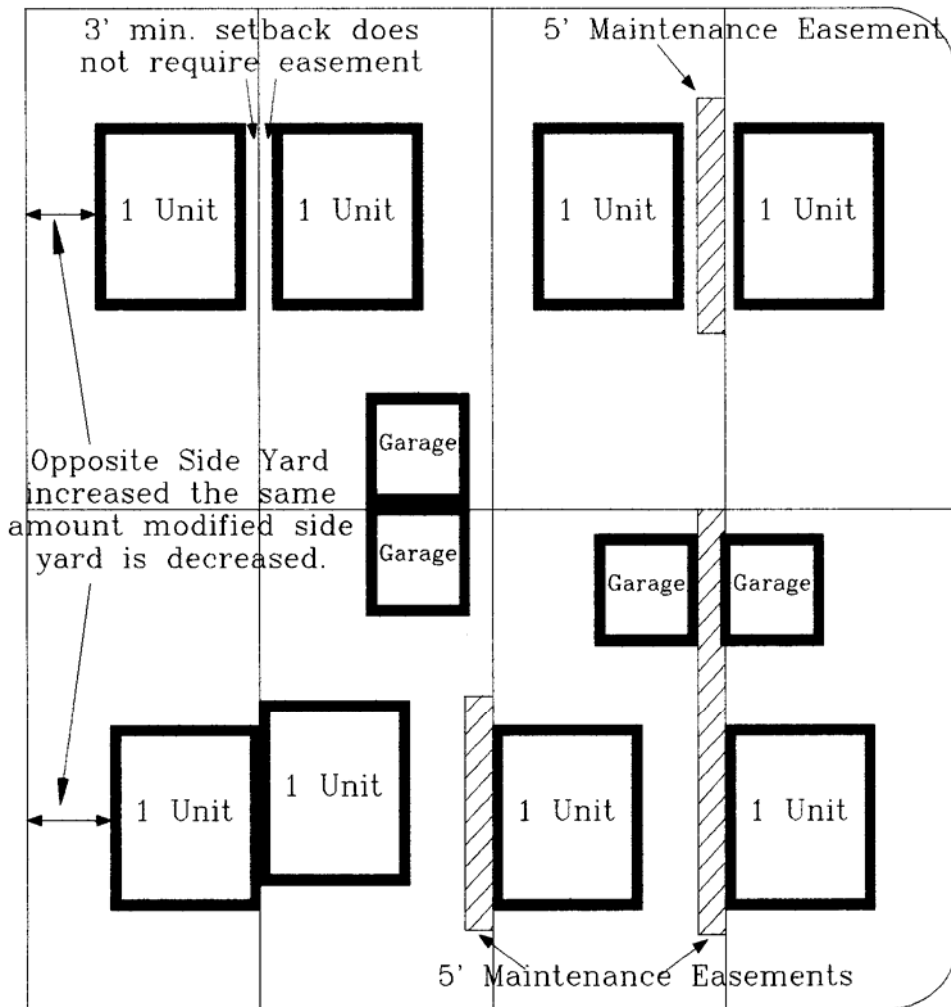
22.220 Modified Setback Standards

Where the modified setback option is used, the following standards shall be met:

- (1) Where a side yard is reduced in width, the opposite side yard on the subject lot shall be increased an amount equal to the reduction.
- (2) Where a structure would be built within three feet of a side or rear property line, a five-foot wide maintenance easement shall be recorded on the abutting property according to Section 22.230. If the building would be attached to a building on the adjacent property, an agreement shall be recorded between the property owners describing the maintenance rights and obligations for the common wall.
- (3) Encroachments into a modified setback yard are allowed as provided in Section 12.400 of this Code. Encroachments shall not conflict with required exiting paths or maintenance easements. No portion of a structure or architectural feature shall project over a property line.



- (4) Development shall comply with the alternative solar standards of Section 22.623 of this Code. For purposes of calculating solar setbacks, attached buildings on abutting lots shall be considered one building on one lot.
- (5) The development shall meet the required architectural features standards. Attached buildings on separate lots shall be considered one building for this purpose.
- (6) The structure shall meet the applicable building code standards relating to wall separations.
- (7) A three-foot wide exiting path shall be maintained from any exit to a right-of-way as required by the applicable building code. Where this exiting path is on an abutting property, an access easement shall be recorded as provided in Section 22.230.



Concept Sketch: Modified Setback Option

22.230 Recording Requirements

Any modified setback requires the consent of the abutting property owner. For single lot development, this is done through a recorded covenant and/or easement. For subdivisions or other multi-lot development, this is done through covenants or restrictions recorded on or accompanying the plat.

- (1) Recording Covenants. The property owner of the lot abutting the modified setback shall sign and record with the County Recorder a covenant and/or easement. For subdivisions or other multi-lot development, this is done through covenants or restrictions recorded on or accompanying the plat.
  - (a) Identify the lot and lot line where a modified setback would be allowed and the lot it abuts.
  - (b) State that buildings on the lot with the setback modification may be located at the specified distance from the property line.
  - (c) Contain the consent of the owner of the lot abutting the modified setback.
  - (d) Be recorded with the County Recorder.
  
- (2) Maintenance Easement. Where a maintenance easement is required, the easement shall:
  - (a) Be at least five feet wide and be configured to allow the abutting property owner access to maintain the wall of the modified setback building.
  - (b) Be kept free of obstacles sufficient to allow at all points a minimum three-foot wide access to the modified setback wall. Any fence within the easement shall be equipped with a workable gate as necessary to provide access.
  - (c) Be signed by the owner of the property and be recorded with the County Recorder. The easement shall specify the location and width of the easement, and shall state the restrictions listed above.

- (3) Recording Covenants and Easements on a Plat. Where the modified setback is proposed as part of a subdivision, partition, or Planned Unit Development Plat, the required easements shall be shown on the plat. The covenants and restrictions shall either be noted on the plat or on separate documents to be recorded with the plat.

22.300 Manufactured Housing Development Standards

<sup>3</sup>22.310 Purpose. The purpose of this section are as follows:

- (1) To provide for a compatible mix of housing types within the Manufactured Housing District.
- (2) To provide standards which promote safety and livability within and around manufactured dwelling parks.
- (3) To allow temporary housing which allows a family member to care for a relative with a serious health condition.

<sup>4</sup>22.330 Class "A" Standard: Individual Lots

22.331 Applicability. The standards of this section apply to the siting of manufactured housing on individual lots.

22.332 Insignia and Compliance

- (1) All units must meet the Manufactured Home construction and Safety Standards Act of 1974 of the U.S. Department of Housing and Urban Development, as amended, and bear the "Insignia of Compliance" with the date of manufacture.
- (2) Used units must be certified upon inspection by the Building Officials to be in excellent condition and safe and fit for residential occupancy.

22.333 Foundation

<sup>8</sup>(1) Except as authorized in Subsection (2), the manufactured home shall be placed on an excavated and back-filled foundation, shall be enclosed at the perimeter with cement blocks or concrete such that the manufactured home is located not more than 12 inches above grade. The Building Official may modify this requirement as necessary due to topographic conditions such as a sloping lot, drainage problems, or location in the floodplain.

<sup>8</sup>(2) The requirement of Subsection (1) shall not be required when all of the following are met:

- (a) The proposed manufactured dwelling is a replacement for an existing manufactured dwelling installed in accordance with law in effect at the time, and the existing foundation did not meet the excavation and backfill requirements of Subsection (1).

- (b) There is no dwelling on the property other than the manufactured dwelling to be replaced.
  - (c) The replacement dwelling was manufactured no more than five years prior to the date of application for the installation permit.
  - (d) The property is an existing authorized lot of record, lot, or parcel created prior to August 5, 1998.
  - (e) The property has not been vacant for more than one year.
  - (f) The property has an existing private sanitary sewer service lateral connected to a municipal sanitary sewer main.
  - (g) The requirement for an excavated, backfilled foundation installed in accordance with Subsection (1) would result in either of the following:
    - (i) The excavation would preclude re-use of an existing gravity sewer lateral; or
    - (ii) The excavation would preclude gravity stormwater and groundwater drainage of the excavated area to existing public storm drainage facilities, by either surface or subsurface drainage from the excavated area to the public facility.
  - (h) When full compliance with Subsection (1) would preclude gravity sewer or drainage as provided above, all or a portion of the foundation shall be excavated and backfilled to the extent that excavation can be accomplished while allowing for re-use of the existing sanitary sewer lateral and provision of gravity drainage facilities, while meeting minimum clearance requirements of the building code.
- (3) Nothing in Subsection (2) is intended to restrict the Building Official's authority to modify the requirement as specified in Subsection (1) or to preclude application for a variance for situations not covered in Subsection (2).

22.334 Development Standards

- (1) The manufactured home shall be multi-sectional and enclose a space of not less than 1,000 square feet.
- (2) Roofing. Roofing shall be as follows:
  - (a) Three in twelve pitch, minimum.
  - (b) Composition or wood shingles, shakes or similar material.
- (3) Siding Material. Siding material shall be wood or masonry, or material that gives the appearance of wood or masonry.
- (4) Additions and Accessory Buildings. A garage or carport must be constructed on the same lot as the manufactured home. A garage is required if over fifty percent of the adjacent lots which have a dwelling unit also have a garage. Additions, attachments and accessory buildings, such as porches, garages, etc., shall be constructed according to the Uniform Building Code, Oregon Edition. The exterior of any such addition shall be constructed of wood or masonry or material that gives the appearance of wood or masonry.
- (5) Architectural Features. The manufactured home shall meet the architectural requirements of Section 22.400.
- (6) Thermal Envelope. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 455.010.

22.335 Submittal Requirements. The application for placing a manufactured home on a individual lot shall contain the following and shall be processed the same as a single family residence.

- (1) Minor Site Plan prepared in accordance with Section 19.072.
- (2) Application form and fee.

<sup>5</sup>22.340 Class "B" Standard: Manufactured Dwelling Parks

22.341 Applicability. The standards of this section apply to the siting and development of manufactured dwellings in Manufactured Dwelling Parks.

22.342 Permitted Uses. Manufactured Dwelling Parks may contain manufactured dwellings, as defined in Article 30 of this Code, and accessory structures, community laundry and recreational facilities and other common buildings for use by park residents only, and one site-built residence for use of a manager responsible for operating the property.

22.343 State Development Standards. The development standards of the Manufactured Dwelling Park shall be as provided in Oregon Administrative Rule 918 Division 600 as administered by the Oregon Department of Commerce. The rule covers standards for construction, plan review, construction inspections, setbacks, space coverage, skirting and other park requirements. These OAR development standards shall apply except where other standards in this section are more restrictive.

22.344 Local development Standards

(1) Park Area. The minimum total area for a manufactured dwelling park shall be two (2) acres.

(2) Space Area. The minimum space area for a manufactured dwelling space in a manufactured dwelling park shall be 2000 square feet. Park density shall not exceed the maximum density of the zoning district.

(3) Setbacks. All manufactured dwellings and other structures shall be set back from property lines and public rights-of-way as required by Schedule 12-6.

(4) Insignia and Compliance

(a) All units must either meet the manufactured Home Construction and Safety Standards Act of 1974 of the U.S. Department of Housing and Urban Development, as amended, and bear the "Insignia of Compliance" with the date of manufacture, or meet all applicable regulations in effect at the time of manufacture.

(b) Used units must be certified upon inspection by the Building Official to be in excellent condition and safe and fit for residential occupancy.

22.345 Reference Standards : For other applicable standards, refer to other sections of this Code as follows:

- (a) Solar Standards, Article 22.
- (b) Landscaping, Article 23.
- (c) Environmental Standards, Article 24.
- (d) Park access, parking and traffic circulation, Articles 25 and 27.
- (e) Park lighting, Article 23 and 27.
- (f) Signs: Article 26.
- (g) Utilities: Article 28.

22.346 Buffering. The Manufactured Dwelling Park shall be buffered from adjoining use and development by using Buffer Type D-3, as provided in Schedule 23-4, Section 23.034 of this Code.

22.347 Submittal. The following material will be submitted with the application:

- (1) Professional Design Review. The applicant for a proposed manufactured dwelling park shall certify in writing that the talents of a registered architect or professional designer, landscape architect, and registered engineer or land surveyor licensed by the State of Oregon have been utilized in the design and development of the project. The names, state license numbers and seal of signature of those professionals employed shall appear on the cover sheet of Park design drawings.
- (2) Site Plan. Pursuant to the submittal requirements for a Major Site Plan Map (Section 19.072) a site plan shall be prepared and submitted as part of the application.

<sup>6</sup>22.350 Class "C" Standard: Manufactured Home for Health Condition

22.351 Applicability. Where a serious health condition exists and continuous care of a family member is required, a manufactured home may be temporarily allowed on an existing lot subject to the provisions of this section.



22.352 Development Standards.

- (1) All units must meet the Manufactured Home Construction and Safety Standards Act of 1974 of the U.S. Department of Housing and Urban Development, as amended, and bear the "Insignia of Compliance" with the date of manufacture.
- (2) Used units must be certified upon inspection by the Building Official to be in excellent condition and safe and fit for residential occupancy.
- (3) Installation of the unit shall meet the requirements of OAR 814, Division 23 as the requirements apply to setup, tie downs, sewer, water, electrical and utility connections.
- (4) The unit shall be skirted around the entire perimeter in accordance with OAR 814-23-070.
- (5) The unit shall be sited within setbacks required by the Zoning District, or a variance to setback obtained as provided in Section 6.020 or 6.030.
- (6) No roof, porch or other accessory structure shall be added for the unit above, except a structure needed to provide access to the home.

22.353 Criteria for Approval. The review body's decision shall be based upon the following criteria:

- (1) Compliance with the development standards specified in Section 22.352.
- (2) Manufactured home is situated on the same lot upon which the applicant's home is situated.
- (3) The occupants of the manufactured home and the permanent home must be related by blood or adoption, such as parent-child, grandparent-grandchild, brothers or sisters.
- (4) A licensed physician has certified the health condition.
- (5) Applicant agrees to annual review of permit and agrees to remove manufactured home within 60 days when health condition is no longer valid.

22.354 Submittal Requirements. The application for a manufactured home for health conditions shall include the following:

- (1) Minor Site Plan prepared in accordance with Section 19.072.
- (2) Certification from a licensed physician that the health condition warrants constant attention.
- (3) Application form and fee.
- (4) Security sufficient to insure removal of the manufactured home when the health condition is no longer valid, such as a bond, letter of credit, cash, savings account, or similar form of security acceptable to the Director and City Attorney.

<sup>7</sup>22.400 Architectural Features for Single and Duplex Residences.

22.401 Purpose. The purpose of this section is to establish and maintain the residential scale and character of neighborhoods by precluding large expanses of uninterrupted building surfaces.

22.402 Applicability. All single detached and duplex residences shall have architectural features along any face of the building that is visible from a street. A building face is considered visible from a street if it is less than 60 feet from a street right-of-way, is at an angle of 45 degrees or less from a street right-of-way, and is not blocked from view by another structure for over half or its face.

22.403 Required Architectural Features. The architectural features required in Section 22.402 shall include two of the following for the first 40 feet of length, and one for each additional 30 feet of length or any part thereof:

- (1) A roof overhang along the full face of one foot or greater.
- (2) A break in the normal roof elevation of three or more feet in height, such as a dormer or hip roof.
- (3) A recess with a minimum depth and width of three feet, such as an entry.
- (4) A permanent extension with a minimum depth and width of three feet and height of eight feet, such as a bay window or a covered deck, porch, or patio.
- (5) A permanent uncovered deck, porch, or patio with a minimum depth and height (including railing) of 3 feet, and a minimum length of 15 feet.

22.500 Recreational Vehicle Park Development Standards

22.510 Purpose. To provide development standards for parks serving recreational vehicles.

22.520 Length of Stay. There shall be no limit to the length of stay for patrons of the park, provided the following requirements are met:

- (1) All standards of this section are continuously met.
- (2) All park rules are adhered to.

22.530 Development Standards

22.531 State Standards. RV Parks shall conform to Oregon Administrative Rules, Chapter 333, Divisions 3 and as amended at a minimum. These OAR development standards shall apply except where other standards in this section are more restrictive.

22.532 Local Standards.

- (1) The space provided for each RV shall not be less than 625 square feet exclusive of any space used for common areas, such as roadways, general use structures, walkways, parking spaces for vehicles other than RVs and landscaped areas.
- (2) Roadways shall be not less than 30 feet in width if parking is permitted on the margin of the roadway, or less than 18 feet in width if parking is not permitted on the edge of the roadway, shall be paved with asphalt or concrete and designed to permit easy access to each RV space.
- (3) A space provided for an RV shall be paved with compacted fine gravel, asphalt or concrete and be designed to provide runoff of surface water.
- (4) The part of the space which is not occupied by the recreational vehicle, not intended as an access way to the recreational vehicle or part of an outdoor patio, shall be landscaped with turf, shrubs or other living groundcover. One large variety deciduous shade tree shall be provided per RV space, so located to provide mid-day and afternoon shade in summer. The tree shall be a minimum of one inch (1") in caliper and eight feet (8') in height upon planting.

- (5) Each RV space shall be provided with municipal piped water and municipal sanitary sewage disposal system service. An RV staying in the park shall be connected to the water and sewage service provided by the park.
- (6) Each RV space shall be provided with electrical service.
- (7) Trash receptacles for the disposal of solid waste materials shall be provided in convenient locations for the use of guests of the park and located in such number and be of such capacity that there is no uncovered accumulation of trash at any time.
- (8) The total number of parking spaces in the park, exclusive of parking provided for the exclusive use of the manager or employees of the park, shall be equal to one space per RV space. Parking spaces shall be paved with fine crushed rock, asphalt or concrete.
- (9) The park shall provide toilets, lavatories and showers for each sex in the following ratios: for each 50 recreational vehicle spaces or any fraction thereof: one toilet, one urinal, one lavatory and one shower for men; and one toilet, one lavatory and one shower for women. The toilets and showers shall afford privacy and the showers shall be provided with private dressing rooms. Facilities for each sex shall be located in separate building, or, if in the same building shall be separated by a soundproof wall.
- (10) The park shall provide on utility building or room containing one clothes washing machine, one clothes drying machine and space for clothes sorting.
- (11) Building spaces required by subsections (9) and (10) of this section shall be lighted at all times of night and day, shall be ventilated, shall be provided with heating facilities which shall maintain a room temperature no lower than 65 Fahrenheit, shall have floor of waterproof material, shall have sanitary ceiling, floor and wall surfaces and shall be provided with adequate floor drains to permit easy cleaning.
- (12) The park shall be buffered from surrounding use and development by a 5' setback and landscape strip at all interior side and rear lot lines, and the required 10' setback and landscape strip at front and exterior lot lines. Side and rear lot lines shall also be screened by a 6' sight obscuring fence, and the landscape strip shall

have as a minimum requirement that provided in Section 23.034 (3), Buffer Strip Landscaping.

- (13) The park shall be maintained in a neat appearance at all times. There shall be no outdoor storage of materials or supplies except articles commonly used in travel, such as lawn chairs, table, hibachi and travel chest. Indoor storage shall be confined to one building at the rear or side of the lot, built according to the Uniform Building Code, Oregon edition.
- (14) The park shall provide each RV space with a patio slab of concrete or asphalt, measuring 8' x 12' at a minimum.
- (15) No manufactured housing or site built housing shall be permitted on the site, except only one unit for manager of the RV park.

22.533 Upgrading Required.

- (1) Due to the transient nature of RV Park use, and notwithstanding Section 1.080, Validity and Prior Approval, all RV parks existing at the time of adoption of this Code shall be required to submit a plan for upgrading the RV park to the standards of this Code.
- (2) The upgrading plan shall be submitted and approved within 12 months of adoption of this Code, and upgrading shall be completed within 36 months of upgrading plan approval.
- (3) Review and approval for upgrading existing RV parks shall be the same as review and approval of proposed RV parks under this section, including fee submittal.
- (4) Failure to submit such an upgrading plan shall result in initiation of proceedings to revoke the RV Park Development Permit, subject to the provisions of Section 3.028.

22.540 Review Procedure

- (1) Development of an RV Park shall be reviewed using the procedures specified in Schedule 12-2 of this Code.
- (2) A complete submittal shall be made as provided in Section 3.050, which submittal shall include a major site plan as provided in Section 19.072 of this Code.

22.600 Solar Standards

22.610 Purpose

Access to sunlight contributes significantly to the public's health and welfare. This section seeks to provide a reasonable amount of access to sunlight to residences and by encouraging new residences to have solar orientation, and by limiting the shadow other structures may cast on them. This section also seeks to balance this need for providing solar access with the need to provide flexibility in density, location, and design of housing.

The benefits of access to sunlight include:

- (1) Solar radiation falling on a structure acts as a natural heat and light source, thereby conserving energy. Studies have shown that homeowners can save significantly in their annual heating and lighting costs by providing solar access to their homes.
- (2) Access to sunlight has been shown to have significant positive effects on the public's general health and demeanor.
- (3) Sunny, naturally lit homes not only have an aesthetic appeal, but also have been shown to command a higher resale value.
- (4) Active solar energy systems may be used to convert sunlight to electricity, thereby reducing energy bills and dependence on other energy sources.

22.611 Effects

- (1) Protection from shade is accomplished through a solar setback standard, Section 22.620. These standards require that structures shading most residential lots be situated far enough from the north edge of the lot so that shade cast on ht adjoining lot to the north is minimized.
- (2) Solar building orientation is encouraged, and solar access is protected while preserving housing design options through the solar lot design standards, Section 22.630.

- (3) Protection from shade by vegetation is accomplished on a case by case basis through a solar access permit procedure, Section 22.640.

## 22.620 Solar Setback Standards

### 22.621 Applicability.

Any structure that requires a building permit on a lot to the south of a lot in a residential zone shall comply with Section 22.622 or 22.623 unless the applicant can demonstrate that any of the following apply:

- (1) Slopes. The average north facing slope from the northern property line to the natural grade at the building site exceeds 15 percent.
- (2) Pre-existing shade. The structure will shade an area that is shaded by one 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 that a tree will remain after development if it is: situated in a required setback, part of a developed area, public park, or legally reserved open space, part of landscaping or other features required pursuant to this Code, or is protected by a covenant or other restriction.
- (3) Insignificant Benefit. The shadow cast by the proposed structure shades one or more of the following:
  - (a) A non-developable area, such as a roadway, an area within a required setback, or a public use, excluding public open space uses.
  - (b) A wall of an existing non-residential structure or unheated space, such as a garage, excluding solar greenhouses and other similar solar structures.
- (4) Insignificant shadow. The structure casts a shadow less than four feet wide.
- (5) R-4 lot. The structure will be constructed on an R-4 zoned lot that is being developed at a density greater than 17.5 dwelling units per acre.



- (6) Solar Envelopes, Building Lines, and Recorded Exemptions Recorded under Prior Ordinances. Construction on a lot with a recorded solar envelope, solar building line on the lot to the north, or other recorded exemption may be exempt from the standards in Section 22.622 or 22.623, provided the construction complies with the conditions of the envelope, building line, or exemption.
- (7) Modified Setback Option. Development using the modified setback option shall comply with the alternative solar standards of Section 22.623. For purposes of calculating solar setbacks, attached buildings on abutting lots shall be considered one building.

22.622 Base Solar Setback Calculation

- (1) Calculating Minimum Solar Setback

The shade point of a structure shall be set back from the northern lot line not less than the setback specified in Schedule 22-2, or the amount calculated by the following formula:

$$SSB = (1.96 \times SPH) - 57 + (N/2)$$

Where:

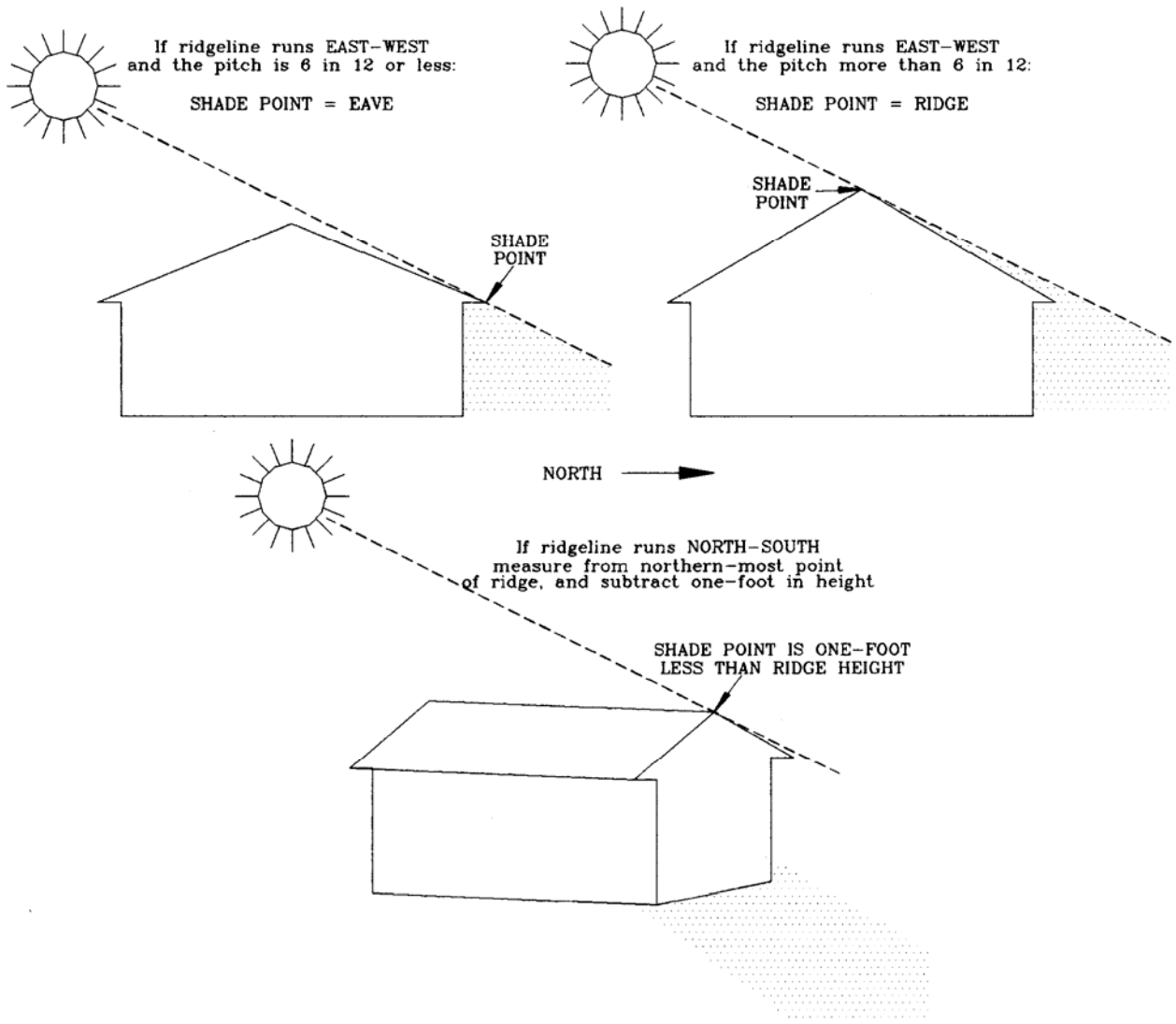
- SSB = The solar setback, in feet (the horizontal distance between the shade point and the northern lot line, in feet. See Article 30: Definitions);
- SPH = The shade point height, in feet (see Concept Sketch: Determining Shade Point and Article 30: Definitions); and
- N = The north-south lot dimension, in feet (See Article 30: Definitions). If the north-south lot dimension is more than 80 feet, a value of 80 is used.

- (2) Calculating Maximum Shade Point Height

The maximum shade point height shall be less than or equal to the height specified in Schedule 22-3, or as computed using the following formula:

$$SPH = \frac{(2 \times SSB) - N + 114}{3.92}$$

where the variables have the same meaning as in 22.622(1).



Concept Sketch: Determining Shade Point

Schedule 22-2: Minimum Solar Setbacks							
Shade Point Height in feet (SPH)	North-South Lot Dimension in feet (N)						
	80+*	75	70	65	60	55	50
	Minimum Solar Setbacks in feet (SSB)**						
10	2.6	0.1	0.0	0.0	0.0	0.0	0.0
11	4.6	2.1	0.0	0.0	0.0	0.0	0.0
12	6.5	4.0	1.5	0.0	0.0	0.0	0.0
13	8.5	6.0	3.5	1.0	0.0	0.0	0.0
14	10.4	7.9	5.4	2.9	0.4	0.0	0.0
15	12.4	9.9	7.4	4.9	2.4	0.0	0.0
16	14.4	11.9	9.4	6.9	4.4	1.9	0.0
17	16.3	13.8	11.3	8.8	6.3	3.8	1.3
18	18.3	15.8	13.3	10.8	8.3	5.8	3.3
19	20.2	17.7	15.2	12.7	10.2	7.7	5.2
20	22.2	19.7	17.2	14.7	12.2	9.7	7.2
21	24.2	21.7	19.2	16.7	14.2	11.7	9.2
22	26.1	23.6	21.1	18.6	16.1	13.6	11.1
23	28.1	25.6	23.1	20.6	18.1	15.6	13.1
24	30.0	27.5	25.0	22.5	20.0	17.5	15.0
25	32.0	29.5	27.0	24.5	22.0	19.5	17.0
26	34.0	31.5	29.0	26.5	24.0	21.5	19.0
27	35.9	33.4	30.9	28.4	25.9	23.4	20.9
28	37.9	35.4	32.9	30.4	27.9	25.4	22.9
29	39.8	37.3	34.8	32.3	29.8	27.3	24.8
30	41.8	39.3	36.8	34.3	31.8	29.3	26.8
35	51.6	49.1	46.6	44.1	41.6	39.1	36.6
40	61.4	58.9	56.4	53.9	51.4	48.9	46.4
45	71.2	68.7	66.2	63.7	61.2	58.7	56.2

\* For lots with a north-south lot dimension of more than 80 feet, use 80.

\*\* Where the minimum required solar setback would be less than the minimum setback allowed in the zoning district, the setback required in the zoning district governs. See Section 22.621 for exceptions in the R-4 zone.

Schedule 22-3: Maximum Shade Point Heights (in feet)							
Solar Setback in feet (SSB)	North-South Lot Dimension in feet (N)						
	80+*	75	70	65	60	55	50
	Maximum Shade Point Height in feet (SPH)**						
3	10.2	11.5	12.8	14.0	15.3	16.6	17.9
4	10.7	12.0	13.3	14.5	15.8	17.1	18.4
5	11.2	12.5	13.8	15.1	16.3	17.6	18.9
6	11.7	13.0	14.3	15.6	16.8	18.1	19.4
7	12.2	13.5	14.8	16.1	17.3	18.6	19.9
8	12.8	14.0	15.3	16.6	17.9	19.1	20.4
9	13.3	14.5	15.8	17.1	18.4	19.6	20.9
10	13.8	15.1	16.3	17.6	18.9	20.2	21.4
11	14.3	15.6	16.8	18.1	19.4	20.7	21.9
12	14.8	16.1	17.3	18.6	19.9	21.2	22.4
13	15.3	16.6	17.9	19.1	20.4	21.7	23.0
14	15.8	17.1	18.4	19.6	20.9	22.2	23.5
15	16.3	17.6	18.9	20.2	21.4	22.7	24.0
16	16.8	18.1	19.4	20.7	21.9	23.2	24.5
17	17.3	18.6	19.9	21.2	22.4	23.7	25.0
18	17.9	19.1	20.4	21.7	23.0	24.2	25.5
19	18.4	19.6	20.9	22.2	23.5	24.7	26.0
20	18.9	20.2	21.4	22.7	24.0	25.3	26.5
25	21.4	22.7	24.0	25.3	26.5	27.8	29.1
30	24.0	25.3	26.5	27.8	29.1	30.4	31.6
35	26.5	27.8	29.1	30.4	31.6	32.9	34.2
40	29.1	30.4	31.6	32.9	34.2	35.5	36.7
45	31.6	32.9	34.2	35.5	36.7	38.0	39.3
50	34.2	35.5	36.7	38.0	39.3	40.6	41.8
55	36.7	38.0	39.3	40.6	41.8	43.1	44.4

\* For lots with a north-south lot dimension of more than 80, use 80.

\*\* Where the maximum shade point height exceeds the maximum height allowed in the zoning district, the standards of the zoning district govern. See Section 22.621 for exceptions in the R-4 zone.

22.623 Alternate Solar Standards

As an alternative to the solar setback and maximum shade point heights given in Section 22.622 above, a structure may be built provided the applicant can demonstrate that it complies with any of the following:

(1) Performance Standard Option

A structure may be built such that it will shade no more than 50 percent of the south-facing ground floor wall of any existing residential structure to the north on January 21 at noon. To use this option, the applicant must submit a site plan with calculations and drawings that demonstrate this standard will be met.

Where there is no existing residential structure on any affected lot to the north, this performance standard option may be used if the applicant can demonstrate that:

- (a) the proposed structure would meet the performance standard for any residential structure built at existing grade on the affected lot to the north; or
- (b) no new residential building is likely to be built on the affected lot to the north that would cause the proposed structure to violate the performance standard. No new residential building is likely to be built on a lot that is already built to the maximum density, where the existing structures on the northern lot are less than 35 feet from its south property line, where the area within the shadow is improved with items such as driveways or non-residential buildings, or other circumstances would prevent construction in that area.

(2) Solar Building Line Option

This option allows a higher shade point where the affected lot to the north agrees to not build within the shadow of the proposed building.

The solar building line must comply with all of the following:

- (a) It must be oriented within 30 degrees of east.

- (b) It must be recorded with the County Clerk, either on a plat or separate documents. The plat or documents must bear the consent of the affected property owner to the north, and must state that the owner agrees that no residential structures may be built on the property south of the line.

Where the solar building line option is used, the shade point of structures on the southern lot must be set back south of the solar building line as determined by the following formula:

$$SSBL = (1.96 \times SPH) - 12$$

Where

SSBL = The setback from the solar building line to the shade point (in feet).

SPH = Shade point height (in feet).

22.624 Application Required. An application for a development or building permit subject to this section shall include a site plan prepared in accordance with Section 19.072 of this Code, and the following information:

- (1) The north-south lot dimension.
- (2) The shade point height.
- (3) If the performance standard option is used, the following must be included:
  - (a) The slope of the subject lot and the affected lot(s) to the north.
  - (b) Location, wall height, and distance from the south property line of existing residential structures on the affected lot(s) to the north.
  - (c) The shadow pattern of the proposed structure and calculations showing the percentage of the south wall of the affected structure to be shadowed.
- (3) If the solar building line option is used, evidence of the recorded solar building line.
- (4) Any other information necessary to determine compliance with this section.

22.630 Solar Lot Design Standard

22.631 Applicability and Purpose. The following requirements apply to all proposed subdivisions in residential zones. The standards are intended to encourage new subdivision lots to be oriented such that solar access to residences built on them will have access to sunlight, and will not excessively shade adjacent lots.

22.632 Solar Lot Design Standard.

- (1) At least 80 percent of lots in a residential subdivision shall:
  - (a) have a north-south dimension of at least 80 feet; or
  - (b) have a solar building line located on the lot(s) to the north of the subject lot. The solar building line shall be at least 85 feet north of the south property line of the subject lot. Construction on the lot shall be setback from the recorded solar building line in accordance with Section 22.623(2).
- (2) Any proposed lot that has a north-south lot dimension of at least 80 feet and a solar front line that is oriented within 30 degrees of east-west may be counted as though two of the lots in the subdivision meet the standards given in subsection (1) above.
- (3) Any proposed lot where any structure built on that lot would be exempt from solar setback standards as given in Section 22.621 of this Code shall not be included in the total number of lots in the subdivision when calculated the number of lots in subsection (1) above.

22.633 Solar Oriented Lot Bonuses.

Every fifth lot in a proposed subdivision that has a north-south lot dimension of at least 80 feet and a solar front line that is oriented within 30 degrees of east-west may be reduced in minimum lot width five percent, and reduced in lot area five percent. The lot reduced in size shall be considered to have the minimum lot area otherwise required for density calculations.

22.634 Exceptions. The Review Body may allow exceptions to the solar lot design standard where:

- (1) Topography, lot dimensions and standards, existing street patterns, existing development, adopted street plans or standards, or similar conditions would preclude redesign of the subdivision to meet the solar lot standard; or
- (2) Complying with the solar lot standard would reduce the total number of lots able to be platted in the subdivision.

Where an exception is granted, the review body may require that the subdivision comply with the solar standard to the extent practical.

22.640 Solar Access Permit (Applies to Vegetation Only)

22.641 Purpose and Description

- (1) Purpose. The purpose of the Solar Access Permit is to provide solar access to a productive solar energy system by establishing, on a case-by-case basis, limits on the growth of vegetation on certain lots in the vicinity of the solar energy system.
- (2) Description. Under this section, a person who uses a solar energy system, such as an unshaded south wall or an active or passive solar collector, can prevent that system from being obstructed by vegetation on other lots in the vicinity. It describes how to apply for such protection, how the permit is issued, and how it is enforced.

22.642 Applicability. An owner of property zoned R1, R2, R3, R4 and UR may apply for, and be subject to, a solar access permit.

22.643 Application for Permit. An application shall be on forms provided by the City and shall be completed by a solar access specialist approved by the City. The forms shall include:

- (1) A legal description of the lot on which the solar energy system is or will be situated, and proof that the applicant is the owner of the lot, or written authorization to make the application from the owner of the lot.



- (2) Evidence that a solar energy system is or will be installed.
- (3) A scaled drawing of the solar energy system showing the energy system's dimensions.
- (4) A sun chart.
- (5) The solar heating hours for which protection is sought.
- (6) A list of the lots, all or a portion of which, are within 150 feet as measured within 55 degrees east or west of true south of the solar energy system, including unbuildable areas, and, the following information for each such lot: the legal description; the owner of record and his or her address, and vegetation identified as exempt and non-exempt.
- (7) A plan of the applicant's property, drawn to scale, accurately showing the location of the following: vegetation shown on the sun chart required by Section 22.643 (4), labeled exempt or non-exempt; other vegetation that may shade the solar energy system, labeled exempt or non-exempt; and the solar energy system, its height above grade, distance from property lines, and orientation from true south.
- (8) For each affected lot, a description of the requested Solar Access Permit Height Limitations.
- (9) Evidence the height of the requested solar envelope at a northern lot line is not less than the permitted height of the solar fence on that lot under the Solar Setback standards.
- (10) Evidence the solar energy system will be situated on the applicant's property so each other property affected by the permit is restricted to the minimum extent practicable.
- (11) The required application fee.

22.644 Review Procedure.

- (1) A Solar Access Permit shall be processed according to the procedures in Schedule 2-1.
- (2) Notice that an application for a permit has been filed shall be mailed to all the property owners affected if the permit is granted.

- (3) When the permit application is filed, the City shall file a notice of intent to record a solar access permit in the chain of title of all affected properties.
- (4) If the permit is not granted, if the applicant withdraws the application request, or if the permit is not recorded within 30 days after it is granted, the City shall remove the notice of intent to file a solar access permit from the chain of title of the affected properties.
- (5) If legal title changes or creation of equitable interest in an affected property occurs between the time of notice and before recordation of the permit, within 15 days after recordation, any new affected party may petition the Director to re-open the permit proceedings. The Director shall re-open the proceedings as a new meeting.

22.645 Recordation

- (1) Recordation. Within 30 days of receiving a permit, the applicant shall record the permit in the chain of title of the applicant's property and each affected property.

22.646 Permit Enforcement

- (1) Enforcement Request. A solar access permittee may request that the Director enforce the provisions of the Solar Access Permit by providing the following information to the Director:
  - (a) A copy of the Solar Access Permit.
  - (b) A new sun chart documenting that non-exempt vegetation is shading the solar energy system during protected solar heating hours and no higher than 10 feet.
  - (c) The legal description of the lot on which the alleged non-exempt vegetation is situated, the address of the property owner, and a scaled plot plan showing the non-exempt vegetation on the lot.
  - (d) Evidence that the solar energy system still exists and is operating.
  - (e) Evidence that the solar energy system still exists and is operating.

(f) If the permittee allows non-exempt vegetation to encroach 10 feet or more into his protected area before filing a request for enforcement shall be denied.

(2) Enforcement Notice. If the Director finds that the permittee's request for enforcement is complete and accurate, the Director shall notify by registered mail to the last known address the owner of the property on which the allegedly shading vegetation is situated. The notice shall include information submitted to the Director under Section 22.645 (1); a description of the rights and responsibilities of the affected property owner under the provisions of the Solar Access Permit, including potential charges and hearing rights; and a form to submit to the Director to request a hearing. Also the notice shall describe the specific actions the alleged violator is required to take to comply with the permit if the violation exists as alleged.

(3) Enforcement Process. Within 14 days of the date the notice was mailed under Section 22.645 (2), the owner of the property on which the allegedly shading vegetation is situated, or his/her representative, may request to review the alleged violation pursuant to Sections 2.040 through 2.046 of this Code.

(4) Remedy and Assignment of Costs. Within 30 days after the Director mails written notice of the violation or, if a meeting is requested, within 30 days after the final decision finding a violation exists, the owner of the property on which the offending vegetation is situated shall trim the vegetation and notify the Director of his or her action. If the owner does not trim the vegetation in that time, the City shall employ, contract, or assign staff to trim the offending vegetation so that it does not violate the permit. The permittee shall be charged for the cost of trimming any non-exempt vegetation that was listed on the recorded permit. The owner of the property on which the offending vegetation is situated shall be charged for the cost of trimming any non-exempt vegetation that was not listed on the permit. Charges shall be a lien on the property until paid.

22.647 Permit Termination. The permittee or affected property owner shall notify the Director if the solar energy system does not function for 12 consecutive months. The Director shall revoke the solar access permit if the solar energy system does not function for 12 consecutive

months or if requested by the permittee or his or her successor in interest. The Director shall send the permittee and all other owners of property affected under the permit a Notice of Termination by first class mail, within 30 days after the Director mails the Notice of Termination, the City shall record the Notice in the chain of title for each property that was affected by the permit.

22.680 Applicable Terms.

Refer to Article 30 for definitions.

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<sup>1</sup> Revised 1-3-96

<sup>2</sup> Revised 3-16-94; Revised 1-3-96

<sup>3</sup> Revised 3-3-91

<sup>4</sup> Revised 3-16-94

<sup>5</sup> Revised 3-3-91

<sup>6</sup> Revised 3-3-91

<sup>7</sup> Revised 3-16-94

<sup>8</sup> Revised 10-1-03 by Ordinance #5194.

<sup>9</sup> Revised 4-20-05 by Ordinance #5285.

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## Article 23: Landscape and Buffering Standards

### 23.010 Purpose and Concept

- (1) Trees, shrubs and living ground-cover provide shade and shelter, aiding in energy conservation and moderating local climate in developed areas. Plant materials eliminate pollutants from the air we breathe, and maintain physical health and mental equilibrium by fulfilling an instinctive need for contact with the natural environment. Major gateways to the City and key travel routes through the City and urbanizing area give a lasting impression to the visitor for good or ill, an impression critical to our tourist economy. The knowledgeable use of plant materials by experienced professionals can achieve these extraordinary benefits at very little cost.
- (2) In these terms, landscaping is a significant factor in maintaining the livability and economic viability of the community. The purpose of this Article is to provide standards for Landscaping and Buffering within the Grants Pass Urban Growth Boundary Area.

### 23.020 Landscaping Required

Landscaping shall be required in all the following areas:

- (1) In all required front and exterior side yards, as provided in Section 23.030, Types A, B & C.
- (2) As provided in the Major Thoroughfare and Gateway Plan, and special area plans such as the Downtown Plan, including landscaping, street trees, sidewalk treatment and street furniture. Where a conflict exists between such area plans and the base standards of Section 23.030, the area plans shall prevail.
- (3) At vehicle parking, loading, access and maneuvering areas, as provided in Section 23.035, Type E.
- (4) At buffering between zones, as provided in Section 23.034, Type D.
- (5) At required interior open space and recreation areas, as provided in Section 22.102.

- (6) In addition, screening or design consideration shall be given for refuse areas, service corridors and light and glare, as provided in Section 23.036, Type F.

<sup>1</sup>23.030 Landscape and Buffering Development Standards

All required landscaped yards and buffer strips shall meet the standards of the appropriate Landscape and Buffer Type and the general provisions of this Section.

23.031 Type A: Residential Front and Exterior Yards

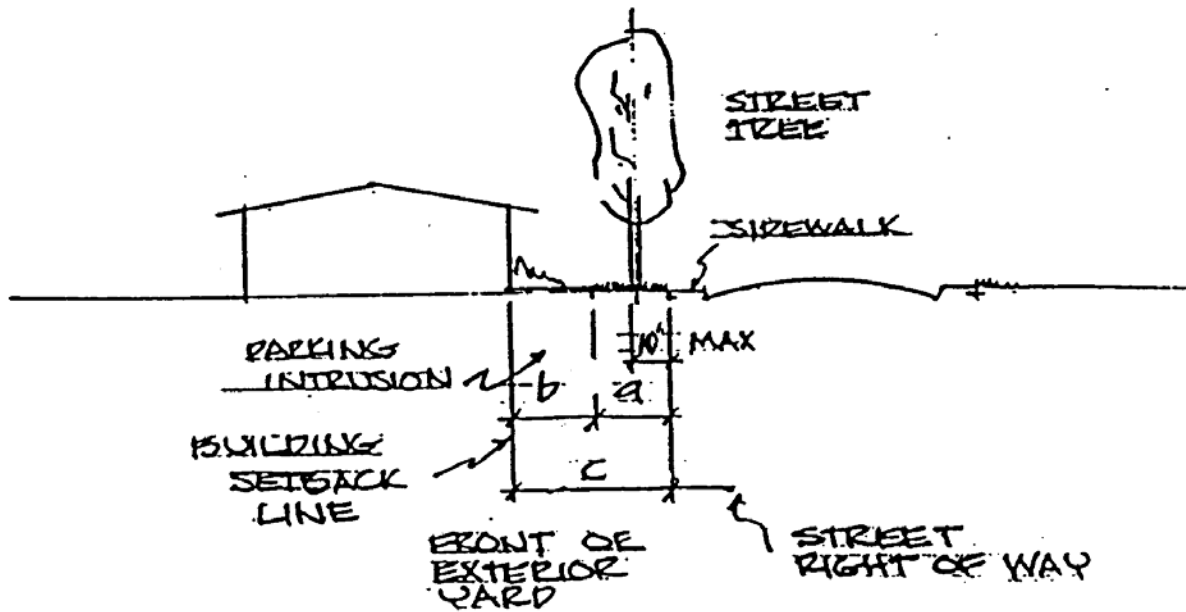
- <sup>6</sup>(1) The following landscape standards shall apply to residential uses in residential zones:
  - (2) Required front and exterior yards shall be landscaped, and building setbacks shall be maintained, according to the Type A Concept Sketch and Schedule 23-1. Minimum landscape requirements per 1000 square feet of a required front or exterior yard, or any portion thereof, shall be the following:
    - <sup>6</sup>(a) One tree at least six feet in height, and one inch in caliper measured three feet from the base. Select from street tree list, Section 23.076, and plant within 10' of right-of-way limit as per Type A Concept Sketch.
    - (b) Four one gallon shrubs or accent plants.
    - <sup>6</sup>(c) Remaining area treated with attractive living ground-cover, as defined in Article 30. Coverage with shrubs or living ground-cover shall be at least 50% upon installation and 90% after 3 years.
    - (d) If a sidewalk is required, no plant materials shall be installed between the curb and the sidewalk except in accordance with an approved landscape plan.
  - (3) No vehicle parking shall be permitted within a required landscaped yard, except the following:
    - (a) For single family and duplex dwellings, two vehicle spaces per dwelling unit, provided that a ten foot width of continuous landscaped area is maintained between the street right-of-way and the vehicle parking area.



- (b) For all uses in R-3 and R-4 zones, up to a five foot depth of continuous parking intrusion, but only when all the following conditions are met:
- 1) Landscaping equal in area to the parking intrusion is provided elsewhere between the front building line and the street right-of-way.
  - 2) Parking is screened as provided in Section 23.035, Type E.
  - 3) The required front or exterior yard is not also serving as a required buffer strip, as provided in Section 23.034, Type D.
- (4) Approved plant materials installed in the area between the curb and the sidewalk may be used in meeting the landscaping requirements for front and exterior yards.

Residential Yard, Setback and Parking Intrusion - Schedule 23-1				
Type A Concept Sketch Distance				
Zone	(a) Parking Setback	(b) Parking Intrusion	(c) Required Yard Front/Exterior	
UR	10'	up to 2 vehicles/d.u.	20'	10'
R-1	10'	up to 2 vehicles/d.u.	20'	10'
R-2	10'	up to 2 vehicles/d.u.	20'	10'
R-3	10'	up to 5 ft.	20'	10'
R-4	10'	up to 5 ft.	10'	10'

\* = see 23.031(2)(a)  
d.u. = dwelling unit.  
ft. = linear feet.



Type A: Concept Sketch  
See Schedule 23-1 for (a), (b) and (c) distances

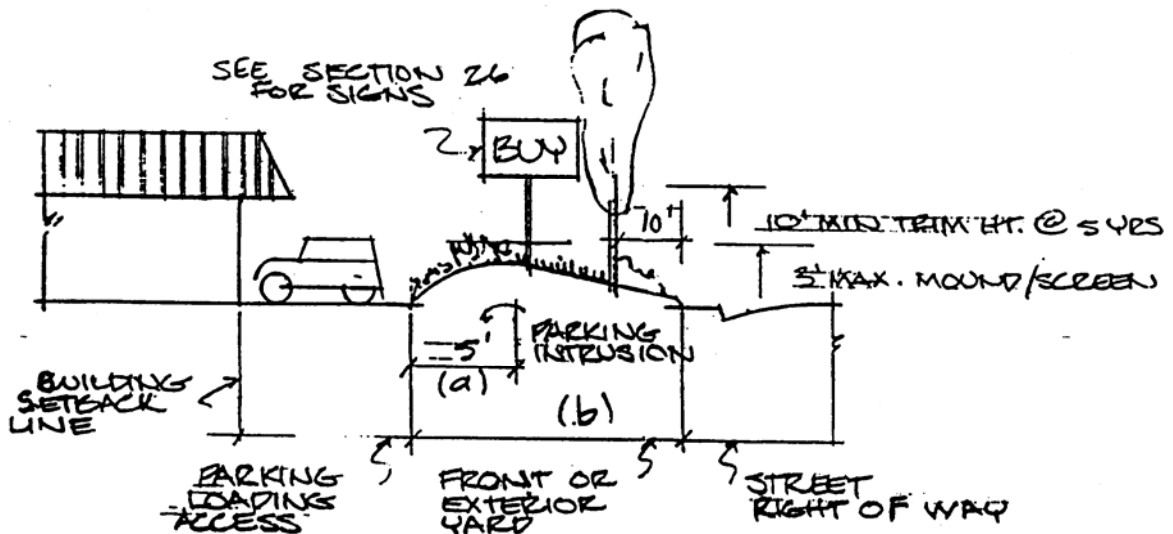
23.032 Type B: Commercial and Indoor Industrial Front and Exterior Yards

- <sup>6</sup>(1) The following landscape standards shall apply to commercial and indoor industrial uses in residential, commercial, and indoor industrial zones; and to residential uses in commercial and indoor industrial zones.
- (2) Required front and exterior yards shall be landscaped, and building setbacks shall be maintained, according to the Type B Concept Sketch and Schedule 23-2. Minimum landscape requirements per 1000 square feet of a required front or exterior yard, or any portion thereof, shall be the following:
  - <sup>6</sup>(a) Three trees at least eight feet in height, and one and one-half inches in caliper measured three feet from the base. Select from street tree list, Section 23.076, and plant within 10 feet of the right-of-way as per Type B Concept Sketch. Trees may be offset to permit signs in the Landscape Yard, but only as provided in Section 26.050, Landscape Yard Signs. Trees shall be kept trimmed of branches up to 14' from base five years following planting.
  - (b) Five five-gallon and ten one-gallon shrubs or accent plants.
  - (c) Remaining area treated with attractive living ground-cover, as defined in Article 30. Coverage with shrubs and living ground-cover shall be at least 50% upon installation and 80% after 3 years.
- (3) No vehicle parking shall be permitted within a required landscaped yard, except up to a five foot depth of continuous parking intrusion, but only when all the following conditions are met:
  - (a) Landscaping equal in area to the parking intrusion is provided elsewhere between the front building line and the street right-of-way.
  - (b) Parking is screened as provided in Section 23.035, Type E.
  - (c) The required front or exterior yard is not a required buffer strip, as provided in Section 23.034, Type D.

- 4) Signs may be permitted in required landscaped yards, subject to the provisions of Section 26.050, Landscape Yard signs.
- (5) Approved plant materials installed in the area between the curb and the sidewalk may be used in meeting the landscaping requirements for front and exterior yards.

Commercial/Indoor Industrial Yard, Setback and Parking Intrusion - Schedule 23-2			
Type B Concept Sketch Distance			
Zone	(a) Parking Intrusion	(b) Required Yard and Building Setback Front / Exterior	
NC	5'	20'	10'
GC	5'	10'	10'
CBD	5'	None*	None*
BP	5'	10'	10'
IP	5'	20'	10'

\* Sidewalk treatment and street trees required per Downtown Plan. See Section 23.020 (2).

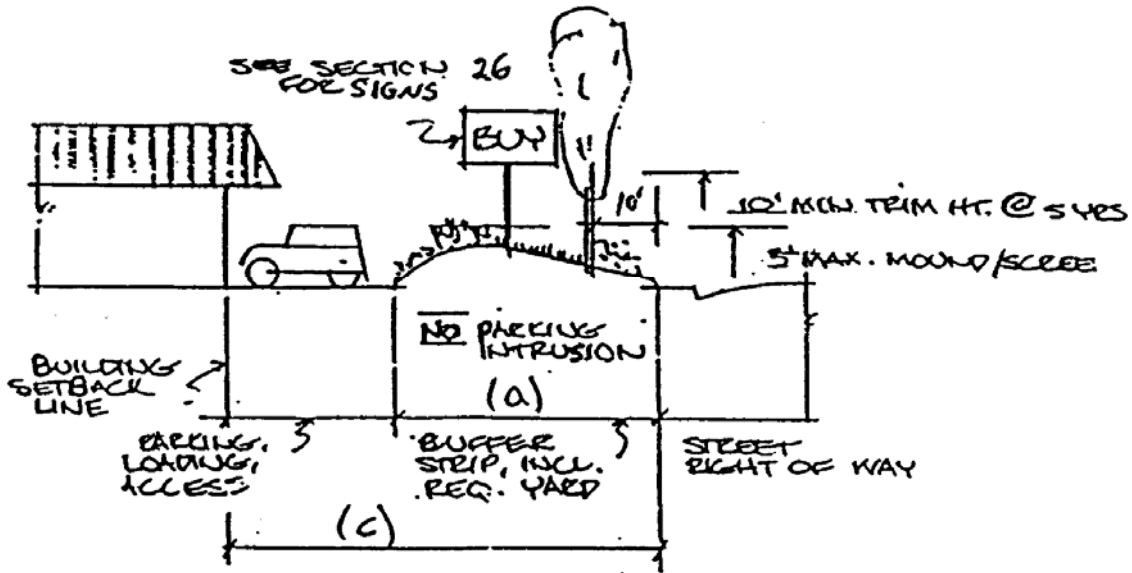


Type B Concept Sketch

23.033 Type C: Outdoor Industrial Front and Exterior Yards

- <sup>6</sup>(1) The following landscape standards shall apply to outdoor industrial uses in outdoor industrial zones; and to residential, commercial, and indoor industrial uses in outdoor industrial zones:
- (2) Required front and exterior yards shall be landscaped, and building setbacks shall be maintained, according to the Type C Concept Sketch and Schedule 23-3. Minimum landscape requirements per 1000 square feet of a required yard, or any portion thereof, shall be the following:
  - <sup>6</sup>(a) Three trees at least ten feet in height and two inches in caliper measured three feet from the base. Select from street tree list, Section 23.076, and plant within 10 feet of the right-of-way as per Type C Concept Sketch. Trees may be offset to permit signs in the Landscape Yard, but only as provided in Section 26.050, Landscape Yard Signs. Trees shall be kept trimmed of branches up to 14' from base five years following planting.
  - (b) Fifteen five-gallon shrubs or accent plants.
  - (c) Remaining area treated with attractive living ground-cover, as defined in Article 30. Coverage with shrubs and living ground-cover shall be at least 50% upon installation and 80% after 3 years.
- (3) No vehicle parking or maneuvering shall be permitted within a required landscaped yard.
- (4) Signs may be permitted in required landscaped yards, subject to the provisions of Section 26.050.
- (5) Approved plant materials installed in the area between the curb and the sidewalk may be used in meeting the landscaping requirements for front and exterior yards.

Outdoor Industrial Yard, Setback and Parking Intrusion Schedule 23-3			
Type C Concept Sketch Distance			
Zone	(a) Parking Intrusion	(b) Required Yard and Building Setback Front/Exterior	
I	-	10'	10'



Type C Concept Sketch

23.034 Type D: Buffering Between Zones. Buffering shall be required between zones. The property owner of each proposed development is responsible for the installation and maintenance of required buffers. The Director may waive the buffering requirements of this Section where such has been provided on the adjoining property in conformance with this Code.

- (1) Required buffer strips shall be landscaped, and building setbacks shall be maintained, according to the appropriate Type D Concept Sketch and Schedule 23-4. Buffer strips facing a street shall include any required front or exterior yard, and shall not be required in addition to such yard.

- (2) Buffer strips facing a street shall require minimum planting as follows:
  - (a) For Commercial/Indoor Industrial Zones facing a Residential Zone, Type B planting, Section 23.032 (1).
  - (b) For Outdoor Industrial Zones facing either Commercial or Indoor Industrial Zones, Type C planting, Section 23.033 (1).
- (3) Buffer strips facing a property line shall require minimum planting of at least one row of trees, not less than eight feet high and one and one-half inches in caliper for deciduous trees and five feet high for evergreen trees at the time of planting, and spaced not more than 15 feet apart. Appropriate species may be counted as parking lot trees on an interior buffer, but only for those parking spaces abutting the buffer strip. The area beneath the trees shall be planted with a living ground-cover or shrubs giving 50% coverage at planting and 100% coverage within 3 years.
- (4) No parking, loading or vehicle maneuvering area shall be permitted within a required buffer strip, excepting only a bike path.
- <sup>6</sup>(5) Type D-4 interior buffers may be approved only upon the written agreement of all abutting parties, and the filing of a reciprocal maintenance and use easement by the appropriate party. Installation of plant materials and irrigation shall be at the expense of the party initially developing and as found in Section 23.050, responsibility for ongoing maintenance shall be specified in the easement document as required in Schedule 23-4. Minimum plantings shall meet the requirements of Type A, Section 23.031, when facing a residential zone, and shall meet the requirements of Type B, Section 23.032, when facing a commercial zone.
- (6) Sound obscuring walls shall be of attractive masonry construction, or a combination of masonry and earth mound. Masonry materials shall be limited to brick, slump block or split block, all with integral color other than gray.

<sup>7</sup>Zone Buffer Building Setback and Buffer Strip - Schedule 23-4

<b>Buffering Between Zones</b>	<b>Buffer Type</b>	<b>Building Setback Line*</b>	<b>Buffer Strip</b>	<b>Facing Wall Building Openings</b>	<b>Fence or Wall Height</b>
Commercial or Indoor Industrial to Residential at Street	D-1	at R1-R3: 30' at R-4: 20'	20' 10'	Yes Yes	None None
Outdoor Industrial to Residential at Street, or to Indoor Industrial at Street, or to Commercial at Street	D-2 D-2 D-2	30' 30' 30'	20' 10' 10'	No** No** No**	Fence or Wall 6' As required to meet sound standards Section 24.170. As required to meet sound Standards Section 24.170.
Commercial or Indoor Industrial or Outdoor Industrial to Residential at Property Line	D-3 D-3 D-3	20' 20' 30'	3' 3' 3'	Yes No No	Fence 6' Fence 6' Wall 8'
Outdoor Industrial to Commercial or to Indoor Industrial at Property Line	D-3	30'	3'	No	As required to meet sound standards Section 24.170
Manufactured Housing Park	D-3	10'	5'	Yes	Fence 6'
Commercial or Indoor Industrial or Outdoor Industrial to Residential Property Line Option	D-4 D-4 D-4	5' 5' 10'	Easement Easement Easement	No No No	Wall 6' Wall 6' Wall 8'

Fence = Sight obscuring fence

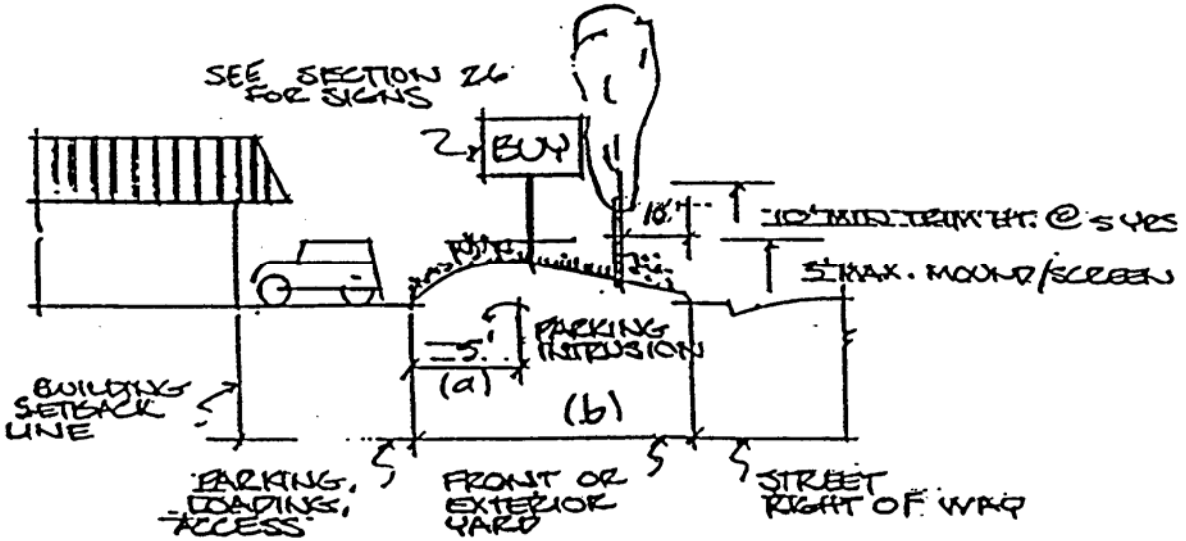
Wall = Sound obscuring wall, of attractive materials as provided in Section 23.034 (6)

\* Building Setback Line measured from street right-of-way.

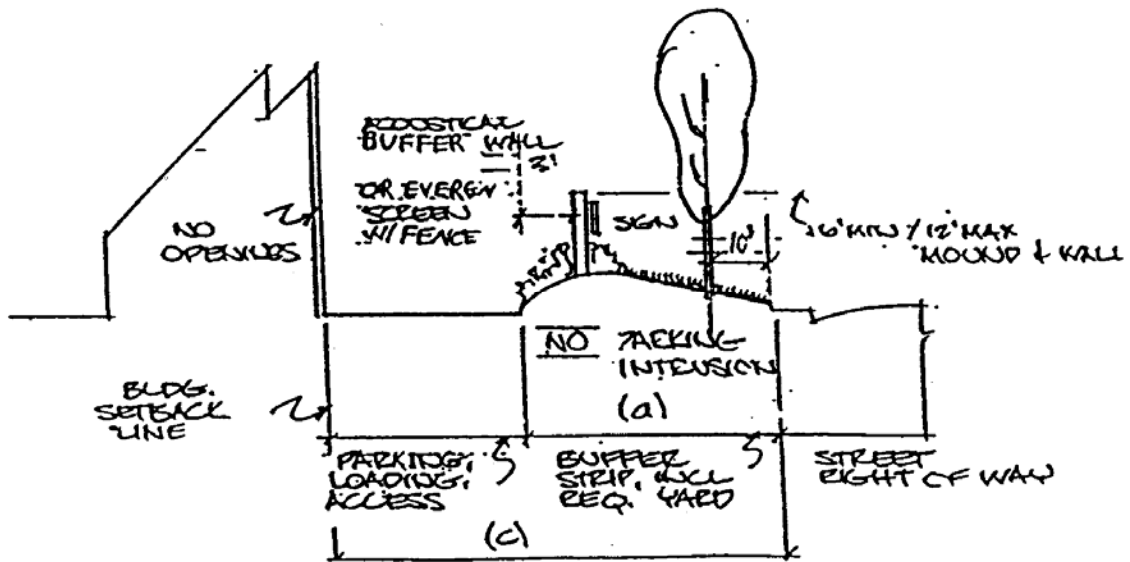
\*\* Windows and person-doors for customer entrances are permitted into office areas, lobbies, and similar areas that do not contain noise or odor producing equipment, materials, or machinery, provided sound standards of Section 24.170 are met. Overhead doors and other openings are prohibited.



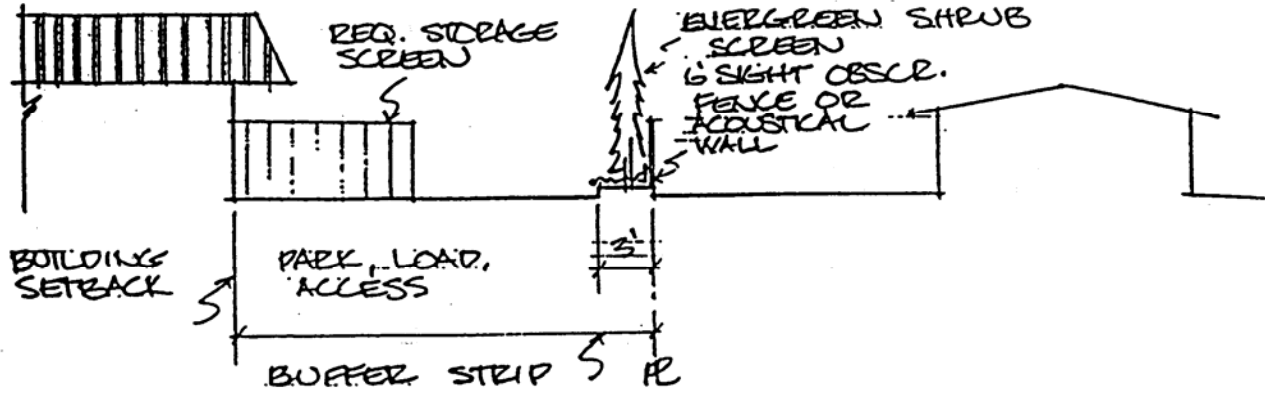
Type D-1 Concept Sketch  
Commercial Buffering at Street



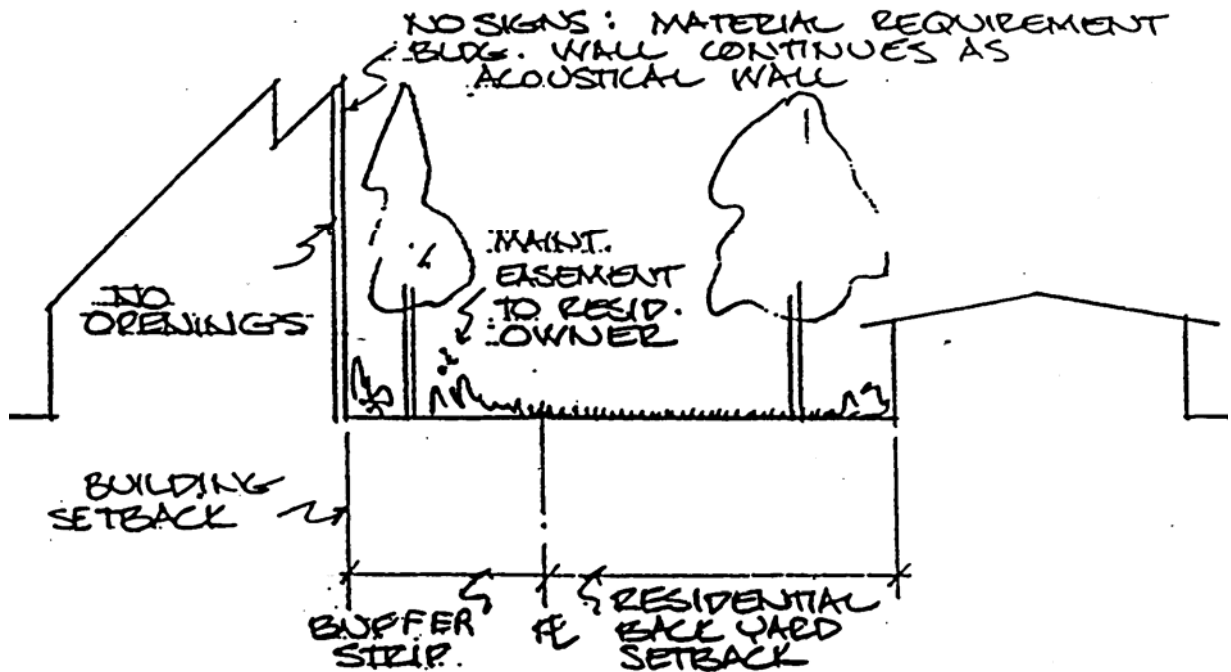
Type D-2 Concept Sketch  
Industrial Buffering at Street



Type D-3 Concept Sketch  
Commercial/Industrial Buffering at Property Line



Type D-4 Concept Sketch  
Commercial/Industrial Buffering Option at Property Line



23.035 Type E: Parking Lot Landscaping and Screening

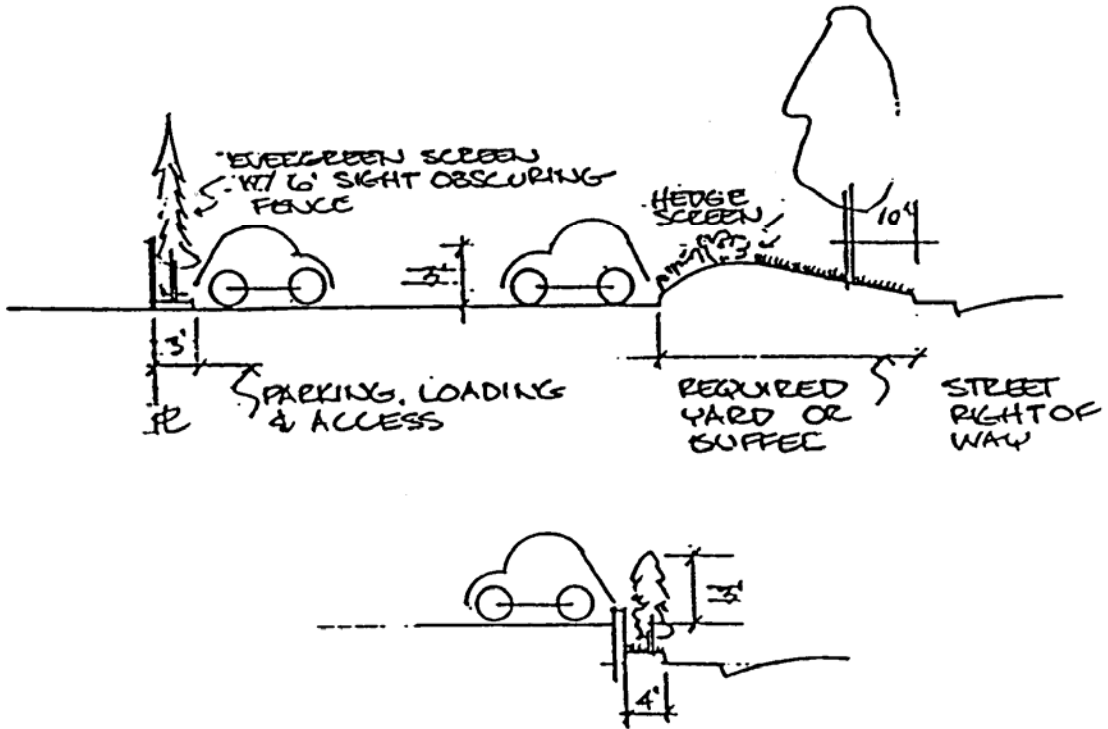
All parking lots, which for purposes of this Section shall include areas of vehicle maneuvering, parking and loading, shall be landscaped and screened according to the appropriate concept sketch and criteria, as follows:

- (1) Screening at Required Yards. Parking abutting a required landscaped front or exterior yard shall incorporate a sight obscuring hedge screen into the required landscaped yard. The screen shall grow to be 18 inches higher than the finish grade of the parking area. The screen height may be achieved by a combination of earth mounding and plant materials. Elevated parking lots shall screen both the parking and the retaining wall. See Type E-1 Concept Sketch.
- (2) Screening Abutting Property Lines. Parking abutting a property line shall be screened by a 3' landscaped strip according to Schedule 23-5. Where a zone buffer is required, the screening shall be incorporated into the required buffer strip, and shall not be an additional requirement.
- (3) Landscape Standards. Parking lot landscaping shall be provided at the ratio of 1 tree and 16 square feet landscaping per ten parking spaces, in order to create a canopy effect. Trees and landscaping shall be installed as follows and as shown in the Type E-2 Concept Sketch.
  - (a) The tree species shall be an appropriate large canopied shade tree, and shall be selected from the street tree list to avoid root damage to pavement and utilities, and damage from droppings to parked cars and sidewalks.
  - (b) The tree shall be planted in a landscaped area such that the tree bole is at least 2 feet from any curb or paved area.
  - (c) The landscaped area shall be planted with shrubs and/or living ground-cover to assure 100% coverage within 2 years.
  - (d) Landscaped areas shall be evenly distributed throughout the parking area and parking perimeter at the required ratio.
  - (e) That portion of a required landscaped yard, buffer strip or screening strip abutting parking stalls may

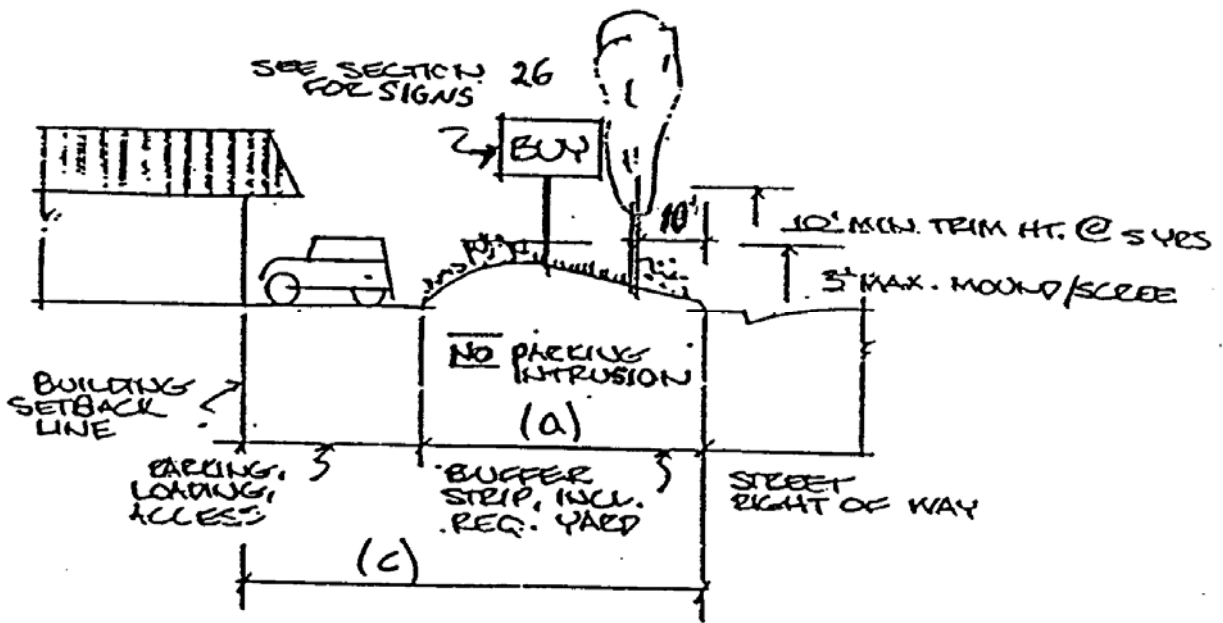
be counted towards required parking lot landscaping but only for those stalls abutting landscaping so long as the tree species, living plant material coverage and distribution criteria are also met. Front or Exterior yard landscaping may not be substituted for the interior landscaping required for interior parking stalls.

- (4)<sup>2</sup> Residential Screening. Where a parking area or driveway would be located adjacent to a window on a residential building, the review body may require a hedge, mound, or other screen between the parking area or driveway and the window as per Type E-3 Concept Sketch.
- (5) Wheel Guards. Parking lot landscaping shall be protected from damage by a secured wheel guard to prevent vehicles extending into landscaped areas.
- (6) Hedge Screening. The hedge screen required in this Section shall be installed as follows:
  - (a) Evergreen shrubs of a species, initial size and on-center planting such that 50% of the desired screening is achieved in 2 years, 100% before 4 years, and the desired height is not exceeded.
  - (b) Living ground-cover in the screen strip such that 100% coverage is achieved within 2 years.
- (7) Hardship Variance of Parking/Landscape Standards.
  - (a) For pre-existing lots with pre-existing development requiring a Development Permit, and unable to meet both the parking and the landscape provisions of this Code due to pre-existing lot and building configurations, the Director may authorize departure from the parking and landscape standards as follows: Required parking spaces reduced by up to 25%, required landscaped area reduced by up to 10%.
  - (b) No standards relating to size of plant materials, amount of living plant material coverage, or irrigation shall be reduced or waived. Any further reduction of parking or landscape standards shall require the Major Variance procedure as provided in Article 6.

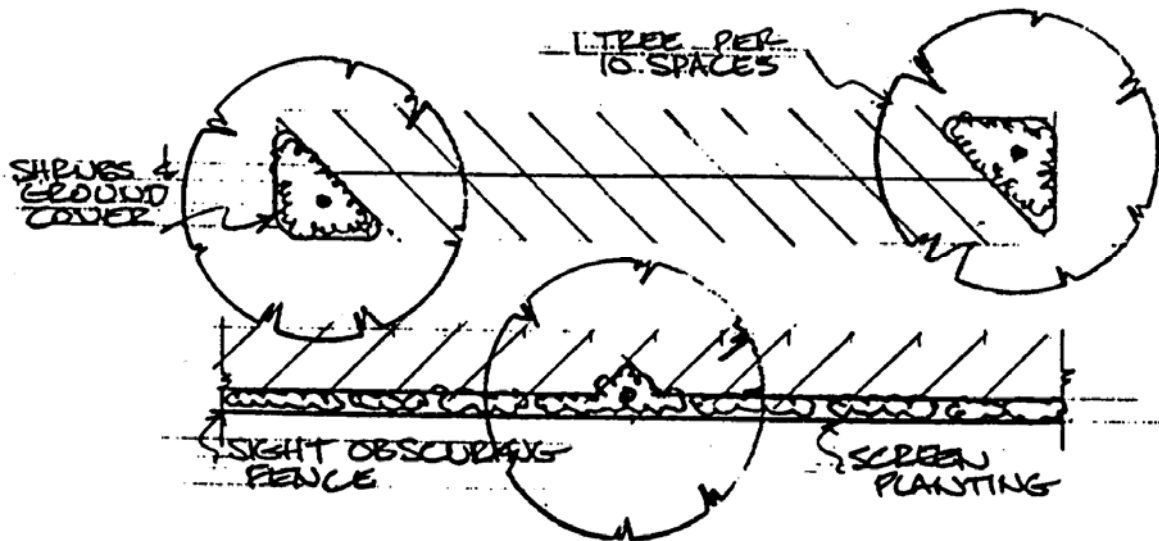
Parking Lot Screening Abutting Property Line Schedule 23-5		
Use of Proposed Parking	Use of Adjacent Property	Required Screening*
Commercial or Industrial	Residential	6' sight obscuring fence 8'-12' height hedge screen
	Commercial	18" height hedge screen
* The minimum width of required hedge screening is 3 ft. The screen area shall be 100% covered with living groundcover within 2 years.		

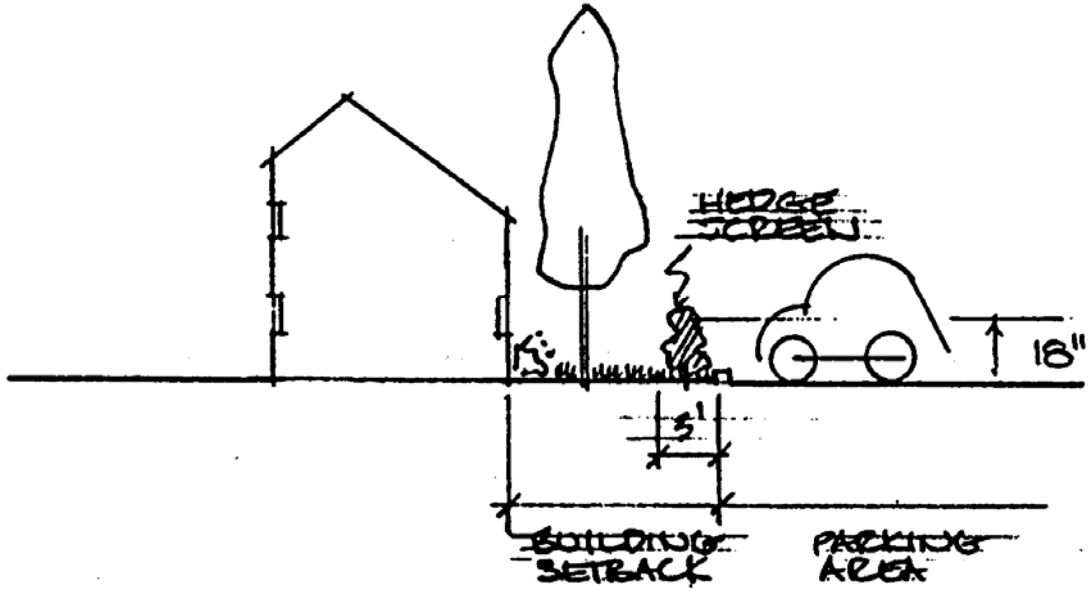


Type E-1 Concept Sketch  
Parking Lot Screening



Type E-2 Concept Sketch  
 Parking Lot Screening





Type E-3 Concept Sketch  
Parking Lot Landscaping

23.036 Type F: Other Screening. Other screening and buffering shall be provided as follows:

- (1) Refuse Container Screen. Except for single family detached dwellings, any refuse container or disposal area shall be screened from view by placement of a solid wood fence or masonry wall from five to eight feet in height. All refuse materials shall be contained within the refuse area.
- (2) Service Corridor Screen. When adjacent to residential uses, commercial and industrial service corridors shall be screened with Type E-1 screening. Siting and design of such service areas shall be such as to reduce the adverse effects of noise, odor and visual clutter upon adjacent residential uses.
- (3) Light and Glare Screen. Artificial lighting shall be so arranged and constructed as to not produce direct glare on adjacent residential properties or streets.

<sup>4</sup>23.037 Fencing

- (1) Fences in residential zones shall not exceed three feet in height in exterior yards and six feet in height in interior yards. However, a fence up to four and a one-half feet high may be placed a minimum of five feet from the front or exterior side/rear property line provided a continuous hedge is placed between the fence and the property line. The hedge shall, at a minimum, consist of one-gallon or larger hedge plants with a minimum space of four feet, and shall achieve a minimum height of three feet in two years.
- (2) In commercial and industrial zones, any fence over three feet high shall be locate behind any required landscaped front or exterior/rear side yard. Any fence in an interior side or rear yard shall not exceed eight feet in height.
- (3) Fences required as part of a zone buffer, Section 23.034, may exceed the maximum height for structures in that zone.
- (4) A fence meeting required building setbacks may not exceed the maximum height for structures in that zone.



- (5) Where permitted, a fence over six feet high requires a building permit as required by the applicable Building Code.
- (6) No fencing shall conflict with the requirements of the clear vision area for streets and driveways.
- (7) Every fence shall be maintained in a condition of reasonable repair and not be allowed to become or remain in a condition of disrepair including noticeable leaning, or missing sections, broken supports, non-uniform height, and growing or noxious vegetation.
- (8) Link fencing less than seven feet in height shall be constructed in such a manner that no barbed ends shall be at the top.
- (9) Barbed wire fences are prohibited at less than six feet above grade.
- (10) Electric fences are prohibited.
- (11) A fence height may be measured from the grade of either side of the fence, at the applicant's option, unless the fence is a retaining wall. A retaining wall for an area filled with soil, rocks or any other material used to raise the property is considered a fence. Its height shall be measured from the lower of the two finish grades.

<sup>6</sup>23.040 Submittal Requirements

In accordance with the major site plan submittal requirements of Section 19.072, at the time of application for major site plan review the applicant shall submit:

- (1) A landscape plan including items specified in Section 23.041 and an irrigation plan with the items specified in Section 23.042; or
- (2) A Concept Plan including the items specified in Section 23.043, if the applicant has obtained prior approval from the Director of the Community Development Department to follow the optional concept plan process.

23.041 Landscape Plan. The required Landscape Plan shall include the following:

- (1) Identification and location of all existing trees over 8 inches in diameter as measured 3 feet from ground level, with notations indicating whether they are to be removed or utilized in the development. Clusters of trees may be noted in approximate locations.
- (2) Existing and finished grades, with sections showing cut and fill for areas to be excavated below soils containing organic matter.
- (3) Indication of general drainage flow with arrows, and location of all surface drains and subsurface drainways.
- (4) Location of all required yards, screening and buffering areas, easements, and public rights-of-way, building foundations or pads, parking areas, walkways and other impervious surfaces, and all accessways and private streets.
- (5) A schedule showing the percentage of impervious surface, landscaped area, and recreation open space, as a percentage of usable site area.
- (6) Plant materials, including identity and spacing, using both symbol and schedule if necessary.
- (7) Typical sections at building mass, planters in paved areas, landscape strips 10' in width or less, and landscaped berms, showing excavation, topsoil fill, finished grade, plant materials and irrigation.
- (8) Other items needed to meet requirements of this Code, of landscape conditions resulting from Development Permit review.

<sup>6</sup>23.042 Irrigation Plan: The required irrigation plan shall include the following:

- (1) Location of connection to the public water main and location of stub-outs to separate landscape areas.
- (2) Identification of the type of irrigation system to be used, the location of irrigation facilities, and coverage to be achieved by the irrigation system.

- (3) An accompanying letter from the designer of the landscape plan stating that the design of the proposed irrigation system can provide irrigation sufficient for the health and survival of the tree and plant species specified in the landscape plan.

<sup>6</sup>23.043 Concept Plan Option:

The applicant may utilize the Concept Plan option, if approval from the Director of the Community Development Department is obtained prior to application submittal.

- (1) Concept Plan shall be submitted at time of application and the landscape and irrigation plans shall be submitted prior to issuance of the building permit as specified below.
- (2) The Concept Plan shall include the following information:
  - (a) Location of all proposed landscape areas and square footage calculation of each area.
  - (b) Minimum number and size of the trees, 5-gallon, and 1-gallon shrubs to be planted in each landscape area.
  - (c) Location and size of existing trees that are to be removed and the trees that are to remain.
  - (d) Location of the irrigation service from the public water main, and location of the stub-outs to each landscape area.
- (3) The landscape plan prepared in accordance with Section 23.041, and the irrigation plan prepared in accordance with Section 23.042 shall be submitted and approved prior to issuance of a building permit.

<sup>6</sup>23.044 Coordination With Other Required Plans. The required landscape plan, irrigation plan, and concept plan may be combined with other plans required by this Code, such as the drainage plan, erosion control plan, and site plan, so long as all information required may be presented in a clear and understandable fashion.

<sup>6</sup>23.050 General Landscape Design, Construction, and Maintenance Standards

All landscape and irrigation materials shall be designed, constructed, and maintained according to the standards of this Article and the following provisions:

<sup>6</sup>23.051 Design

- (1) Except single family residences and duplexes, all development shall provide an automatic underground irrigation system.
- (2) The landscape plan shall specify landscape materials which will achieve required levels of coverage as specified in this Article.

<sup>6</sup>23.052 Construction

- (1) All landscaping materials and irrigation shall be installed according to approved plans.
- (2) Preservation of Existing Plant Materials:
  - (a) The applicant shall provide methods for the protection of existing plant material to remain during the construction process. The plants to be saved shall be shown on the Landscape Plan or the Concept Plan and the method of protection shall be noted on the landscape plans. Example: Areas not to be disturbed can be temporarily fenced, as in snow fencing which can be placed around individual trees.
  - (b) Existing trees shall not have construction occur within the drip line, where possible. Trees to be saved shall be kept free from truck abrasion or soil compaction during construction, nor shall cut and fill occur within the drip line. The landscape plan shall provide for the location and variety of replacement trees in case of the subsequent death of existing trees.
- (3) Soil Treatment in Landscaped Areas:
  - (a) Areas for required landscaping shall not be used as a waste dump or fill during the construction process. All waste material shall be removed from such areas prior to the application of topsoil.

- (b) Soils devoid of organic materials shall not be utilized as topsoil for required landscape areas. Where such areas have been excavated to soil levels containing no organic material, the landscape plan shall provide for further non-organic soils removal and replacement with topsoil.
- (c) The landscape plan shall provide specifications for topsoil, including depth, organic matter requirements, limits to sand, clay and gravel and other requirements designed to ensure the health and vitality of required landscaping.

<sup>6</sup>23.053 Maintenance

- (1) All plant materials identified in the approved landscape plan shall be reasonably maintained. If any tree, shrub or living ground-cover dies or is relocated, it shall be the responsibility of the property owner to replace the landscaping, such that the landscaping continues to comply with the approved landscape plan.
- (2) If plant materials have not achieved the required coverage over time as required by this code, then the property owner shall plant additional materials to achieve the required coverage.
- (3) The property owner shall maintain the irrigation system in working condition to provide the irrigation necessary for the health and survival of the landscape materials.

23.060 Completion and Occupancy

23.061 Inspection Required

- (1) Inspection shall be made prior to planting to verify proper rough grade, installation of irrigation, soil preparation and topsoil application.
- (2) Plant materials shall be inspected prior to planting to insure that placement, quantity, size and variety conform to the approved landscape plan and the requirements of this Article. All plant specimens shall have the nursery tags identifying variety and species. All tags shall remain on plant specimens until final inspection.
- (3) Final inspection shall be made following planting. Plantings contrary to the approved landscape plan shall not be approved.

- <sup>6</sup>(4) Inspection of the irrigation system shall be conducted prior to issuance of a Certificate of Occupancy. Water shall be turned on to demonstrate functionality of the system.

23.062 Completion Required.

- (1) Approval of landscape installation is required prior to occupancy. However, for all development requiring a Landscape Plan, temporary occupancy permits may be issued prior to the complete installation and approval of all required landscaping if security equal to 110% of the cost of plant materials and labor as determined by the Director is filed with the City, assuring such installation within nine months of issuance of the temporary occupancy permit. An extension of three months may be granted by the Director when circumstances beyond the control of the developer prevents earlier completion.
- <sup>6</sup>(2) Prior to issuance of a Certificate of Occupancy, the applicant shall submit a letter from the contractor who installed the irrigation system, which states that the irrigation system was installed according to approved plans and is functioning as designed.

23.063 Completion Guarantee

- (1) Required security may consist of a faithful performance bond payable to the City, cash, certified check, time certificate, or deposit, or builders/developers lending agency certification to the City that funds are being held until completion.
- (2) If the installation of the landscaping is not completed within the required period, the security may be used by the City to either complete the installation, or the security may be held by the City and other enforcement powers employed to prevent final occupancy until such time as the improvements are completed. Upon completion of the installation, any portion of the remaining security deposited with the City shall be returned.
- (3) The final landscape and irrigation inspection shall be made prior to any security being returned. Any portions of the plan not installed, or improperly installed, shall cause the inspection to be postponed until the project is completed or cause the security to be used by the City.

23.070 Street Tree Standards

23.071 Street Trees. All development fronting on public or private streets approved following the adoption date of this Code shall be required to plant street trees in accordance with the following standards. Street trees to be planted shall be chosen from the recommended list of street trees found in Section 23.076 below. Approval for the planting of alternate species may be given by the Director.

<sup>5</sup>23.072 Location for Street Trees. Street trees shall be located outside of street right-of-way except in cases where there is a designated planting strip in the right-of-way, and as specified in requirements and restrictions in Section 23.030 and Section 27.313.

23.073 Spacing, Placement and Pruning of Street Trees . All tree spacing may be made subject to special site conditions which may for reasons such as safety critically impact the decision. Any such proposed special condition shall be subject to the Director's review with written explanation to the Director as to why the special conditions are requested.

- (1) Small or narrow stature trees (under 25 feet, less than 16 feet wide) may be spaced at any interval 20 feet apart or greater. Medium sized trees (25 to 40 feet tall, 16 to 35 feet wide) may be spaced at any interval 30 feet apart or greater. Large trees (over 40 feet, more than 35 feet wide) may be spaced at any interval 40 feet or greater.
- (2) Trees shall not be planted closer than 25 feet from the curb line of intersections of streets or alleys, nor closer than 5 feet from private driveways (measured at the back edge of the sidewalk), fire hydrants, or utility poles.
- (3) The Director may allow trees closer to specified intersections where intersections are signalized. No new utility pole location shall be established closer than 5 feet to any existing street tree. Tree pits shall be planned so as not to include premise services (water and gas meters, etc.) in the tree well. Premise services shall not be installed in existing tree well areas in the future.

- (4) Street trees shall not be planted closer than 20 feet to light standards. Except for public safety, no new light standard location shall be positioned closer than 10 feet to any existing street tree, and preferably such locations will be at least 20 feet distant.
- (5) Trees shall not be planted closer than 2-1/2 feet from the face of the curb except at intersections where it shall be 5 feet from the curb, in a curb return area.
- (6) Where there are overhead power lines, tree species are to be chosen that will not interfere with those lines.
- (7) Trees shall be planted within 2 feet of any permanent hard surface paving or walkway. Space between the tree and such hard surface may be covered by nonpermanent hard surfaces such as grates, bricks on sand, paver blocks, cobblestones, etc. This means that sidewalk cuts in concrete for tree planting shall be at least 4 X 4 feet to help allow for air and water into the root area.
- (8) Trees, as they grow, shall be pruned to provide at least 8 feet of clearance above sidewalks and 12 feet above street roadway surfaces.
- (9) Existing trees may be used as street trees if no cutting or filling takes place within the drip line of the tree. Sidewalks of variable width and elevation may be utilized to save existing street trees, subject to approval by the Director.

<sup>6</sup>23.074 Replacement of Street Trees. Existing street trees removed by development projects shall be replaced by the developer with those from the approved street tree list. The replacement trees shall be of size and species similar to the trees that are being removed, unless alternatives are approved by the Director. All replacement trees shall be a minimum of 1-3/4 inch caliper.

23.075 Exemptions. Exemptions from the street tree requirements may be granted by the Director on a case by case basis. Exemptions may be granted for example, if the location of a proposed line would cause potential problems with existing utility lines, etc.



<sup>6</sup>23.076 Approved Street Trees. The following tree species are recommended for use as street trees:

Small Trees - small or narrow stature trees (under 25 feet, less than 20 feet wide) may be spread at any interval 20 feet apart or greater. Sidewalk cuts to be a minimum of 4 x 4.

1. Acer Ginnala Flame - Flame maple
2. Cornus Florida - Flowering Dogwood
3. Pyrus Calleryana - Aristocrat - Aristocrat Pear
4. Pyrus calleryana Glens Form - chanticleer flowering pear
5. Prunus sargentii "columnaris" - sargent columnar cherry
6. Cercis Canadensis - Eastern Redbud

Medium Trees- medium size tree (25-40 feet tall, 16-35 feet wide) may be spread at any interval 30 feet apart or greater. Sidewalk cuts to be a minimum of 5 x 5.

1. Acer platanoides "crimson king" - crimson king maple
2. Prunus serrulata "kwanzan" - kwanzan cherry
3. Cercis canadensis - eastern redbud
4. Acer Rubrum "October Glory" - October Glory maple
5. Pyrus calleryana "redspire" - Redspire pear
6. Nyssa Sylvatica - Black Tupelo
7. Prunus subhirtella "autumnalis Rosea" - autumn flowering cherry

Large Trees - large trees (over 40 feet, more than 35 feet wide) may be spaced at any interval 40 feet or greater. Sidewalk cuts minimum 6 x 6.

1. Acer Rubrum "Armstrong" - Armstrong Maple
2. Acer Rubrum "Franksred" - Red Sunset Maple
3. Fraxinus Oxycarpa "Raywood" - Raywood Ash
4. Tilia cordata "Greenspire" - Greenspire Linden
5. Acer Saccharum "Green Mountain" - Sugar Maple
6. Fraxinus Americana "Junginger" - Autumn Purple Ash
7. Quercus palustris - pin oak
8. Liriodendron tulipifera - tulip tree
9. Fraxinus Pennsylvanica "Marshall" - Marshall Ash

Trees to be planted Under Power Lines - Small Trees - small or narrow trees (under 25 feet, less than 20 feet wide) may be spread at any interval 20 feet apart or greater. Sidewalk cuts to be a minimum 4 x 4.

1. Cercis Canadensis - Eastern Redbud
2. Acer Ginnala - Flame Maple
3. Cornus Kousa - Kousa Dogwood
4. Prunus Cerasifera "Thundercloud" - Thundercloud Plum

23.077 Prohibited Street Trees. The following tree species are prohibited from use as street trees as their roots cause injury to sewers, pavements, and sidewalks:

1. Salix spp - willows
2. Populus spp - cottonwoods/poplars

23.078 Street Trees Not Recommended. The following tree species are not recommended for use as street trees, for the reasons listed after each species. These trees may be planted if the problems are satisfactorily met and accepted by the owner, and so noted on the site plan. Some are desirable trees in the right situation.

1. Acer macrophyllum - big leaf maple; roots cause injury to sewers and pavement.
2. Acer Negundo - box elder; subject to wind damage.
3. Ailanthus - tree-of-haven; short lived, invasive roots.
4. Albizzia julibrissi - silk tree; litter, aggressive roots.
5. Alnus rubra -red alder; short lived, brittle, favorite of tent caterpillars.
6. Betula spp - birches; aphids, low branching, invasive roots, injury to sewers, pavements.
7. Catalpa - invasive roots, short lived, messy sidewalk problems.
8. Crataegus spp - hawthorns; insects and disease prone, aphids.
9. Platanus spp - sycamore, london plane; vigorous roots, damage to sidewalks, sewers, serious anthracnose disease.
10. Robinia pseudoalacia - a black locust; brittle, hazard, aggressive roots, thorny.
11. Sorbus ausuparia - mountain ash; large crop messy fruits may be sidewalk hazard.
12. Ulmus spp - elms; elm leaf beetle, dutch elm disease, roots break walks, cause sewer problems.

13. Liquidambar Styraciflua - Invasive root system,  
damage to curbs, gutters, and utilities.

Fruit trees - litter

Nut trees - litter

Conifers - needles, low branching

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<sup>1</sup> Revised 10-22-93

<sup>2</sup> Revised 1-3-96

<sup>3</sup> Revised 10-20-94

<sup>4</sup> Revised 5-30-97

<sup>5</sup> Revised 10-22-93

<sup>6</sup> Revised 10-22-93

<sup>7</sup> Revised 4-20-05 by Ordinance 5286

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## Article 24: Environmental Standards

### 24.010 Purpose

The purpose of this Article is to establish standards for development that will maintain or improve the environmental quality and the conditions of health and safety of the community.

### 24.020 Applicability

This Article sets forth standards for noise, air, water and land quality. All developments, public and private, shall continually adhere to these standards. The provisions of Chapter 340, Oregon Administrative Rules shall be applicable to this Article. Chapter 340 covers department of Environmental Quality Standards for noise, water, air and land quality.

### <sup>1</sup>24.030 Site Plan Review

As provided by Article 19 of this Code, the Site Plan Review Committee shall evaluate all Minor and Major Site Plan applicants for compliance with this Article.

### 24.100 Noise Standards

#### 24.120 Purpose.

The purpose of the noise standards are to ensure a suitable living environment and to protect citizens against excessive noise in their community and places of residence. Uses specifically protected are:

- (a) Existing and future residential uses along highways, arterials and railroads.
- (b) Existing and future residential adjacent or abutting commercial and industrial uses or zones.
- <sup>2</sup>(c) Noise sensitive property which is real property normally used as schools, churches, nursing homes, hospitals and public libraries.



24.150 Sound Measurement Procedures

The procedures for measurement of sound for the purpose of enforcing this Article are found in the Sound Measurements Procedures Manual, publications NPC-1, Department of Environmental Quality. Measurements shall be taken by a qualified City employee or private acoustical specialist approved by the Director. Fees for sound measurement by City employees shall be determined by the Director.

24.160 Residential Noise Standards

<sup>3</sup>24.161 Maximum Permissible Exterior Sound Levels

Allowable Statistical Noise Levels in Any One Hour		
	7am to 10pm	10pm to 7am
L50	55 dBA	50 dBA
L10	60 dBA	55 dBA
L1	75 dBA	60 dBA

Notes: L50 is the level that may be exceeded 50% of the time; cumulative 30 minutes/hour.

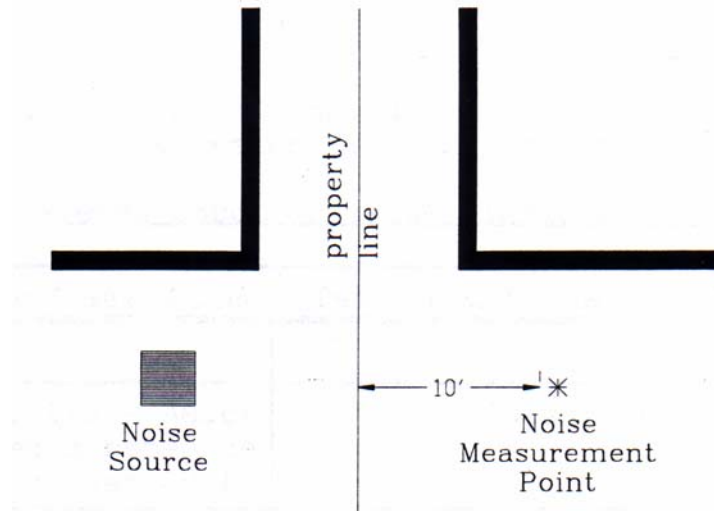
L10 is the level that may be exceeded 10% of the time; cumulative 6 minutes/hour.

L1 is the level that may be exceeded 1% of the time; cumulative 36 seconds/hour.

dBA means A-weighted decibels (decibels measured at the frequency where the human ear is most sensitive).

Source: OAR Chapter 340 Division 35.

\*Measured on the lot with the noise sensitive use ten feet from the property line of the noise producing lot. See Concept Sketch 24-1.



Concept Sketch 24-1

24.162 New Development Along Highways and Arterial Streets

- (1) Highways and arterial streets are defined and depicted in the Roadway and Traffic Safety Management Plan for the Grants Pass UGB.
- (2) Developments abutting highways and arterial streets will achieve the exterior noise standards established in Section 24.160. Sound levels will be measured 25 feet from the proposed dwelling unit(s) on the side(s) of the dwelling unit(s) that are adjacent to the noise source.
- (3) Exterior sound attenuation will be accomplished by the construction of a masonry wall, earth berm or fence between the dwelling unit(s) and the noise source. The wall, berm or fence shall have a solid, continuous surface without any openings or holes. The barrier shall be continuous along the entire property line and shall be of sufficient height to intercept the roadway noise between the highest point of a noise source (truck exhaust stack) and the dwelling units.
- <sup>4</sup>(4) The reduction in sound levels resulting from a barrier wall, berm or fence shall be determined by recommendations in the NOISE GUIDEBOOK<sup>5</sup>, U.S. Department of Housing and Urban Development.

- (5) A continuous row of non-inhabited area structures may be used to attenuate interior noise levels.

<sup>6</sup>24.163 Maximum Permissible Interior Sound Levels

Housing and Urban Development Noise Level Criteria	
<u>Interior</u>	
Clearly acceptable 7am-10pm	45dBA - L33 (not to be exceeded more than 8 out of 24 hours)
	55dBA - L4 (not to be exceeded more than 1 out of 24 hours)
night: 10pm-7am	45dBA -L5 (not to be exceeded more than 30 min. out of 8 hours.

24.164 Reducing Interior Noise Levels. In order to reduce interior noise levels pursuant to Section 24.163, the applicant will incorporate sound attenuation measures in the design of the buildings. The following noise control measures may be implemented:

- (1) masonry exterior walls on the side of the building adjacent to the noise source.
- (2) double or triple pane windows encased in rubber gaskets; and/or fixed windows.
- (3) tightly fitted, solid, exterior doors.
- (4) location of sleeping and living quarters on the opposite side of the part of the dwelling unit which faces the noise source<sup>7</sup>.

<sup>8</sup>24.165 New Heat Pump Installation. The installer of a heat pump shall obtain a permit from the Building Official prior to the installation. The heat pump shall be installed to meet the outdoor noise levels of Section 24.161, and the indoor noise standards of Section 24.163. The installer shall construct a noise barrier around the use as necessary to meet these standards. The noise levels shall be determined by using the Air Conditioning and Refrigeration Institute Standards for Application for Sound Rate Outdoor Unitary Equipment (Standard 275), or by actual sound level measurement at the site.

24.166 Heat Pump Permit Requirements. No person shall install a heat pump prior to submitting a permit application to the Building Official and receiving approval. All applications shall certify that the operation of the heat pump will meet the provisions of Section 24.161 above by using the Air-Conditioning and Refrigeration Institute Standards for Application for Sound Rate Outdoor Unitary Equipment (Standard 275).

24.170 Commercial and Industrial Noise Standards

24.171 Regulations for Industry and Commerce. Commercial and industrial development shall conform to the Noise Control Regulations for Industry and Commerce of Chapter 340, Oregon Administrative Rules (DEQ Standards).

<sup>9</sup>24.172 Allowable Statistical Noise Levels

New Industrial and Commercial Noise Source Standards*	
Allowable Statistical Noise Levels in any One Hour	
7am-10pm	10pm-7am
L50-55dBA	L50-50dBA
L10-60dBA	L10-55dBA
L1-75dBA	L1-60dBA
* Measured 25 ft from a noise sensitive use toward the noise source. Source: OAR 340-35-035, Table 7 and Table 8.	

<sup>10</sup>24.173 Allowable Octave Band Sound Pressure Levels

Median Octave Band Standards for Industrial and Commercial Noise Sources		
Octave Band Center Frequency, Hz	7am - 10pm	10pm - 7am
31.5	68	65
63	65	62
125	61	56
250	55	50
500	52	46
1000	49	43
2000	46	40
4000	43	37
8000	40	34
Source: OAR 340-35-035, Table 10		

24.174 Commercial Heat Pumps

- (1) Refer to Section 24.164, where adjacent to residential use or zone.
- (2) Where the heat pump is not adjacent to a dwelling unit, the noise levels shall conform to the noise levels established in 24.171.

<sup>11</sup>24.175 Sale of Motorized Vehicles, Operation of Motor Sports Facilities and Sponsoring Racing and Practice Events  
Businesses involved in the sale of motor vehicles, motor sports vehicles, operation of motor sports facilities and sponsoring amateur and professional racing and practice events involving motorized vehicles shall comply with all appropriate sections of Chapter 340 of the Oregon Administrative Rules.

24.200 Air Quality Standards

24.210 Purpose. The purposes of the air quality standards are to maintain or reduce the levels of air pollution in the Rogue River Valley in the vicinity of Grants Pass, and to protect the health of the citizens of the community.

24.220 Air Quality Regulations

The provisions of Chapter 340, Oregon Administrative Rules, Air Quality Regulations shall apply for the control of air pollution sources.

24.230 Air Quality Monitoring Procedures

The procedures of the measurements of air pollution shall be made according to the methods approved by the Oregon Department of Environmental Quality. Acceptable and equivalent methods of measurements will be approved by the City Engineer. Persons responsible for a suspected source of air pollution, upon request of the Director, shall provide quantitative and qualitative information regarding the discharge of pollution that will accurately describe operation conditions.

24.240 Ambient Air Quality Standards

<u>Pollutant</u>	<u>Avg. time</u>	<u>Fed. Standards Primary(health)</u>	<u>Secondary (welfare)</u>	<u>Oregon Standards</u>
Total Suspended Particulate	Annual Geometric Mean 24 hour(10) Monthly(2)	(The federal TSP standard was dropped in 1987. Oregon retained the State standards.)		60 ug/m3 150 ug/m3 100 ug/m3
PM 10 (fine Particulate)	Annual Arithmetic Mean 24 hrs	50 ug/m3	50 ug/m3	50 ug/m3
		150 ug/m3	150 ug/m3	50 ug/m3
Ozone	1 hour	0.12 ppm	0.12 ppm	0.12 ppm
Carbon Monoxide	8 hours 1 hour	9 ppm	9 ppm	9 ppm
		35 ppm	35 ppm	35 ppm
Sulfur Dioxide	Annual Arithmetic Mean 24 hrs 3 hours	0.03 ppm	0.5 ppm	Same as Federal
		0.14 ppm		
Nitrogen Dioxide	Annual Arithmetic Mean	0.053 ppm	0.053 ppm	Same as Federal
*Hydrocarbons (nonmethane)	3 hours (1) (6-9 am)	160 ug/m3	160 ug/m3	160 ug/m3
*"The EPA has repealed its standard for non-methane hydrocarbons and DEQ has taken similar action." (1988 OREGON AIR QUALITY ANNUAL REPORT)				
Lead	Calendar Quarter	1.5 ug/m3	1.5 ug/m3	Same as Federal
Source: Table 4, p.17. OREGON AIR QUALITY 1988 REPORT				
Notes: ug/m3 = micrograms of pollutant per cubic meter of air ppm = parts per million				

24.250 Residential

24.251 Wood Burning Device Installation

- (1) A mechanical permit is required for the installation of a wood burning device. The Building Official will inspect the device after installation to verify Oregon Mechanical Code compliance.
- (2) Following the guidelines, endorsed by the Department of Environmental Quality in determining the wood burning device that is properly sized to efficiently heat a structure, is recommended. Over-sized heating devices shall be discouraged.

- (3) In accordance with Oregon House Bill 2235 (1983) and Oregon Administrative Rules (Chapter 340-21-100 through 190 adopted 1984), the following emission standards and labeling are required for wood burning devices.

EMISSION STANDARDS

Device Particulate Emission Rate (g/h) Catalytic 4  
Noncatalytic 9

LABELING

1. Certified Test Performance
2. Average Emissions and Efficiency Performance

24.252 Wood Burning Device Fuels. The applicant proposing to install a wood burning device pursuant to 25.251 above, will be informed of the following regulations in a printed consumer information handout.

- (1) Dry wood, seasoned 6 months to one year minimum, will be the primary wood burning device fuel.
- (2) The burning of wood on poor air quality days, as determined by Oregon Department of Environmental Quality, will be avoided.
- (3) The burning of plastics, garbage and coal in the wood burning device is prohibited.

24.253 Dust Suppression During Construction. During construction on new development sites that are without paved surfaces, the developer shall take appropriate measures to suppress the dust, primarily by wetting the travel surfaces, in and around, the construction site.

24.260 Commercial and Industrial

24.261 Notice of Construction. New development that proposes to install, construct or establish a new source of air contamination emission of any class listed in Section 24.262 must notify the Department of Environmental Quality in writing pursuant to the procedures of Oregon Administrative Rules Chapter 340, Division 20, Section 030, with a copy to the Community Development Department Director.



24.262 Classes of Sources of Air Contamination. This Article shall apply to the following classes of sources of air contamination, as addressed in OAR 340-20-25:

- (1) Air pollution control equipment.
- (2) Fuel burning equipment rated at 400,000 BTU per hour or greater.
- (3) Refuse burning equipment rated at 50 pounds per hour or greater.
- (4) Process equipment having emission to the atmosphere.
- (5) Open burning operations.
- (6) Such other sources as the DEQ may determine to be potentially significant sources of air contamination.
- (7) New construction, installation or establishments which includes enlargement, replacement, or modification of an air contamination source.

24.263 Air Quality Standards.

- (1) All classes of sources of air contaminants shall comply with the "Emission Standards and Regulation" Chapter 340, Oregon Administrative Rules.
- (2) Open burning is prohibited except as provided in the Grants Pass Municipal Code.

24.264 Odors. The emission of odorous gasses in such quantities as to be readily detectable at any point beyond the property line of the use creating such odors is prohibited.

24.265 Heat and Glare

- (1) Except for exterior lighting, operations producing heat or glare will be conducted entirely within a closed building.
- (2) Exterior lighting will be directed away from adjacent properties.

24.266 Dust Suppression. Where vehicles move on or across unpaved surfaces within the property of a commercial or industrial activity, then measures will be taken by those responsible for such activity to suppress the dust, either by an oil may or paving the surface.

24.267 New Road Surfaces. All new road surfaces established by existing or new development shall be paved with an impervious material.

24.270 Submittal Requirements

24.271 Residential Development

- (1) Wood-burning device applications will contain the cubic volume of the dwelling unit, the existing insulation in the walls, floor and ceiling, a floor plan sketch showing the location of the proposed wood-burning device, the type and model of the wood-burning device and the thermal heating characteristics of that device. It is recommended that wood-burning devices be installed only as a secondary heat source.
- (2) New residential construction will include a dust suppression plan (if applicable) with other information required by this Code.

24.272 Commercial and Industrial Development

- (1) Upon submittal of a development permit, the applicant will also submit a copy of the certified letter sent to the Department of Environmental Quality pursuant to Section 24.261 of this Article, if applicable.
- (2) New construction will include a dust suppression plan (if applicable) with other information required by this Code.

24.300 Water Quality Standards

24.310 Purpose. The purpose of the water quality standards are to protect the quality of the water resources of the area in order to assure maximum reasonable protection of public health, safety and welfare, and to protect the riparian environment for the enjoyment of the community.

24.320 Concept. This section is applicable to all new construction and land development. It is intended to regulate any activity that involves the discharge of waste, water, and the development or alteration of resources related to the natural flow of water.

24.330 Water Quality Regulations

The provisions of Chapter 340, Oregon Administrative Rules, Water Quality Control shall apply for control of water pollution sources.

<sup>12</sup>24.340 Water Quality Standards

24.341 Stream Corridor Setback. No structure other than accesses, loadings, docks, bridges pumping or water treatment facilities shall be located closer than 20 feet from the edge of the stream-bank.

24.342 Rogue River Buffer Area. Development shall be located outside the 100 year floodway pursuant to the provisions of Article 13.

24.343 Preservation of Riparian Vegetation. The stream corridor setback shall be used to preserve riparian vegetation within the banks of streams or the floodway of the Rogue River. Trimming of the vegetation in order to contain such vegetation within the banks or to alleviate a hazard is allowed. Noxious vegetation may be removed if replaced within 90 days by various combinations of plant materials and/or rip rap that stabilizes the stream bank and preserves the aquatic habitat.

24.344 Stream Channelization, Diking or Filling. Stream channelization is prohibited. Stream-bed alteration, stream-bank stabilization, removal of material from a stream-bank or bed, or the filling of a stream may require a permit from the Division of State Lands pursuant to ORS Chapter 196 and OAR Chapter 141 Division 85. Should such a permit be required, a development

permit shall not be issued by the Director until a duly executed permit is received from the Division of State Lands.

24.345 Wetlands. For purposes of this Code, "Wetlands" shall be designated for protection only within the bed and banks of the Rogue River and its tributaries. Wetlands within the Rogue River floodway shall be left in their natural state. Wetlands within the Rogue River floodplain shall be protected as much as possible. Alteration of wetlands of tributary streams shall be subject to the conditions of a permit from the State Division of Lands. (See Section 24.344 above.) Development runoff shall not be carried through these riparian wetlands

<sup>13</sup>24.346 Wetlands Notice.

- (1) State notice requirements apply to all areas identified as wetlands on the Statewide Wetlands Inventory for the Grants Pass Urban Area. Initially this inventory shall consist of the National Wetlands Inventory produced by the United States Department of Interior, U.S. Fish and Wildlife Service, 1974, or superseding inventory for the Grants Pass Urban Area. Once the Oregon Division of State Lands provides the City with a copy of the Statewide Wetlands Inventory for the Grants Pass Urban Area in accordance with ORS Chapter 215, that inventory shall supersede the National Wetlands Inventory.
- (2) The Directory shall provide notice to the Oregon Division of State Lands, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands of the State-wide Wetlands Inventory:
  - (a) Subdivision tentative plats.
  - (b) Building permits for new structures.
  - (c) Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in the flood-plains and flood-ways.
  - (d) Variances that involve physical alterations to the land or construction of new structures.
  - (e) Planned Unit Developments.
- (3) The provisions of subsection (2) above do not apply if a permit from the Oregon Division of State Lands has been issued for the proposed activity.

- (4) If the Oregon Division of State Lands fails to respond to any notice provided under subsection (2) above within 30 days of notice, the City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal permits.
- (5) For comprehensive plan map or zoning map amendments for specific properties, the City may issue local approvals for parcels identified as or including wetlands on the State-wide Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the Oregon Division of State Lands with a copy of the notification.

<sup>14</sup>24.347 Storm Water Detention and Retention. See Sections 25.033(4) and 28.091.

24.350 Residential

24.351 Public Water Systems. Residential developments that provide for the provision of piped water for human consumption to three or more service connections and/or ten or more citizens, shall comply with the provisions of Chapter 333, Oregon Administrative Rules, Public Water Systems.

24.360 Commercial, Industrial and Municipal

24.361 National Pollution Discharge Elimination System Permit. No commercial, industrial or municipal development shall discharge any wastes into the waters of the streams and Rogue River without first obtaining a permit pursuant to Chapter 340, Division 45, Oregon Administrative Rules.

24.362 Waste Water Pollutants. No commercial or industrial development shall contribute any pollutant into the waste water that will interfere with the operation or performance of the municipal waste water treatment works pursuant to Municipal Ordinance No. 4469, Regulating Discharge of Pollutants, or its most recent update or replacement.

24.363 Municipal Water Systems. The municipal water system shall conform to the provisions of Chapter 333, Oregon Administrative Rules, Public Water Systems.

24.364 Paved Surfaces. All developments shall maintain their impervious surfaces in a litter and chemical free condition. New developments shall demonstrate that provisions are made to maintain the impervious surfaces in such clean conditions. Where new development is proposed abutting existing dirt roads and alleys will be paved with an impervious surface.

24.400 Land Quality Standard

24.410 Purpose. The purposes of land quality regulations are to assure that the health and safety of the citizenry is protected and that the land environment remains aesthetically pleasing for the community.

24.430 Solid Waste Management Standards

The provisions of Chapter 340, Oregon Administrative Rules, Solid Waste Management, shall be applicable for the control of solid waste disposal.

24.440 Commercial and Industrial

<sup>15</sup>24.441 Storage of Material and Equipment. All materials and equipment shall be stored and all grounds shall be maintained in a manner that will not attract or aid in the propagation of insects or rodents otherwise create a health hazard. The open storage of materials and equipment is permitted providing the storage area is contained within a sight obscuring fence or vegetative planting as provided in Section 23.036, Type F Screening.

The outside storage of chemicals and/or disposal of residues or products on site shall be permitted only after provisions are made for impermeable containment. Method of containment shall be approved by the City Engineer and the City Public Works Department as part of Site Plan Review process.

<sup>16</sup>24.500 Wetlands

24.510 Purpose. The purpose and intent of this section is to protect, conserve, and enhance locally significant wetlands. These wetlands are an important natural resource for flood and erosion control, water-storage and purification, wildlife habitat, open space, and recreation.

- 24.520 Wetlands Inventory. Wetlands are designated using methodologies approved by state and federal governments. The approximate boundaries of wetlands within the Grants Pass urban area depicted in the Grants Pass Urban Area Wetland Inventory, which is incorporated herein by reference.
- 24.521 Inventory Amendments. Where further scientific study or changes in state and/or federal regulations indicate wetland locations or boundaries other than those shown on the official inventory, and where such changes are accepted by the appropriate state and/or federal agencies, the Director shall cause such changes to be reflected on the Grants Pass Urban Area Wetland Inventory.
- 24.530 Wetland Conservation Classes. Inventoried wetlands are categorized by the Grants Pass Wetland Resource Plan in four classes.
- (1) Not Locally Significant Wetlands: This category includes wetlands that meet state and federal regulatory definitions, but that, based on information that is available on location, quality and quantity, are not important enough to warrant inclusion on the inventory of locally significant wetlands.
  - (2) Development Class Wetlands: This class includes wetlands that are ecologically and scientifically significant, but, based on the analysis of ESEE consequences and other goals, conflicting uses should be allowed fully.
  - (3) Conservation Class Wetlands: This class includes those wetlands that are ecologically and scientifically significant, and that, based on the analysis of the Economic, Social, Environmental, and Energy (ESEE) consequences, both the wetland and conflicting uses are important relative to each other. Conflicting uses are allowed, but in a limited way so as to protect the resource site to the desired extent.
  - (4) Protection Class Wetlands: This class includes those wetlands that are ecologically and scientifically significant, and that are of such importance, based on the analysis of the Economic, Social, Environmental, and Energy (ESEE) consequences, that they should be protected from conflicted uses.

24.540 Development Class Wetlands and Not Locally Significant Wetlands

Development or alteration of development class wetlands, or wetlands that are not locally significant, is not restricted by this Section. State and federal permits must be acquired prior to the activity as required.

24.550 Conservation Class Wetlands

24.551 Allowed activities. The following activities are allowed in conservation class wetlands without a development permit provided they do not reduce the extent of the wetland or the degree to which a wetland performs any functions, nor does it involve any activity listed in Section 24.552:

- (1) Educational and scientific research.
- (2) Outdoor recreational activities such as fishing, bird watching, hiking, boating, and swimming.
- (3) Mowing of grasses and forbs to alleviate a fire hazard, or removal of a hazardous tree. Removal of any tree greater than eight inches diameter or mowing of an area greater than one acre requires prior approval from the Director.
- (4) Construction and maintenance of recreational trails.
- (5) Continuation of agricultural practices in effect at the date of adoption of this ordinance.
- (6) Maintenance of an existing public or private lawfully located facility, including roads, trails, dams, fences, and utility services.
- (7) Removal or fill that does not exceed 50 cubic yards of material and that does not alter more than 1,500 square feet of ground and/or vegetation. Removal of any tree greater than eight inches diameter requires prior approval from the Director.

24.552 Conditionally permitted activities. The following activities are allowed in conservation class wetlands provided a development permit is first obtained in accordance with Section 24.553 below:



- (1) Removal and or placement of more than 50 cubic yards of material, including soil, sand, gravel, minerals, aggregate, or organic material, or alteration of more than 1,500 square feet of ground.
- (2) Construction of any structure.
- (3) Removal of any existing vegetation or any activity which will cause any loss of vegetation in a wetland, except as listed in Section 24.551(3) and (7) above.
- (4) Disturbance of existing surface drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics by any means, including grading and alteration of existing topography.
- (5) Alteration of the water level or water table by any means, including draining, ditching, trenching, impounding, or pumping.
- (6) Disturbance of water quality by any means including storm water run-off.
- (7) Construction of street or utility improvements as shown on applicable master plans.

24.553 Criteria. The activities listed in Section 24.552 above may only be permitted provided the review body finds that the following criteria are met:

- (1) The disturbance to the wetland is the minimum necessary to allow the permitted use. In no case shall the area disturbed exceed one acre cumulative on any wetland.
- (2) The activity maintains to the extent practical the essential functions of the wetland.
- (3) The wetland to remain is protected to the extent possible. Measures may include fencing of the area during construction, providing a buffer around the area to remain or other measures deemed necessary to protect the wetland.

<sup>17</sup>24.554 Procedure Type. Any activity listed in Section 24.552 shall be processed using the procedures in Schedule 2-1. Where the activity is in conjunction with an application requiring a higher procedure type, such as a subdivision or site plan, the application shall be processed concurrently using the higher procedure type.

24.555 State permits required. Prior to engaging in any of the activities listed above, the applicant shall obtain any necessary permits from the applicable state and/or federal agencies.

24.560 Protection Class Wetlands

24.561 Allowed activities. The following activities are allowed in protection class wetlands without a development permit provided they do not reduce the extent of the wetland or the degree to which a wetland performs any functions, nor does it involve any activity listed in Section 24.563.

- (1) Educational and scientific research.
- (2) Outdoor recreational activities such as fishing, bird watching, hiking, boating, and swimming.
- (3) Mowing of grasses and forbs to alleviate a fire hazard, or removal of a hazardous tree. Removal of any tree greater than eight inches diameter or mowing of an area greater than 0.25 acres requires prior approval from the Director.
- (4) Construction and maintenance of recreational trails.
- (5) Continuation of agricultural practices in effect at the date of adoption of this ordinance.
- (6) Maintenance of an existing public or private lawfully located facility, including roads, trails, dams, fences, and utility services.
- (7) Removal or fill that does not exceed 50 cubic yards of material and that is necessary to maintain the functions of the wetland, such as removal of silt.

24.563 Prohibited activities. The following activities are prohibited within protection class wetlands:

- (1) Those activities listed in Section 24.552 above.
- (2) Removal or fill of material, except under 24.561(7).

24.570 Wetland Buffers. Wetland buffers are the impact area that must be protected in order to protect or conserve a wetland. Wetland buffers are designated in the Grants Pass Wetland Resource Plan, which is incorporated herein by reference. Where a buffer is designated, it extends 25

feet beyond the boundary of the wetland, unless a different distance is specified in the plan.

- 24.571 Permitted uses in buffers. Wetland buffer areas shall receive the same protection as the wetland itself. Allowed, conditionally permitted, and prohibited uses within the adjacent wetland are equally treated within the buffer.
- 24.572 Buffer Modifications. The review body may permit modifications to buffers. The width of a buffer may be reduced to no less than 10 feet provided an equal area of buffer is provided elsewhere adjacent to the wetland. An application to modify a buffer shall be processed using a Type I procedure, unless a concurrent application requires a higher procedure type.
- 24.580 Wetlands Notice.
- (1) State notice requirements apply to development within all wetlands within Grants Pass urban area wetland inventory.
  - (2) The Director shall provide notice to the Oregon Division of State Lands, the applicant and the owner of record, within five working days of the acceptance of any complete application for the following activities that are wholly or partially within areas identified as wetlands on the Grants Pass Urban Area Wetland Inventory:
    - (a) Subdivision tentative plats.
    - (b) Building permits for new structures.
    - (c) Other development permits and approvals that allow physical alteration of the land involving excavation and grading, including permits for removal or fill, or both, or development in the flood-plains and flood-ways.
    - (d) Variances that involve physical alterations to the land or construction of new structures.
    - (e) Planned Unit Developments.
  - (3) The provisions of subsection (2) above do not apply if a permit from the Oregon Division of State Lands has been issued for the proposed activity.
  - (4) If the Oregon Division of State Lands fails to respond to any notice provided under subsection (2) above within 30 days of notice, the City approval may be issued with written notice to the applicant and the owner of record that the proposed action may require state or federal

permits. Any City approval shall comply with the provisions of this Article.

- (5) For comprehensive plan map or zoning map amendments for specific properties, the City may issue local approvals for parcels identified as or including wetlands on the Grants Pass Urban Area Wetlands Inventory upon providing to the applicant and the owner of record of the affected parcel a written notice of the possible presence of wetlands and the potential need for state and federal permits and providing the Oregon Division of State Lands with a copy of the notification.

24.590 Variance Procedures. Any variance to the provisions of the Section shall be processed in accordance with Article 6: Variance Procedures and Criteria.

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- <sup>1</sup> Revised 8-7-91  
<sup>2</sup> Revised 8-7-91  
<sup>3</sup> Revised 5-16-95  
<sup>4</sup> Revised 8-7-91  
<sup>5</sup> Source: HUD, Circular 1390  
<sup>6</sup> Revised 8-7-91  
<sup>7</sup> Source: HUD-953-CPD  
<sup>8</sup> Revised 5-16-91  
<sup>9</sup> Revised 8-7-91  
<sup>10</sup> Revised 8-7-91  
<sup>11</sup> Revised 8-7-91  
<sup>12</sup> Revised 8-1-84  
<sup>13</sup> Revised 1-8-92  
<sup>14</sup> Revised 1-8-92  
<sup>15</sup> Revised 1-8-92  
<sup>16</sup> Added 1-7-98 by Ordinance 4919  
<sup>17</sup> Revised 4-20-05 by Ordinance 5285

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## Article 25: Parking and Loading Standards

### <sup>1</sup>25.010 Purpose

The purpose of this Article is:

- (1) to ensure adequate amounts of parking and loading facilities relative to land use type.
- (2) to set minimum design standards for parking, access, and maneuvering areas which promote safe, clean, durable and efficient facilities.
- (3) to locate parking facilities within practical distances of proposed uses.

### 25.020 Procedures and Compliance

Wherever a new or expanded building or use is proposed, a development permit or business license shall not be issued until compliance with this section has been met. A Parking Lot Plan shall be prepared and submitted for review and approved in accordance with the requirements of Section 28, Access. For land use requests requiring other actions, such as site plan review, the Parking Lot Plan shall be made part of the overall Site Plan.

### 25.030 General Provisions

#### 25.031 Applicability

- (1) Off-Street parking spaces shall be provided at the time:
  - (a) A new building is hereafter erected.
  - (b) The use of a building existing on the effective date of this ordinance is changed, or the building is enlarged for an existing use. A change in use shall provide parking as required for a new use. A new use is considered "changed" when the proposed use of an existing building or parcel requires a greater parking requirement (Section 25.040) than the previous use. If an existing use is enlarged, and the increase is less than 50% of the existing structure floor area, new parking spaces may be provided in proportion to the increase only. If an increase exceeds 50%, parking shall be provided for the entire structure in accordance with the requirements of this section.

- (c) An existing dwelling unit is converted to a permitted use.
- (2) Off-Street loading spaces shall be provided when:
  - (a) the use will require the receipt or distribution of materials by truck or similar vehicle, and
  - (b) a building is erected or structurally altered to the extent that the building's total floor area equals the minimum amount requiring an off-street loading space as specified in Section 25.041.
- (3) All parcels and uses within the CBD zone are exempt from the space requirements of this Article, however, any voluntarily installed parking shall conform to the design standards of this Article.
- (4) Required parking shall be available for the parking of passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials.
- (5) The provision for and maintenance of off-street parking and loading spaces are the continuing obligation of the property owner.
- (6) 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 required by this article.
- (7) Parking lots shall be maintained by the property owner or tenant in a condition free of litter and dust, and deteriorated conditions shall be improved to maintain conformance with these standards.
- (8) In the case of mixed uses, the total requirements for off-street parking space shall be the sum of the requirements for the various uses.
- (9) Parking spaces in a public right-of-way shall not be counted as fulfilling any part of the parking requirements.

(10) Loading Berths.

- (a) 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.
- (b) Off-street parking area used to fulfill the requirements of this section shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.

(11) Compact Car Parking. Not more than 25% of the total parking spaces in a parking lot may be designated for compact cars. Minimum dimensions for compact spaces shall be 8 1/2 feet by 16 feet. Such spaces shall be signed and/or the space painted with the words "Compact Car Only".

<sup>2</sup>(12) Disabled Person Parking. Disabled person parking spaces shall be provided for all structures required to provide such parking under Oregon Revised Statutes or other applicable regulations, at the following rate:

Minimum Required Number of Total Parking Spaces	Required Number of Accessible Spaces
1 - 25	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
501 - 1000	2% of total spaces
1001 and more	20 spaces + 1 for every 100 spaces, or fraction thereof, over 1,000.

One in every eight accessible spaces, but not less than one, shall be van accessible.



<sup>3</sup>25.032 Location of Parking and Loading Facilities. Parking as required by this ordinance is considered accessory to and part of the primary use of the lot. The location of the required parking shall be on the same lot, except as provided below. Except for voluntary parking facilities as provided in Section 12.131, Land Use and Procedure Schedule 12-3, parking for a use shall not be located in a residential zone unless that use is also a permitted use in the residential zone where the parking is provided.

- (1) Residential. All off-street parking facilities for residential uses shall be located on the same lot as the use or an abutting lot. If parking is provided on an abutting lot, an easement or shared parking agreement shall be recorded allowing use of the parking.
- (2) Other Uses. For uses other than residences, parking spaces shall be located on the same parcel or on another parcel not farther than 500 feet from the building or use they are intended to serve, measured in a straight line from the building or use. Where parking is located on a parcel not owned by the applicant, a lease or other evidence of agreement shall be submitted to the Director that the use of the facilities are exclusively for the applicant.
- (3) Joint Use of Facilities. The off-street parking requirements of two or more uses, structures or parcels of land may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures or parcels that their operations and parking needs do not overlap in point of time. If the uses, structures or parcels are under separate ownership, the right to joint use of the parking space must be evidenced by a deed, lease, contract or other appropriate written document to establish the joint use.
- (4) Front and Exterior Side Yards. Required parking and loading spaces shall not be located in a required front or exterior side yards except as permitted in Section 23.030 of this Code.

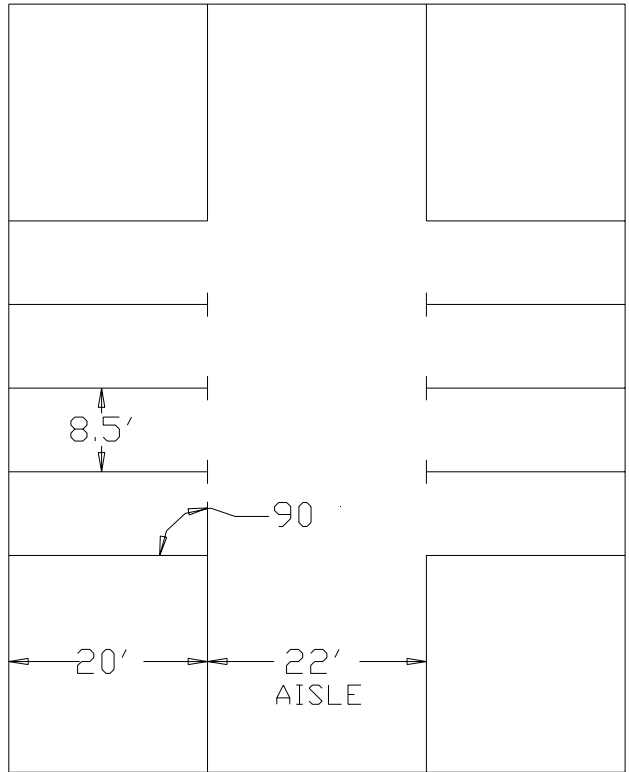
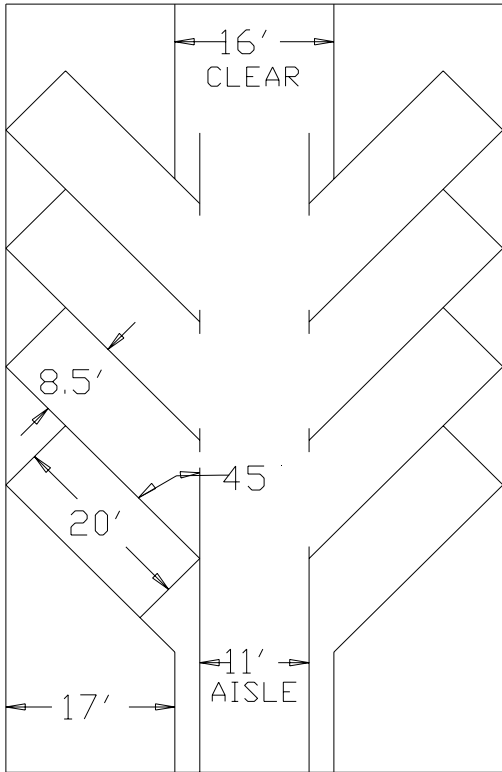
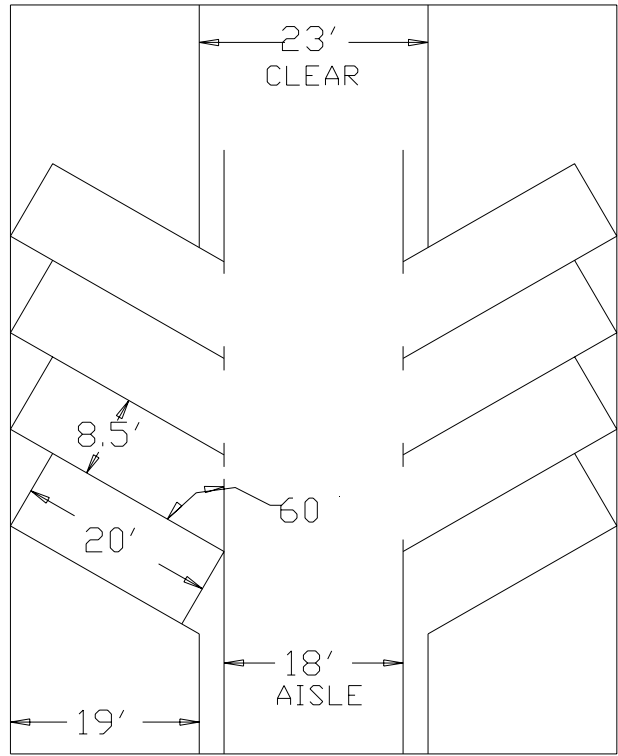
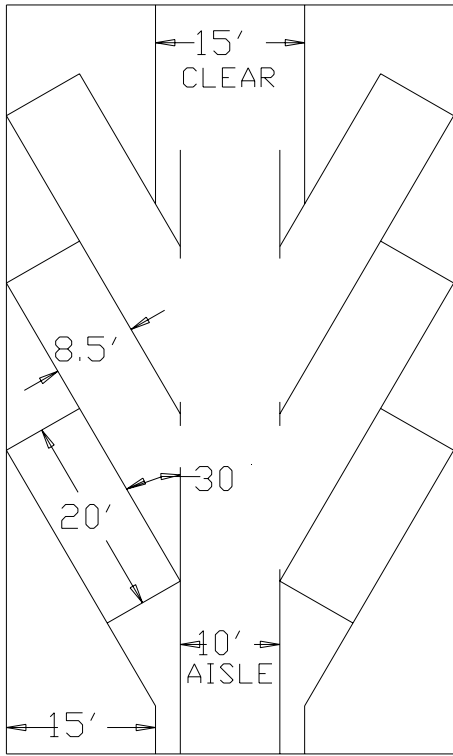
<sup>1</sup>25.033 Design Standards.

- (1) Parking Space Dimension:
  - (a) Typical: 8 1/2 feet x 20 feet

- (b) Compact: 8 1/2 feet x 16 feet
- (c) Disabled Person - Van Accessible: 9 feet x 20 feet with an adjacent 8 foot aisle.
- (d) Disabled Person - Regular: 9 feet x 20 feet plus a 6 foot aisle.

All disabled person parking spaces shall be meet the requirements of ORS 447.223 and other applicable regulations.

- (2) Minimum Aisle Dimensions. Minimum Aisle Dimensions shall be as shown in Sketch 25-1.
- (3) Surfacing. All areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces composed of either asphalt or concrete. Parking lot surfacing shall not encroach upon the public right-of-way.
- (4) Drainage. Adequate drainage shall be provided to dispose of the run-off generated by the impervious surface area of the parking area. Provisions shall be made for the on-site collection of drainage waters to eliminate sheet flow of such waters onto sidewalks, public rights-of-way, and abutting private property. All drainage system must be approved by the City Engineer and shall be constructed in conformance with the Master Storm Drainage Facilities and Management Plan.
- (5) Perimeter Curb. All parking areas except those required in conjunction with a single or two-family dwelling shall provide a curb of not less than six inches in height along the perimeter of all parking areas.
- (6) Wheel Bumper. All parking stalls fronting a sidewalk, alleyway, street or property line, except for those required in conjunction with a single family or two-family dwelling, shall provide a secured wheel bumper not less than six inches in height nor less than six feet in length, to be set back from the front of the stall a minimum of 2 1/2 feet. A linear curb (continuous or in short sections) may be used to fulfill this requirement provided that if adjacent to a sidewalk or landscape area, 2 1/2 feet of additional sidewalk or landscape width is provided to allow for vehicle encroachment.



**Sketch 25-1: Minimum Aisle Dimensions**

- (7) Turnaround. Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by an aisle or turnaround that their use will require no backing movements or other maneuvering within a street right-of-way, other than an alley.
- (8) Striping. Lots containing more than two parking spaces shall have all spaces permanently and clearly marked.
- (9) Screening. Off-street parking and loading spaces in groups of more than four (4) shall be screened and buffered in accordance with Section 23.035, Type E Landscaping, on each side which adjoins residential zoned property.
- (10) Lighting. Parking lots that are illuminated shall contain lighting facilities that do not project light on any adjoining residential zone or onto passing motorists.
- (11) Loading Berth. A loading berth shall contain a space 10 feet wide, 35 feet long and have a height clearance of 14 feet. Where vehicles generally used for loading and unloading exceed these dimensions, the required dimension of these berths shall be increased.
- (12) Service Drives. Services drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and maximum safety of pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate and service the traffic to be anticipated. Service drives shall be clearly and permanently marked and defined through the use of markers on frontage not occupied by service drives. Service drives to drive-in establishments shall be designed to avoid backing movements or other maneuvering within a street, other than an alley. Through access from a commercial use to a residential street is prohibited unless provided by variance or other authorized provision of this Code.
- (13) Vision Clearance. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line and a straight line joining said lines through points 20 feet from their intersection.

- (14) Extension Into Street. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail so placed to prevent a motor vehicle from extending over an adjacent property line or a street.

25.034 Parking Lot Plan. A Parking Lot Plan, drawn to scale, shall accompany development permit applications. The Plan shall show all those elements necessary to indicate that the requirements of this Ordinance are being fulfilled and shall include, but is not limited to:

- (1) Delineation of individual parking spaces.
- (2) Circulation area necessary to serve spaces.
- (3) Access to streets, alleys and properties to be served.
- (4) Curb cuts.
- (5) Type of landscaping, fencing or other screening materials.
- (6) Abutting land uses.
- (7) Grading, drainage, surfacing and subgrading details.
- (8) Location of lighting fixtures.
- (9) Delineations of all structures and obstacles to circulation on the site.
- (10) Specifications of signs and bumper guards.
- (11) Location of planter bays where required.
- (12) Amount of floor area space applicable to the parking requirement for the proposed use.

25.035 Minimum Number of Space Requirements.

- (1) Determining Need. When square feet is specified, the area measured shall be the combined floor area on each level of a building exclusive of vent shafts, court yards, stairwells, elevator shafts, restrooms, storage rooms and rooms designed and used for the purpose of storage and operation of maintenance equipment, and covered or enclosed parking areas. The number of employees shall include those working on the premises, plus proprietors, during the largest shift at peak season. Fractional space requirements shall be counted

to the nearest whole space; half spaces will be rounded up.

- (2) Parking Requirements for Uses not Specified. The parking space requirements for buildings and uses not specified in this article shall be determined by the Director, and such determination shall be based upon the requirements for the most comparable building or use specified herein. A decision of the Director may be appealed as provided in Section 10.030.

24.040 Off-Street Parking and Loading Requirements by Use

Off-Street parking spaces shall be provided according to the following schedule:

25.041 Loading Facilities.

- (a) Commercial, industrial, and public utility uses which have a gross floor area of 5,000 square feet or more, shall provide truck loading or unloading berths as follows:

<u>Square Feet of Floor Area</u>	<u>Number of Berths Required</u>
Less than 5,000	0
5,000 - 29,999	1
30,000 - 99,999	2
100,000 and over	3

- (b) Restaurants, office buildings, hotels, motels, hospitals and institutions, schools and colleges, public buildings, recreation or entertainment facilities and any similar use which has a gross floor area of 30,000 square feet or more shall provide off-street truck loading or unloading berths in accordance with the following table:

<u>Square feet of Floor Area</u>	<u>Number of Berths Required</u>
Less than 30,000	0
30,000 - 99,999	1
1,000,000 and over	2

<u>Land Use</u>	<u>Off-Street Parking Requirements</u>
<b>(1) <u>Residential Uses</u></b>	
(a) Studio and one bedroom dwelling unit	1.00 space per dwelling unit.
(b) Two bedroom dwelling units	1.50 spaces per dwelling unit.
(c) Three and four bedroom dwelling units	2.00 spaces per dwelling unit.
(d) Five or more bedrooms	0.75 spaces per bedroom.
(e) For projects not providing on street parking add:	0.20 space per dwelling unit (guest).
(f) Apartment-hotel, rooming or boarding house:	One and one-half spaces per guest accommodation.
(g) Retirement residences:	One space per 6 beds.
(h) Manufactured dwelling park	Two spaces per manufactured home, plus one space for guest parking for each five manufactured homes.
<b>(2) <u>Commercial Residential Uses</u></b>	
(a) Hotel:	One space for each room
(b) Motel:	One space for each room
(c) Clubs; Lodge:	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
(d) Bed and Breakfast:	One space per guest room plus one space for the owner/innkeeper.
<b>(3) <u>Institutional Uses</u></b>	
(a) Welfare or correctional institution:	One space per five beds for patients or inmates.
(b) Convalescent hospital, nursing home, sanitarium, rest home, home for the aged:	One space per two beds for patients or residents.
(c) Hospitals:	Two (2) spaces per bed.

<b>(4) <u>Public Assembly Uses</u></b>	
(a) Church:	One space for every three fixed seats or every seven foot of bench length or every 28 sq.ft. where no permanent seats or benches are maintained in main auditorium or cultural hall, whichever is greater.
(b) Library; reading room; museum; art gallery:	One space per 500 square feet of floor area.
(c) Day Care Facility:	One space per attendant in addition to residential parking requirements. Resident attendants are not counted in parking requirements for attendant parking.
(d) Elementary or Junior High School:	Two spaces for each teaching station plus one for every eight fixed seats or every 100 sq. ft. of seating area where there are no fixed seats in the auditorium or assembly area.
(e) High School:	Two spaces for each teaching station plus one for every four fixed seats or for every 50 sq. ft. of seating area where there are no fixed seats in auditorium.
(f) College; commercial school for adults:	Two spaces for each teaching station plus one space for every two students of design capacity.
(g) Other auditorium; meeting rooms; or theater	One space per 3 seats or 7 ft of bench length, or every 28 sq. ft. where no permanent seats or benches are maintained.
(h) Limited school service facility:	One space per 400 sq. ft. of floor area.
<b>(5) <u>Commercial Recreation Uses</u></b>	
(a) Stadium; sports arena:	One space per 5 seats, or 10 ft of bench length.
(b) Bowling Alley:	Six spaces per line.
(c) Dance Hall; Skating Rink:	One space per 100 sq. ft. of floor area.



<b>(6) <u>Commercial Uses</u></b>	
<p>(a) Supermarkets; grocery stores, food stores: 2500 sq. ft. or less.</p> <p>2501 to 4000 sq. ft.</p> <p>4001 to 10,000 sq. ft.</p> <p>10,000 or more sq. ft.</p>	<p>One space per 250 sq ft of floor area.</p> <p>One space per 150 sq. ft. of floor area.</p> <p>28 spaces plus six spaces for each additional 1,000 sq ft of gross floor area in excess of 4,000 sq. ft.</p> <p>64 spaces plus five spaces for each additional 1,000 sq. ft. of gross floor area in excess of 10,000 sq. ft.</p>
<p>(b) Services or repair shops, retail stores and outlets selling furniture, automobiles or other bulky merchandise where the operator can show the bulky merchandise occupies the major area of the building.</p>	<p>One space per 600 sq. ft. of gross floor area.</p>
<p>(c) Other retail stores except as otherwise specified herein:</p>	<p>One space per 200 sq. ft. of gross floor area.</p>
<p>(d) Medical or dental:</p>	<p>One space per 250 sq. ft. of gross floor area.</p>
<p>(e) Other office buildings, business and professional offices:</p>	<p>One space for every 400 sq. ft. of gross floor area.</p>
<p>(f) Pharmacies:</p>	<p>One space for each 150 sq. ft. of gross floor area.</p>
<p>(g) Establishments for the sale and consumption on the premises of food and beverages:</p> <p>Restaurant or tavern</p> <p>Restaurant with separate tavern</p>	<p>10 spaces per 1,000 sq. ft. of gross floor area.</p> <p>15 spaces per 1,000 sq. ft. of gross floor area.</p>
<p><sup>7</sup>(h) Mortuaries:</p>	<p>One space per 4 seats of maximum capacity in assembly areas, plus one space per employee, plus one space for each facility vehicle.</p>

(i) Taxicab dispatch offices:	One space for dispatcher and 1.5 spaces per licensed taxicab.
(j) Transportation terminals:	One space for each 5 seats capacity of carriers, loading or unloading within any half-hour period.
<b>(7) <u>Industrial uses</u></b>	
(a) Manufacturing establishment	One space per 1,000 sq. ft. of floor area.
(b) Storage warehouse; wholesale establishment; rail or trucking freight terminal:	One space per 2,000 sq. ft. of floor area.
<b>(8) <u>Other Uses</u></b>	
Other uses not specifically listed above shall furnish parking as required by the Director. The Director shall use the above list as a guide for determining requirements for said other uses.	
<b>(9) <u>Exceptions</u></b>	
A use listed in Item 6 (g) above existing at the time of passage of this Code may expand without meeting the full standards of this section, provided that additional off-street parking spaces are provided as follows:	
Eating or drinking establishments:	One space for every 200 sq. ft. of additional floor area.

25.050 Performance Parking Standards

25.051 Purpose. The purpose of this section is to provide a procedure whereby business proprietors and property owners have the option to determine parking needs based upon a performance evaluation. This section is intended to apply to unique or special uses where the prescriptive parking standard contained in Section 25.040 appears unrepresentative of actual parking needs and, therefore, creates a hardship on the property owner. It is not the intent of this section to circumvent the normal requirements of this Code, nor create substandard parking conditions.

25.052 Concept.

- (1) The Performance Parking concept recognizes the need for flexibility in determining parking requirements for those uses which do not fit the standards contained in section 25.040 of this Code. The concept provides the property

owner with an opportunity to determine parking needs based upon a submitted plan and the owner's ability to perform in accordance with the plan.

- (2) The parking plan, as approved by the Site Plan Review Committee, is constructed and placed on probation for an 18 month period. During this period, the parking conditions are monitored to determine impact to surrounding property owners and streets. If it is determined that no impact has been created, the probationary period terminates and the use is declared in compliance with the ordinance. If an impact has been created, the remaining parking requirements must be constructed. To guarantee construction, security must be posted prior to issuance of the development permit.

<sup>8</sup>25.053 Procedure. A performance parking application shall be processed according to the procedures in Schedule 2-1. The procedure for submission, review and approval is designed to insure the general health, safety and welfare of the community while providing flexibility and minimizing time delays to the applicant.

- (1) Application for Performance Parking Permit. A property owner or his designee may submit an application for a Performance Parking Permit to the Director. The application will be accepted and processed when all of the required information has been submitted.

- (2) Information Required

- (a) Application for Performance Parking and non-refundable fee.

- (b) Off-Street Parking Plan. A Parking Lot Plan shall be prepared and submitted in accordance with Section 25.034 of this Code. If the proposed use involves the preparation of a Site Plan, the Parking Lot Plan may then be part of the Site Plan. The Parking Lot Plan shall show both the total off-street parking spaces as required in Section 25.040, and the location and number of the proposed spaces.

The difference between the total and proposed spaces is the amount of relief requested from the zoning ordinance, and is hereby referred to as 'deferred parking'.

- (c) Evidence of Off-Site Parking Facilities. If any of the total spaces are to be located on a separate parcel, the applicant shall submit evidence as to

the ownership of the parcel, availability of parking, and an agreement, lease, deed in escrow, option to buy, or other mechanism guaranteeing the parking with the other owner. Off-site spaces shall conform with the requirements of Section 25.030 of this Code. The use of the off-site parking facilities shall not reduce the number of spaces below the required number for the use occupying the site.

- (d) Undeveloped Facilities. If any of the deferred parking is located on property which does not contain parking facilities developed to the standards contained in Section 25.030 of this Code, a security guarantee shall be provided for the cost of the facilities and shall be guaranteed for the duration of the probationary period.
- (3) Application Review. Upon receipt of all required information, the Site Plan Review Committee shall review the request as to compliance with the purposes, intent and standards of this section, and shall report their findings to the Director.
- (4) Decision on Permit Request. Based upon the submitted evidence and the findings of the site Plan Review Committee, the Director shall approve, approve with conditions, or deny the request.
- (5) Issuance of Permit. The permit is issued for the duration of the probationary period. If future facilities are involved, the applicant shall sign a binding agreement and shall post security guaranteeing to construct all required parking in accordance with the approved parking plan. The permit is issued for the use as described on the application. Any enlargement, expansion or change of use of the building shall subject the property to the parking requirements contained in Section 25.030 and 25.040 of this Code.
- (6) Probationary Review. The probationary period shall begin at time of issuance of Use and Occupancy Permit, or Business License, and run for a period not to exceed 18 months. At the beginning of the probationary period, property owners within 500 feet of the use or building, shall be notified of the request. During the probation period, site visits shall be conducted by staff to determine impacts, if any. At the end of probation period, property owners are notified again and asked to comment on the parking condition. Based upon the evidence gathered during the probationary period, the

Director shall determine if the applicant has performed to his stated need.

(7) Decision on Performance Evaluation. Upon completion of the probationary period, the Director shall decide:

(a) Whether the applicant has performed to his stated need, and therefore, complies with this Code. The permit, agreement and securities, if any, shall become null and void, or

(b) Whether the use consistently generates greater parking demand than the applicant's stated need, and that the applicant has failed to perform to his stated need and must comply with the prescriptive standards contained in the Ordinance. The deferred parking facilities must now be constructed.

(8) Appeal. Any aggrieved citizen may appeal the Director's decision as provided in Article 10 of this Code.

25.054 Standards. Applicant must conform to the normal requirements of this Code including lot design and materials, number of spaces and landscaping.

(1) Parcel Size. Each affected parcel must be of minimum size to physically accommodate the total required parking and landscaping requirements as prescribed in Section 25.040. Exception to the requirement is provided for in Section 25.032, Location of Parking Requirements, of this Code, and subsection 25.054(2) below.

(2) Off-Site Parking. If any of the total required parking is proposed off-site, applicant must comply with Section 25.032. Evidence must be provided that: the off-site facilities are exclusively available to the applicant for the duration of his use; the facilities are developed to the standards contained in Section 25.050 and use of the facilities will not reduce the amount of required parking available for any other uses. Evidence of proof must be in the form of a lease, deed, contract or any other written evidence acceptable to the Director.

(3) Deferred Parking on Undeveloped Property. If any of the deferred parking is proposed on undeveloped property, the applicant must demonstrate:

(a) The development rights of the property are controlled by the applicant for the duration of the probationary period. Proof may take the form of a

deed, deed in escrow, deed restriction, or any other instrument acceptable to the Director.

(b) The ability to install and cover all costs of the deferred parking. Prior to the issuance of the Performance Parking Permit, the Site Plan Review Committee shall determine all associated costs of the parking and shall receive a security guarantee from the applicant to be held by the appropriate jurisdiction for the duration of the probationary period.

(4) Binding Agreement. Applicant to sign an agreement with the appropriate jurisdiction binding him to the terms of the Performance Parking Permit. The agreement commits the applicant to make all improvements as required and pertains to both the land and the parking facilities. The binding agreement shall be implemented through the security guarantee and the possible forfeiture of any public service or facility.

<sup>6</sup>25.060 Bicycle Parking Facilities

25.061 Bicycle Parking Facilities Required.

(1) Bicycle parking facilities shall be provided for all new multi-dwelling residential, institutional, commercial, industrial uses.

(2) Bicycle parking shall also be provided at the time an existing multi-dwelling residential, institutional, commercial or industrial use is changed, or the building or site is enlarged. A change in use shall provide bicycle parking facilities as required for a new use. A use is considered "changed" when the proposed use of an existing building or site requires more bicycle parking (Section 25.062) than the previous use. If an existing use is enlarged, and the increase is less than 50 percent of the existing structure floor area, new bicycle parking facilities may be provided in proportion to the increase only. If an increase exceeds 50 percent, bicycle parking shall be provided for the entire use in accordance with the requirements of this section.

(3) Lots within the Central Business District are not required to provide bicycle parking as part of development permit approval.

25.062 Required Number of Spaces. The uses requiring bicycle parking facilities, the required minimum number of bicycle parking spaces, and the percentage of those

spaces that must be covered is specified in Schedule 25-2. The floor area of structures shall be determined the same as for vehicle parking in Section 25.035.

25.063 Bicycle Parking Facility Location.

- (1) Required bicycle parking facilities shall be located no further than 50 feet from a public entrance.
- (2) Bicycle parking facilities may be provided in a dedicated area within a building that is accessible for bicycle storage.
- (3) Required bicycle parking facilities may be located within the public right-of-way or within a required building setback subject to approval from the review body and the governing body responsible for the right-of-way.

25.064 Bicycle Parking Facilities Design Standards.

- (1) Bicycle parking facilities shall either be stationary racks which accommodate bicyclist's locks securing the frame and both wheels, or lockable rooms or enclosures in which the bicycle is stored.
- (2) Bicycle parking spaces shall be at least 6 feet long and 2 feet wide. Upright bicycle storage structures are exempted from the parking space length standard.
- (3) A 5 foot aisle for bicycle maneuvering shall be provided and maintained beside or between each row of bicycle parking.
- (4) Bicycle racks or lockers shall be anchored to the surface or to a structure.
- (5) Covered bicycle parking facilities may be located within a building or structure, under a building eave, stairway, entrance, or similar area, or under a special structure to cover the parking. The cover shall leave a minimum 7 foot overhead clearance and shall extend over the entire parking space. If a bicycle storage area is provided within a building, a sign shall be placed at the area indicating that it is for bicycle parking only.

Schedule 25-2: Required Number of Bicycle Parking Spaces		
Land Use Category	Minimum No. Required Bicycle Parking Spaces	Covering Requirements*
Residential Uses		
Multi-Dwelling Housing	1 sp. per unit	Type 2
Group or Transient Quarters	1 sp. per 5 beds	Type 2
Retirement Housing	1 sp. per 10 units	Type 2
General Institutional, Commercial, and Industrial Uses		
<1,600 sq. ft.	no spaces required	NA
1,600 sq. ft. to 3,999 sq ft	1 space	Type 1
>4,000 sq. ft.	1 sp. per 10,000 sq.ft.	Type 3
Specific Institutional, Commercial, and Industrial Uses		
Elementary or Secondary Sch.	4 sp. per classroom	Type 1
Library, reading room, museum, art gallery	1 sp. per 2000 sq. ft.	Type 3
Recreation/Outdoor	1 sp. per 20 auto spaces	Type 1
Auto Service Stations, Drive-in Theaters, and other uses catering entirely to automobile traffic.	1 space	Type 1
Eating/Drinking Establishment	1 sp. per 2,000 sq. ft.	Type 3
Commercial Parking	1 sp. per 20 auto spaces	Type 3
Manufacturing Buildings	Same as for General Uses	Type 4
Storage or warehouse	1 sp. per 15,000 sq. ft.	Type 4

\*Covering requirements are as follows:

Type 1: Parking need not be covered

Type 2: Bicycle parking must be covered if vehicle parking is covered.

Type 3: 50 percent of all spaces must be covered, exclusive of the first two.

Type 4: All spaces must be covered

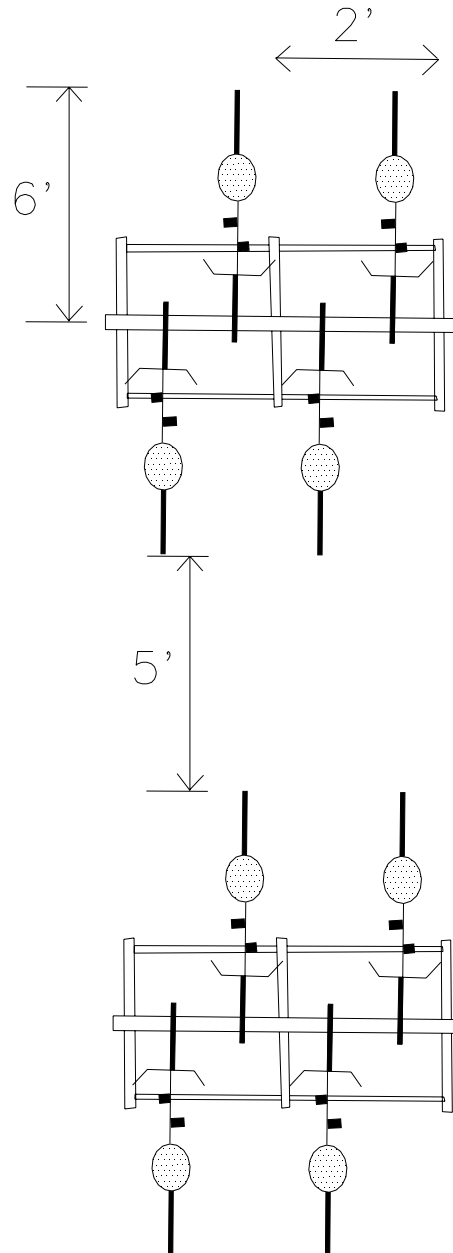


25.065 Vehicle Parking Reduction

Any use providing covered bicycle parking facilities may reduce the number of required vehicle spaces as follows:

Covered Bicycle Parking Spaces Provided	Allowed Reduction in Vehicle Parking Spaces
2	1
4 or more	2

In no case shall the total number of vehicle parking spaces provided under this provision be reduced to less than four.



**Concept Sketch 25-2: Bicycle Parking Facility**

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<sup>1</sup> Revised 3-6-96

<sup>2</sup> Revised 4-3-91

<sup>3</sup> Revised 1-3-96

<sup>4</sup> Revised 4-3-91

<sup>5</sup> Revised 4-3-91

<sup>6</sup> Revised 5-24-93

<sup>7</sup> Revised 1-21-04, Ordinance 5209

<sup>8</sup> Revised 4-20-05, Ordinance 5285

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## Article 27: Access

### 27.010 Purpose

The provisions of this Article are intended to provide for the general circulation of pedestrians, bicyclists and motor vehicles, as well as establishing the legal access requirements for the purpose of land development. The standards contained herein shall serve to provide safe, efficient and noncongested traffic conditions for the community and the general traveling public.

### 27.050 General Provisions

#### 27.051 Streets

- (1) Public streets providing for the general circulation of existing and future traffic, either through the community or to areas within the community, have been identified and appear on the City's Official Street Map as arterials, collectors, or local collector streets. New development shall conform with and provide for the extension and construction of these streets.
- (2) Streets providing the immediate and primary access to individual residential lots are not identified on the official map and are referred to as local residential streets. These streets are limited in their service function and traffic volume capacity. Where necessary to give access to adjacent properties, these streets shall be extended as publicly dedicated streets.
- (3) Where residential parcels may be developed without the need to extend streets to serve adjacent properties, the developing parcel may be served by either public or private dead-end or cul-de-sac streets.

27.052 Sidewalks. Pedestrian traffic shall be provided along public streets with standard sidewalk construction. Along private streets, development shall provide for pedestrian needs in a safe and functional manner.

27.053 Bikeways. Bike paths and routes shall be provided as designated on the official Bike Route Map. In newly developing areas, bike paths shall be provided within the street section in lieu of on-street parking and shall be implemented at time of development. In older established areas, bike paths shall be safely located, and

implemented with the least disturbance to the community, using designated state and local funds, and volunteer resources.

27.054 Lot Access. Lots shall be created only when each lot contains the minimum required frontage on a public or approved private street. Development Permits shall only be issued for lots containing the minimum frontage requirements, and when frontage and interior streets are either fully developed to the standards of this Code, or adequate guarantee of future construction has been accomplished to the City's satisfaction.

## 27.100 Streets

### 27.105 Creation of Streets

- (1) Public. Public streets shall be created through one of the following instruments:
  - (a) Approval of a final subdivision or partition plat.
  - (b) Acceptance of a deed or dedication where the development does not involve the partitioning of land. Any property divided by creation of a public street shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.
- <sup>9</sup>(2) Private. Private streets serving up to ten dwelling units are permitted. Private streets serving more than ten dwelling units are permitted only within Planned Unit Developments, Manufactured Housing Parks, Recreation Vehicle Parks and multi-family residential developments. These streets shall be created through approval of site plan review or via the applicable land use action process.

### <sup>10</sup>27.110 Provision of Street Improvements

- (1) Abutting streets. Where proposed development abuts a future street as shown on the Official Street Map or an existing street that does not meet City street standards as set forth in Article 27 and related construction and design standards, the applicant shall improve such street to such standards for one half (1/2) the street width for the distance the proposed development abuts the street. The improvements shall be constructed or secured, in accordance with City requirements, either prior to Final

Plat or Map, if subdividing or partitioning, or prior to final Use and Occupancy Permit for other developments.

- a. Secured Improvements. If the required improvements are to be secured, the abutting street shall have, at a minimum, two standard-width travel lanes (for a two-way street). Subdivisions shall also have interim pedestrian improvements meeting the requirements of Resolution #4851, either existing or constructed as part of the development.
  - b. Constructed Improvements. If the required improvements are to be constructed and two standard-width travel lanes (for a two-way street) are not already present on the abutting street, the construction shall include two standard-width travel lanes in addition to any bike lane or on-street parking required as part of the half street improvement.
- (2) New Streets. When new public or private streets are created within a new development, they shall connect to abutting streets that satisfy the standards contained in Subsection (1).
- (3) Connecting Streets. The streets abutting the development shall satisfy the standards contained in Subsection 1 and shall connect to a paved street which satisfies the following standards:
- a. If already paved, the connecting street has been accepted by the City or County for public maintenance, or the pavement and base rock meet City or County minimum thickness standards (or other reasonable minimum standards specified by the City Engineer) from the development to an intersecting arterial or collector street.
  - b. If already paved, the connecting street has a minimum of two travel lanes (for a two-way street) at least 10-feet wide from the development to an intersecting arterial or collector street.
  - c. If not already paved, the connecting street segment between the development and an intersecting arterial or collector street shall be constructed in accordance with standards in Article 27.

- d. For subdivisions, pedestrian facilities shall be provided from the development to an approved destination street in accordance with Resolution #4851.

(4) Interior Streets Serving Subdivisions

Where new streets are proposed to serve the interior needs of a subdivision, the applicant is obligated to provide the required right-of-way and construct the streets to the full standards contained in this Code. Such improvements shall be made by the applicant prior to the submission of the Final Plat or Map, or by an agreement to secure the future construction of the streets in accordance with City requirements.

27.120 Street Standards

<sup>9</sup>27.121 General Design Standards

- (1) All streets shall provide for safe and efficient circulation and access for motor vehicles, bicycles, pedestrians, and transit.
- (2) The overall minimum performance standard for streets is Level of Service "D", and Level of Service "D" for signalized intersections. Level of service is determined by using the latest edition of the *Highway Capacity Manual*, Chapter 11 (Transportation Research Board).
- (3) A traffic analysis report shall be prepared by a Traffic Engineer licensed in the State of Oregon. The City Engineer will maintain written administrative guidelines on the basic requirements for such studies. Unless waived pursuant to subsection b) below, this transportation impact analysis is required prior to City acceptance of applications for Development Permits when the trip generation falls within the ranges given below in subsection a):

a) Trip Generation Ranges

- 1) The development is projected to generate twenty-five (25) or more peak hour trips on an arterial or collector segment or intersection, or;
- 2) The development is projected to generate 500 vehicle trips per day or more on any day of the week.

A transportation impact analysis may also be required under certain conditions:



- 1) when the development will impact known safety, congestion or capacity problems;
  - 2) When the project is on a highway segment with special access controls;
- b) Waiver or limits to scope

The City Engineer may waive or reduce the scope of the transportation impact analysis if the impacts from the development area are reasonably known and do not provide reasonable justification for the estimated cost of the analysis and report preparation. In waiving or limiting the scope of a transportation impact analysis that would otherwise be required by subsection (1) above, the City Engineer shall make a written determination that potentially affected intersections will not fall below the performance standards of Section 27.121(2) or the intersections have been adequately analyzed already in research and reports available to the City. The City Engineer shall coordinate with ODOT or Josephine County as appropriate prior to waiving or reducing the scope of a transportation impact analysis for any development impacting a state or county maintained roadway.

(4) Alignment. As far as practical, streets shall be dedicated and constructed in alignment with existing streets by continuing the centerline thereof. Where "staggered" or "T" intersections are unavoidable, the minimum distance between intersection centerlines shall be 260 feet.

(5) Intersections.

(a) Streets shall be designed to intersect at a 90 degree right angle. Due to topographical constraints, the intersection may be varied, but shall not be less than 60 degrees.

(b) Right-of-way lines shall be founded with an arc parallel to the curb radius.

(c) Curb Radius. For arterial and collector street intersections, curb radii shall not be less than 25 feet. All other intersections shall have curb radii of not less than 20 feet.

- (6) Cul-de-Sac's and Dead-End Streets. A cul-de-sac shall terminate with a circular turn-around. A dead end street may be longer than the maximum length of a cul-de-sac, as described in Section 27.123, if it is intended to be extended at a later date, in accordance with a locally-adopted plan, and if a temporary cul-de-sac is constructed at least every 500 feet and within 150 feet of the temporary terminus of the street.
- (7) Future Extensions of Streets. Where necessary to give access to or permit a satisfactory future division of adjoining land, public streets shall be extended to the boundary lines of the tract to be developed and the resulting dead-end street may be approved without a cul-de-sac; however, a temporary cul-de-sac may be required as provided in Subsection 27.121 (6).
- (8) Half Streets. Half streets, while generally not acceptable, may be approved where reasonably essential to the development, when in conformity with the other requirements of these standards, and when it will be practical to require the dedication of the other half street when the adjoining property is developed. Whenever an existing half street is adjacent to land to be developed, the remaining half of the street shall be dedicated either by Final Plat or through deed acceptance and shall be developed in compliance with the standards of this Code.
- (9) Half Street Equivalency. Upon recommendation from the City Engineer, and concurrence of the affected property owner, that it is safer and in the best interest of the community to apply the equivalent cost of a required half street improvement to a preferred alternate street section, the review body may allow the type of required improvements to be varied according to the preferred improvements.
- (10) Reserve Strips and Street Plugs. To manage future development of property where right-of-way or an approved street plan doesn't exist, the review body may impose a reserve strip or street plug. The creation or vacation of a reserve strip shall be approved by the City Council only.
- (11) Driveways. The location and width of access driveways onto public streets shall be subject to the following:

- (a) Approaches: Shall be paved and constructed in accordance with City standards for residential and commercial users.
- (b) Width: As shown in Schedule 27-1.

Minimum - Maximum Approach Width Schedule 27-1			
Use	Width		Separation between drives
	Minimum	Maximum	
Single and Two-Family Dwellings	10 feet	24 feet	5 feet
All Other Residential and Commercial	One Way 12 feet	One Way 16 feet	22 feet
	Two Way 24 feet	Two Way 32 feet	22 feet
Industrial	One Way 12 feet	One Way 24 feet	22 feet
	Two Way 24 feet	Two Way 48 feet	22 feet

\*The city engineer may approve greater widths for driveway approaches with additional lanes.

- (c) Minimum Distance from Intersection (greater distance may be required by a traffic analysis report)

Local Street Residential	20 feet
Collector	100 feet*
Arterial	150 feet*

\* Where impractical due to lot configurations, driveway to be approved by City Engineer.

- (d) Slope: Not to exceed 18%. For driveways longer than 50 feet, the transition between the street and the driveway must allow a City Fire truck to enter the driveway without contacting the under carriage.
- (e) Number of Accesses Permitted. Access points to a public street shall be the minimum necessary to provide reasonable access while not inhibiting the safe traffic circulation and carrying capacity of the street.
- (f) Multiple Frontage Properties. Properties which have frontage on more than one street may be restricted

to access only from the streets of a lower classification.

(g) Joint Access Encouraged. Common accessways at a property line shall be encouraged and in some instances may be required in order to reduce the number of access points to streets. Construction of common accessways shall be preceded by recording of joint access and maintenance easements.

(h) Access to Arterials and Collectors.

1. Direct access to arterial streets and collector streets shall be avoided wherever practical. An encroachment permit to allow private direct access onto an arterial street shall be granted by the City Engineer only after all other reasonable options are explored. The number of access points on arterial and collector streets shall be minimized whenever possible through the use of driveways common to more than one development and through interior circulation design to further this requirement. Any public or private road approach onto a state facility must be consistent with the spacing and permit standards of the Access Management Oregon Administrative Rule 734-051.
2. New single-family residential driveways shall not have direct access onto arterial streets, except as allowed in subsection 27.121.11(i) below. and Direct access onto collector streets is discouraged in residential areas.
3. Where direct access onto arterial and collector streets is permitted, turning movements may be limited to right-turn-in and right-turn-out movements only or other specific controls.
4. Each parcel shall be allowed no more than one direct access driveway, regardless of the size of the property or the linear feet of frontage, unless a variance is granted by the review body based on a traffic analysis report and the criteria in Article 6.
5. No additional access shall be provided simply because the property is divided. All access to new properties created in this manner shall be provided by means internal to the properties from existing access or by public frontage on other roads and streets.

6. Access to designated state highways shall be subject to the provisions of this Subsection that are applicable to arterial streets in addition to the requirements of the Highway Division, State Department of Transportation<sup>1</sup>. Where regulations of the City and State may conflict, the more restrictive requirements shall apply.
7. For developments on parcels of contiguous ownership exceeding five acres in size which front on an arterial street or limited access highway, a frontage road may be required providing a single access to a point determined most appropriate for safety and convenience by the reviewing body;
8. Where a development abuts or contains an existing or proposed arterial street, the development design shall provide adequate protection for residential properties and shall separate residential access from through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design requirements may include any of the following:
  - aa. A parallel access street along the arterial.
  - bb. Lots of suitable depth abutting the arterial to provide adequate buffering with frontage along another street.
  - cc. Screen planting at the rear or side property line to be contained in a non-access reservation strip along the arterial.
  - dd. Adequate on-site turnaround for lots having direct access.
  - ee. Driveways should be located near interior property lines where such access could be shared by the adjacent property owner.
- (i) The Review body may grant variances to the above restrictions on access onto arterial or collector streets in accordance with Article 6. Where a variance is granted to allow direct access, that access shall be discontinued if and when access to a frontage road or other public road becomes possible.
- (j) The Review Body may attach conditions of approval to

an application on property which has frontage on an arterial or collector street in order to preserve and enhance the capacity of that street. Such conditions of approval may include requiring:

1. the closure, consolidation and narrowing of existing driveways;
2. construction of deceleration and acceleration lanes for turning traffic;
3. restrictions on or removal of adjacent on-street parking;
4. access to the road network only via streets of a lower classification instead of arterial or collector streets.
5. adequate site distance at driveways and intersections;
6. internal driveways connecting abutting private parking lots or developments;
7. installation of physical barriers to prevent left turning movements to and from adjacent properties;
8. other techniques such as those described in the Transportation Master Plan.

(12) Traffic Signals. The location of future traffic signals shall be noted on approved street plans. Where a proposed street intersection will result in an immediate need for a traffic signal, a signal meeting approved City specifications shall be installed. The cost may be included as a condition of development approval, or other equitable means of cost distribution shall be determined by the City Council. Where a concurrent group of developments will create a need for a traffic signal at an intersection, the pro-rata cost for such installation may be attached as a condition of development for each development.

(13) Street Adjacent to Railroad. Wherever a proposed development contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of the railroad right-of-way at a distance suitable for the appropriate use of the land between each street and the railroad. The distance shall be determined with due consideration at each cross street of the minimum distance required for approach grades to a future grade

separation and to provide sufficient depth to allow screen planting along the railroad right-of-way in non-industrial areas.

- (14) Street Names. Street names and traffic control signs shall be installed as required by the City Engineer.
- (15) Street Sign. Street names and traffic control signs shall be installed as required by the City Engineer.
- (16) Street Lights. Street lights shall be provided with the following standards:
  - (a) Location: At intersections; at cul-de-sacs where dead-end is greater than 150 feet from nearest lighted intersection; hazardous areas; behind sidewalks but shall not obstruct motorist's view.
  - (b) Service: Nearest facility carrying 120 volts secondary and controlled by individual photoelectric control. Service must be underground.
  - (c) Materials and Height: Galvanized steel or aluminum, or on existing wood distribution facilities; 25-30 feet high.
  - (d) Type: High Pressure Sodium Vapor. 9500 lumens or greater for residential and local collector streets; 22,000 lumens or greater for arterial or collector.

#### 27.122 Connectivity Standards

The following standards shall be applied to: 1) provide a pattern of streets and accessways that ensures safe, convenient and generally direct access for motor vehicles, pedestrians, bicyclists, and transit users; and 2) ensure that proposed development will be designed in a manner which will not preclude properties within the surrounding area from meeting the requirements of this section when those properties are developed.

For new residential, commercial and mixed-use development, local on-site street connections shall be provided which meet the following:

- (1) Block lengths for local streets and collectors shall not exceed 600 feet between through streets, measured along the nearside right-of-way line of the through street.
- (2) The total length of a perimeter of a block for local and collector streets shall not exceed 1,800 feet between through streets, measured along the nearside right-of-way

line.

- (3) Cul-de-sacs and other types of permanent dead-end streets shall be limited, and used only where construction of a through street is found to be impracticable due to constraints such as those noted in Section 27.122 (5).
- (4) Accessways for pedestrians and bicyclists shall be provided at mid-block where the block is longer than 600 feet.
- (5) The Review Authority may grant a variance to the standards of Section 27.122 (1), (2), (3) or (4) above in accordance with the variance criteria found in Article 6. In addition to the criteria in Article 6, the variance shall be based on findings that the application of the standard is impractical due to one or more of the following constraints, and that the modification is the minimum necessary to address the constraint:
  - (a) Topography, particularly if the development is within the Slope Hazard District identified in Article 13.100;
  - (b) Drainage hazard areas, wetlands, flood plains, or significant natural resource areas;
  - (c) Existing development patterns on abutting property which preclude the logical connection of streets or accessways;
  - (d) Arterial access restrictions; or
  - (e) Railroads.
- (6) Streets shall connect to all existing or approved stub streets which abut or will abut the development site when adjoining properties are developed, unless otherwise approved through the development review process.

27.123 Street Section Design Standards

- (1) Public Streets. Public streets are functionally classified in the Transportation Master Plan as State Highways, Arterial Streets, Collector Streets, Local Collector Streets and Local Access Streets. The standards for each type of street will vary depending on existing or projected traffic volumes, existing development patterns and available right-of-way, topography and other natural features, and other variables. The basic minimum standards for each type of street are found in Schedule 27-3. Specific conditions for each street project may demand that these standards be altered on a case-by-case basis by the City Engineer, particularly when retrofitting or matching existing



streets. A description of the characteristics of each type of street follows:

- (a) State Highways. State highways include both freeways, like I-5, limited access expressways such as the Parkway and Redwood Highway, and commercial streets such as 6<sup>th</sup> and 7<sup>th</sup> streets. Standards for state highways are set by the state, in coordination with the City. State Highways shall meet the standards as outlined in the Oregon Highway Plan or by ODOT Engineering Standards.
- (b) Arterial streets. All new arterials shall include marked 6-foot wide bike lanes on both sides of the street, and will generally have two 11-foot wide travel lanes, a 12-foot wide continuous turn lane or median, and no on-street parking. Without the turn lane or median, an arterial may be two 12-foot wide lanes and two 6-foot wide bike lanes. Access directly from abutting properties is restricted. Sidewalks will be a minimum of 6-feet wide, and may be 8-feet wide in commercial areas where heavy pedestrian traffic is expected.
- (c) Collector streets. All new collectors shall include marked bike lanes on both sides of the street, and will generally include two 11-foot wide travel lanes, two 5-foot wide bike lanes, and two 6-foot wide sidewalks. Generally, collector streets will not provide on-street parking, and may include a 12-foot wide turn lane or median. Some access restrictions on abutting property is necessary. Street calming techniques are permissible but not typical.
- (d) Local Collector Streets. All new local collectors shall provide parking on both sides, although parking may be restricted or removed at some intersections or driveways to provide left turn lanes. These streets will typically be designed with two 10-foot wide travel lanes and two 7-foot wide parking lanes within a 60-foot wide right-of-way. Sidewalks a minimum of 5-foot wide will be provided. Bike lanes will not be provided unless the expected motor vehicle ADT's will exceed 3000. If bike lanes are provided, additional right-of-way is needed. To manage speeds, traffic calming techniques may be used. Little to no access control is necessary.
- (e) Local access streets. All new local access streets will generally be designed with a 26 to 34-foot wide roadway, curb face to curb face, within a 46 to 58-foot wide right-of-way, with 4 to 5-foot wide sidewalks along both sides of the street. (See

Schedule 27-3 for description of the variations). Parking is allowed on both sides. Variations on this standard street based on estimated traffic volumes, pedestrian volumes, natural features, and existing development patterns are allowed, as approved by the City Engineer.

- (f) Cul-de-sac streets. These are a type of dead-end local access streets. Cul-de-sac streets shall be as short as possible and shall have a maximum length of 400 feet in the Slope Hazard District identified in Article 13.100, and 250 feet in all other areas, unless a variance is granted by the Review Body.

The neck of the cul-de-sac will be 26-foot wide within a 46-foot wide right-of-way, with parking allowed on both sides, and with 4-foot wide sidewalks along both sides of the street. The bulb right-of-way radius will be 45-foot wide, with a curb radius of 38-foot wide, unless an alternative design is approved by the City Engineer. Alternative designs include but are not limited to: a 35-foot curb radius within a 40-foot right-of-way radius with a rolled curb and gutter and an attached thickened sidewalk. Parking is allowed in the bulb.

- (g) Short cul-de-sac. A short cul-de-sac may be used when the cul-de-sac length is 150 feet or less, and it serves no more than 10 dwelling units. The neck of a short cul-de-sac street will be 24-foot wide, within a 42-foot wide right-of-way, with parking allowed on both sides. No sidewalks are required. The bulb shall be designed with a 30-foot curb radius within a 35-foot right-of-way radius. Parking is allowed in the bulb.

- (2) Sidewalks. See Section 27.313.

- (3) Planter strips. See Schedule 27-3 and Section 27.313.

- (4) Street grade. Streets may be up to 18% grade for distance segments not to exceed 400 feet in length, with a minimum of 50 feet long intervals of 12% or less between segments that are over 15% grade. The cross sectional grade of a cul-de-sac shall not exceed 10%.

- (5) Bike lanes. Collector streets and arterial streets shall have bike lanes on both sides of the street, a minimum of 5 feet wide on collectors and 6 feet wide on arterials. Local collectors shall have bike lanes only if the expected motor vehicle ADT's will exceed 3000. The guidelines provided by the most recent edition of the

Oregon Bike and Pedestrian Plan shall be followed.

- (6) Minimum travel lane width. Standard lane widths shall be as proposed in Schedule 27-3. The City Engineer may approve lesser travel lane width based on engineering practices where there are constraints on developing standard widths. In no case shall travel lanes be less than 10 feet for local collector, collector or arterial streets. On local access streets, no reduction from standards shall be permitted. The single lane may be shared by traffic in both directions.
- (7) Minimum left turn lane width. In no case shall the left turn lane be less than 12 feet.
- (8) Sight distance. Minimum sight distances shall be based on engineering practices. In no case shall sight distance be less than 200 feet for a local street, and 350 feet for a local collector, collector or arterial street. Minimum sight distance on state highways and County roads shall be determined by the appropriate road authority. Adequate sight distance calculations will vary by location, prevailing speed on the main street, the grade of the main street, condition of the roadway and other factors. Adequate sight distance requirements will be determined by the City Engineer and should be made utilizing procedures developed by the Institute of Transportation Engineers and the American Association of State Highway and Transportation Officials, as well as the Oregon Department of Transportation.
- (9) Vertical clearance: The vertical clearance on all streets shall be 16-1/2 feet.
- (10) Load design: The load design shall be HS 20 - 44.
- (11) Hillside standards: Applies only to local access and local collector streets within the Steep Slope Hazard area.
  - (a) Right-of-way: 46 feet for local collectors; 40 feet for local access streets.
  - (b) Paving, curb to curb: one way system with one parking lane may be a minimum of 20-feet wide; two way system with one parking lane may be a minimum of 24-feet wide; two way system with parking on both sides may be a minimum of 28- feet wide; two way system with no parking on either side and signed for bicyclists as required of a "Shared Roadway - Wide Outside Lane" may be a minimum of 28-feet wide.
  - (c) Sidewalks: the reduction in the width of a sidewalk to less than four (4) feet along a local access street or to less than five (5) feet in width along

a local collector street can be accomplished only through approval of a variance.

- (d) Planter strips: may be eliminated.
- (12) Private streets. Private streets serving less than ten dwelling units will be constructed to the same construction standard as public streets for all local access streets and cul-de-sac streets. Private streets serving ten or more dwelling units will be constructed to the same design and construction standard as public streets for all local access streets and cul-de-sac streets. In addition to the standards for public streets, the City will allow private streets to terminate in a street design other than a circular cul-de-sac, such as a "hammerhead" turn-around.
- (a) A private street serving four dwelling units or less may use a minimum 20 foot street with no curbs, planter strips or sidewalks required.
  - (b) A private street serving five to ten dwelling units may use a minimum 22 foot wide private street, with a curb and 4 foot sidewalk along one side only, and no planter strip.
  - (c) In either case, if such street is over 150 feet in length, a cul-de-sac or hammerhead turn-around must be provided that meets the standards of the Public Safety Department.
  - (d) A private street shall be in a separate tract of land or an easement owned and maintained jointly by the property owners using the street for access. The City shall require legal assurances for the continued maintenance of such streets, such as a recorded maintenance agreement.
- (13) In those areas where a proposed street improvement joins an existing street section of a different design standard, the City Engineer may require appropriate transitioning from one standard to the other.
- (14) In those cases where a proposed street abuts a developed neighboring residential property, the street itself shall be kept a minimum of 5-feet from the abutting property line. The sidewalk, if any, may be placed at the property line.
- (15) In addition to the alterations or modifications to the standards of this Article that the City Engineer is specifically authorized to approve, the Review Authority may grant a variance to the standards noted above in accordance with Article 6 and can apply conditions to mitigate impacts. In addition to the criteria found in

Article 6, the variance shall be based on findings that the application of the standard is impracticable due to the constraints noted in Section 27.122(5) and that the variance is the minimum necessary to address the constraint.

27.124 Construction Standards

All public and private streets shall be designed and constructed to the following standards:

Street Construction Standards Schedule 27-2			
Street Type	Base 3/4 minus	Asphalt	Concrete*
Arterial	12"	4"	8"
Collector or Private Street Equivalent	8"	3"	8"
Local Collector, Local or Private Street Equivalent	6"	2"	5"
* When surface is concrete, base material depth may be reduced upon approval of City Engineer.			

27.125 Vision Clearance and Vision Clearance Area. Vision clearance areas shall be located on the corners of properties abutting the intersections of two or more streets, intersections of streets with alleys and intersections of alleys with alleys. Vision clearance areas shall be triangular in shape with the following minimum distances establishing two legs of the triangle:

- (1) In a Residential District the distance shall be twenty (20) feet along each property line from the point of intersection of two or more streets or at the intersection of a street and an alley, or alley and an alley, then ten (10) feet along the street and ten (10) feet along the alley from the point of intersection.
- (2) In Commercial and Industrial Districts where yards are required, the distance shall be fifteen (15) feet along each property line from the point of intersection thereof; at the intersection of a street and an alley, or alley and an alley, then (10) feet along the property line and ten (10) feet along the alley from the point of intersection.

- (3) In all districts where the angle on the intersection of streets, other than at an alley, is less than 30 degrees, the distance along each property line shall be twenty five (25) feet from the point of intersection.
- (4) No vision clearance area shall contain any obstruction as defined in this Code.

<sup>2</sup>27.126 Alley Access

Access to a property may be taken from a public alley provided the alley is paved to standard along the alley frontage of the property and to a street. Alley access shall not constitute street frontage. Where an existing public alley is not paved to standard, the following shall be met:

- (1) Single family and duplex dwellings: For any new alley access, including any new garage or carport excluding the replacement of a garage or carport on the same footprint, the applicant shall, at a minimum, provide a standard drive approach, where necessary, at the alley entrance to the nearest street, and provide a minimum 50 feet length of standard paving from the drive approach towards the property. If the alley is partially paved, the applicant shall provide the drive approach, if necessary, and an additional 50 feet of pavement from the end of the existing pavement towards the property.
- (2) Other developments: Where alley access is proposed for other developments requiring a development permit, the applicant shall improve the full width alley along the property frontage to the street intersection most likely to provide the greatest amount of traffic.
- (3) Local Improvement District: Where a local improvement district is formed to improve the alley prior to or concurrent with development, the applicant shall participate in the frontage cost of the alley as provided in the district in lieu of paving as listed above.

<sup>4</sup>27.127 Alley Paving Standards

- (1) Width: Alleys shall be paved a standard of 20 feet wide for commercial and 16 foot wide for residential. Where physical circumstances prevent paving to those standard widths, the City Engineer may approve a reduced width, but not less than 12 feet for a one-way alley.

- (2) Surface construction standards: Same as for a local street.

27.200 Lot Frontage

Each new lot created shall have minimum frontage on a public or private street as follows:

Residential Lots	20 feet
Commercial/Industrial Lots	25 feet

<sup>5</sup>27.300 Sidewalks and Pedestrian Ways

27.310 Public Sidewalks.

27.311 Installation Required. Sidewalk installation along the entire frontage of all lots being developed shall be required as part of approval for:

- (1) Partitions
- (2) Subdivisions
- (3) All new developments.
- (4) Expansions of over 50 percent of the original floor area of existing developments.
- (5) For expansions of more than 25 percent but less than 50 percent of the original floor area of existing multi-dwelling, institutional, commercial, or industrial use, the review body may require additional installation of sidewalks along a portion of the frontage that equals the percentage of the expansion.

27.312 Deferral of Installation. When installation of sidewalks is required under Section 27.311, such installation may be deferred as follows:

- <sup>8</sup>(1) If the frontage street is planned to be widened or improved, and the City Engineer determines that the improvements cannot feasibly be made as part of development permit approval, and the improvements are planned or are likely to be made, in the opinion of the review body, within five years after development permit approval, then installation of sidewalks may be deferred

by following the Deferred Development Agreement Process described in Section 29.060.

- <sup>8</sup>(2) If the frontage street is planned to be widened or improved, and the City Engineer determines that the improvements cannot feasibly be made as part of development permit approval, and the improvements are planned or are likely to be made more than five years after development permit approval, then installation of the sidewalks may be deferred by following the Deferred Development Agreement Process described in Section 29.060. Where the City Engineer determines an interim pedestrian way is feasible, the review body may require that one be provided along the frontage through such means and widening a street shoulder to provide pedestrian access.



Minimum Public Street Section Design Standards Schedule 27-3

<u>Type</u>	<u>Minimum Right-of-Way</u>	<u>Paving Width Curb to Curb</u>	<u>Maximum Length</u>	<u>Planter Strip (Minimum)</u>	<u>Sidewalks (Minimum)</u>	<u>Bicycle Lanes (Minimum)</u>	<u>Maximum Grade</u>	<u>Design Speed (MPH)</u>	<u>Maximum Degree of Curve</u>
<u>State Highway</u>	<u>varies</u>	<u>varies</u>	<u>N/A</u>	<u>7.5'</u>	<u>6'</u>	<u>6'</u>	<u>10%</u>	<u>25-55+</u>	<u>12 degrees</u>
<u>Arterial</u>	<u>64'-74'</u>	<u>36'-46'<sup>1</sup></u>	<u>N/A</u>	<u>7.5'</u>	<u>6'</u>	<u>6'</u>	<u>10%</u>	<u>25-45</u>	<u>12 degrees</u>
<u>Collector</u>	<u>60'-72'</u>	<u>32'-44'<sup>2</sup></u>	<u>N/A</u>	<u>7.5'</u>	<u>6'</u>	<u>5'</u>	<u>10%</u>	<u>25-35</u>	<u>57 degrees</u>
<u>Local Collector</u>	<u>60'-70'</u>	<u>34'<sup>3</sup></u>	<u>N/A</u>	<u>7.5'</u>	<u>5'</u>	<u>5'<sup>4</sup></u>	<u>12%</u>	<u>25-35</u>	<u>57 degrees</u>
<u>Local Access Through Street Over 1500 ADT</u>	<u>58'</u>	<u>34'</u>	<u>N/A</u>	<u>6.5'</u>	<u>5'</u>	<u>None</u>	<u>15%15%</u>	<u>15-25</u>	<u>57 degrees</u>
<u>250-1500 ADT&lt;</u>	<u>50'</u>	<u>28'</u>		<u>5.5'</u>	<u>5'</u>		<u>18%</u>		
<u>250 ADT</u>	<u>46'</u>	<u>26'</u>		<u>5.5'</u>	<u>4'</u>				
<u>Cul-de-Sac neck</u>	<u>46'</u>	<u>26'</u>	<u>250'<sup>5</sup></u>	<u>None</u>	<u>4'</u>	<u>None</u>	<u>18%</u>	<u>15-25</u>	<u>57 degrees</u>
<u>bulb</u>	<u>45'</u>	<u>38'</u>			<u>None</u>				
<u>Short cul-de-sac neck</u>	<u>42'</u>	<u>24'</u>	<u>150'</u>						
<u>bulb</u>	<u>35'</u>	<u>30'</u>							
<u>Alley: residential</u>				<u>None</u>	<u>None</u>	<u>None</u>	<u>18%</u>	<u>15</u>	<u>57 degrees</u>
<u>one-way</u>	<u>20'</u>	<u>12'</u>							
<u>two-way</u>	<u>20'</u>	<u>16'</u>							
<u>Alley: business</u>	<u>20'</u>	<u>20'</u>							

<sup>1</sup> Width varies depending on whether or not a center turn lane or median is provided. See Section 27.123(1)(b)

<sup>2</sup> Width varies depending on whether or not a center turn lane or median is provided. See Section 27.123(1)(c)

<sup>3</sup> Can be striped for either parking or bicycle lanes. See Section 27.123(1)(d)

<sup>4</sup> Only if the volume of traffic exceeds 3000 trips/day. See Section 27.123(1)(d) and 27.123(5)

<sup>5</sup> May be 400 feet in length in the Slope Hazard District. See Section 27.123(1)(f)

- (3) For partitions or subdivisions where the City Engineer determines that installation of sidewalks is feasible, installation of the sidewalks may be deferred until after final plat approval by posting security. The security shall equal 110 percent of the cost of the sidewalks, as determined by the Director, and shall be in a form approved by the Director. The sidewalks shall be installed:
- (a) in front of each lot or parcel when it is developed.
  - (b) in front of the lots or parcels not having sidewalks after 80 percent of the lots or parcels have been developed.
  - (c) in front of any lot or parcel that has not had sidewalks installed within three years of final plat approval.
- (4) For new or expanded single family residences or duplexes located on a street where no sidewalks currently exist, excluding newly constructed streets or streets planned to be improved or widened, installation of the sidewalks may be deferred through signing of a deferred development agreement.

<sup>6</sup>27.313 Public Sidewalk Design Standards

- (1) Sidewalks shall be installed on both sides of public streets, except those where pedestrian access is restricted, such as freeways. For hillside development, sidewalks shall be required on one side only, normally the uphill side. Sidewalks typically shall be installed within public rights-of-way adjacent to streets. In special circumstances, the Director may approve sidewalk installation within a public easement.
- (2) Sidewalks shall generally be placed 6" from the property line, leaving a planter strip between the curb and the sidewalk. In areas where the placement of the sidewalk at the property line would result in the removal of significant trees, or the construction of significant fill or cut slope, or in other cases deemed appropriate by the City Engineer, the sidewalk may be meandered or placed adjacent to, closer to, or farther from the curb with additional right-of-way or a sidewalk easement.
- (3) Sidewalks typically shall be 5 to 6 feet wide. In the

CBD zone, sidewalks will be a minimum of 8 feet wide with no planter strip to facilitate loading and unloading at the curb. Sidewalks may also be increased to an 8 foot minimum width in areas of heavy pedestrian traffic, such as near schools. In a steep slope area, the reduction in the width of a sidewalk to less than four (4) feet along a local access street or to less than five (5) feet in width along a local collector street can be accomplished only through approval of a variance.

- (4) For sidewalks adjacent to arterial or collector streets, a planter strip at least five and one half feet wide, and typically seven and one-half feet wide, shall be installed between the sidewalk and the curb, unless the City Engineer determines one is not appropriate considering existing grades, obstructions, landscaping, right-of-way widths, sidewalk locations, and similar constraints.

Landscaping in the area of the planter strip, installed in accordance with an approved plan, may be used in meeting the landscaping requirements for front and exterior yards as contained in Sections 23.031, 23.032, and 23.033 of the Development Code.

- (5) For sidewalks adjacent to local streets, a planter strip at least five and one-half feet wide shall be installed between the curb and the sidewalk. If necessary, the sidewalk may be located within an easement.
- (6) The width of the curb is included in the planter strip width, or in the sidewalk width where the sidewalk abuts the curb. Street trees and street lights, as required, shall be located within the planter strip.
- (7) Where feasible, any existing utility pole or other obstruction shall be removed outside of the sidewalk area prior to sidewalk installation. If the City Engineer determines that the utility pole or obstruction cannot be relocated, the sidewalk may be designed around it. If a 5 foot clearance cannot be maintained, the City Engineer may approve a minimum clearance of 3 feet. Any curve or transition shall accommodate wheelchair access and meet the standards contained in the Grants Pass Standard Drawings and the Americans with Disabilities Act.
- (8) Sidewalk construction shall meet the standards contained in the Grants Pass Standard Drawings and the Americans

with Disabilities Act. Curb, gutter, and other necessary street widening and improvements shall be installed where necessary to accommodate the sidewalk installation.

- (9) Wheelchair ramps shall be installed at all street corners in accordance with the Grants Pass Standard Drawings and the Americans with Disabilities Act.

27.314 Alternate Pedestrian Way. The review body may waive the requirement for installation of public sidewalks where the development provides suitable alternate pedestrian ways.

27.320 Private Pedestrian Ways.

27.321 Provision. Private pedestrian ways are required for all commercial and office park uses and may be required for other uses, such as industrial or multi-family residential uses. Where required, pedestrian ways shall be provided as follows:

- (1) From the public sidewalk or right-of-way to the building(s). At a minimum, walkways shall be located to connect focus points of pedestrian activity such as street crossings to the major building entry points.
- (2) Adjacent to and along the full length of the building on any side which provides access to the building from adjacent parking areas or public or private streets.
- (3) To connect to potential walkway locations on adjoining properties to create an integrated internal walkway system along desired lines of pedestrian travel.

27.322 Private Pedestrian Way Design Standards. When a private pedestrian way is required, it shall be constructed to the following standards:

- (1) The pedestrian way shall typically be 5 feet wide, but where necessary the review body may approve pedestrian ways a minimum of 3 feet wide.
- (2) The pedestrian way shall have a surface composed of asphalt, concrete, or masonry pavers seeded with grass.
- (3) The pedestrian way shall have a minimum 7 foot overhead clearance from limbs, runners, awnings, signs, or other obstructions.

- (4) The pedestrian way shall comply with all applicable standards of the Americans with Disabilities Act and other similar regulations.
- (5) Openings shall be provided and maintained in any fence, wall, hedge, or other barrier across the pedestrian way, or at the end of the way where it will access another property or right-of-way.

27.330 Pedestrian Connector Routes

27.331 Purpose. Pedestrian connector routes are intended to encourage pedestrian travel by reducing walking distances where other routes are excessively long. The connector routes also provide shorter routes for bicycle travel, though some may require the cyclist to dismount prior to passing. Where other utility routes cannot be made available, a pedestrian connector route may be used as a utility easement. Pedestrian connector routes are not intended to replace street connections where they are needed for vehicle, emergency, and utility access.

27.332 Provision. When a subdivision, partition, or site plan is proposed, and the review body has determined that a street connection is not needed for vehicle, emergency, and utility access, the review body may require that a pedestrian connector route be dedicated as an easement and constructed to provide access to nearby public rights-of-way, pedestrian ways, bikeways or other properties. The review body may require the connector route where there is a route available when topography, natural features, physical obstructions such as freeways and railroads, existing and future development, ownership patterns, the public's safety, and similar factors are considered, and where any of the following criteria are met:

- (1) In residential and industrial districts where a street connection is not feasible and the addition of an accessway would reduce walking or bicycling distance by 400 feet or more, or by at least 50 percent over other available pedestrian routes to a school, shopping center or neighborhood.
- (2) For commercial districts where addition of an accessway would reduce walking or bicycling distance by 200 feet, or by at least 50 percent over other available pedestrian routes to a school, shopping center or neighborhood park.

- (3) For purposes of paragraphs 1 and 2 of this section, other available pedestrian routes include public sidewalks and walkways within shopping centers, planned developments and industrial districts. Routes may cross parking lots on adjoining properties if the route is open to the public for pedestrian use, is a paved surface, and is unobstructed.
- (4) Accessways shall be located to provide a reasonably direct connection between likely pedestrian destinations. Accessways shall meet all City design and construction standards. Accessways through parking lots shall be physically separated from adjacent vehicle parking and parallel vehicle traffic by either a minimum 6-inch curb or a minimum 3-foot horizontal separation or similar devices, including landscaping, trees and lighting. Pedestrian crossing of traffic aisles are permitted for a distance of no greater than 36 feet if appropriate pavement markings or contrasting pavement materials are used. Walkways shall be a minimum of 4 feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks and signposts, and shall be in compliance with ADA standards.
- (5) A required accessway need not be provided where another required sidewalk or walkway route provides an alternative reasonably direct route. An alternative route is considered reasonably direct if the walking distance increases by less than 50% but not more than 100 feet over the required route.
- (6) Where cul-de-sacs are planned, accessways may be required connecting the ends of cul-de-sacs to each other, to other streets, or to neighborhood activity centers, in accordance with this section.
- (7) The connector route would provide efficient pedestrian or bicycle circulation and is necessary as an underground utility route.
- (8) The pedestrian connector route is part of a previously adopted pedestrian or bicycle circulation plan.
- (9) The review body determines that the route is necessary to continue existing or potential pedestrian or bicycle circulation routes, or to provide access to a special feature such as a school or transit station.

<sup>7</sup>27.333 Pedestrian Connector Route Design Standards.

- (1) The connector route shall be within a recorded public easement.
- (2) Connector routes that do not also serve as utility easements shall have the following minimum easement or right-of-way widths:
  - (a) Routes less than 100 feet long: 10 feet wide
  - (b) Routes more than 100 feet long: 15 feet wide.
- (3) Connector routes that also serve as utility easements must be at least 20 feet wide. The review body may require wider easements if needed for maintenance of that utility, or if multiple utilities are located within the easement.
- (4) The connector route shall contain a minimum 8 foot wide concrete walking surface. The remainder of the area may be concrete, masonry pavers seeded with grass, or appropriate landscaping. If there is landscaping within the pedestrian way, abutting property owners or a homeowner's association shall be responsible for its maintenance.
- (5) The connector route shall meet applicable access standards for disabled persons.
- (6) The connector route shall have a minimum 8 foot overhead clearance from limbs or other obstructions.
- (7) The connector route shall be as short as possible, and in no case shall be more than 400 feet in length. When possible, there shall be vision clearance from one end of the connector route to the other end.
- (8) Stairs or switchback paths may be used where grades are steep. Stairways shall be at least five feet wide and constructed to current building code specifications.
- (9) The review body may require that the connector route be lighted. Lights shall be designed to illuminate the walkway area, to minimize shining on adjacent properties, and to minimize public safety risks. Design shall be approved by the City Public Safety Department.

- (10) The connector route shall be signed to designate the route for pedestrian and bicycle access only.
- (11) The review body may require that appropriate barriers to vehicle access be placed at each end of the connector route.

27.400 Bikeways

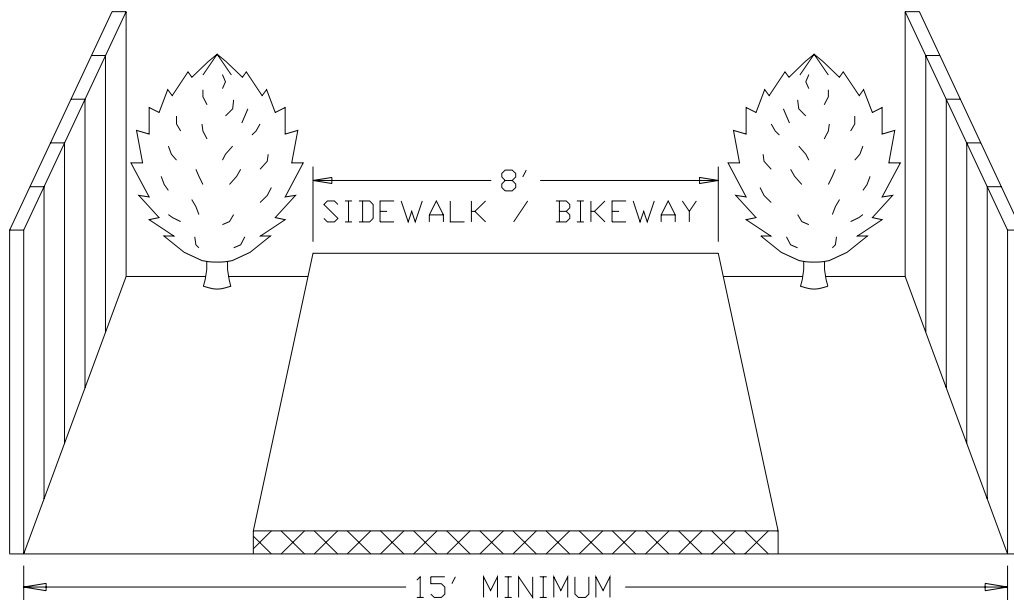
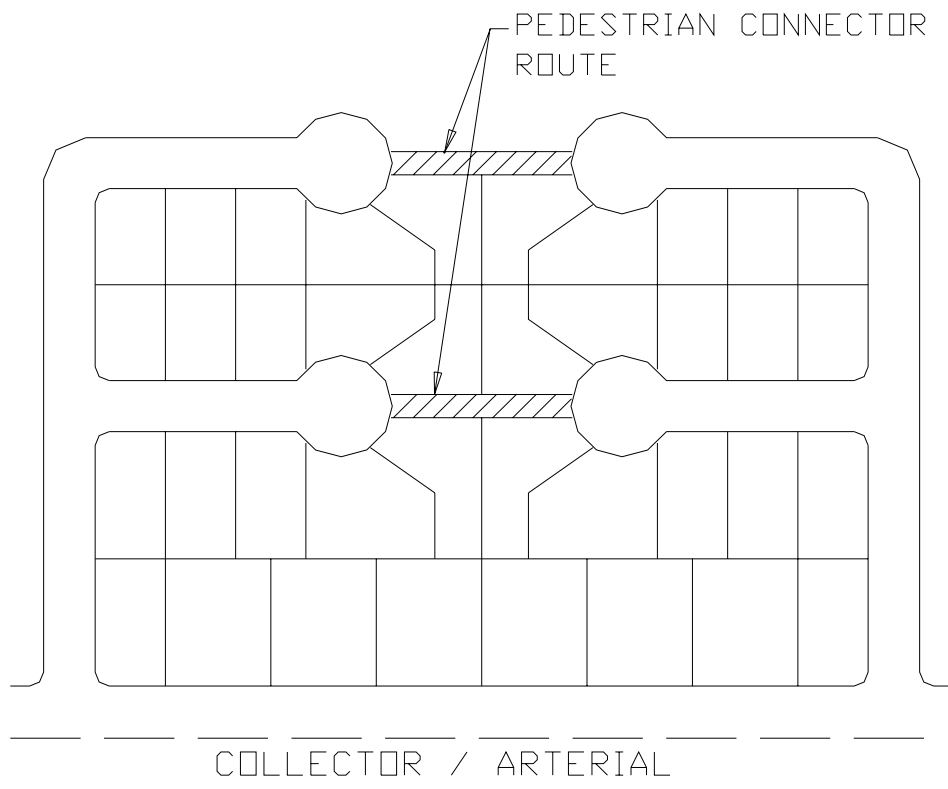
27.401 Provision. If appropriate to the extension of the official Bikeways Map, the approval body may require the installation of a bikeway either within or adjacent to streets.

27.402 Bikeway Design Standards

Bikeways shall be designed and constructed consistent with the design standards in the "Oregon Bicycle Plan", 1992, and AASHTO's "Guide for Development of Bicycle Facilities", 1991.

27.500 The City Engineer may allow alternate street design standards in order to accommodate facilities related to achieving pollution reduction and flow control for all storm water runoff. Such alternate street designs may include lowered planter strips or side swales integrated into the street design where conventional planter strips would otherwise be located.





Concept Sketch 27-1: Pedestrian Connector Route

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- <sup>1</sup> Revised 5-31-97
  - <sup>2</sup> Revised 9-18-96
  - <sup>3</sup> Revised 9-18-96
  - <sup>4</sup> Revised 5-24-93
  - <sup>5</sup> Revised 10-22-93
  - <sup>6</sup> Added 5-25-93
  - <sup>8</sup> Amended 2-20-02 (Ordinance 5104)
  - <sup>9</sup> Revised 9-4-02
  - <sup>10</sup> Amended 10-6-04 (Ordinance 5257)

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**Article 28: Utilities**

28.010 Scope

28.011 Purpose. The purpose of this Article is to provide standards for the design, construction, extension and financing of the basic urban services and public utilities required for land use and development.

<sup>1</sup>28.012 Service Required. All use and development within the City limits of the City of Grants Pass, or under Service and Annexation Agreement with the City, shall meet the requirements of this Article.

<sup>2</sup>28.013 Service Extension Within the Urban Growth Boundary

All use and development within the Grants Pass Urban Growth Boundary, as described in Section 28.052 (1) through (4), shall extend basic urban services (water, sewer, storm drainage and streets) along the full length of all portions of the subject property fronting a public right-of-way consistent with the requirements of this article.

<sup>3</sup>28.014 Service and Annexation Agreement Required

No property shall receive any city services, including water, sewer, police, and fire services, unless the property is either annexed to the City of Grants Pass, or the property owner has signed and duly executed a Service and Annexation Agreement with the City. The Service and Annexation Agreement shall be in a form approved by the City Manager.

The City Manager is authorized to execute Service and Annexation Agreements as an administrative action. For properties outside the Urban Growth Boundary, the City Manager shall not execute the Agreement until a contract has been adopted by resolution by City Council, in accordance with Section 28.016.

<sup>15</sup>28.015 Service and Annexation Agreements Executed Prior to October 17, 2001

Service and Annexation agreements executed prior to October 17, 2001 are hereby ratified without further proceedings if any one of the following criteria is met:

- (1) The subject property is within the Grants Pass Urban Growth Boundary; or
- (2) The City Council, at a regularly scheduled public Hearing discussed the agreement and no objections were raised during the public hearing; or
- (3) The agreement was executed for property outside the Urban Growth Boundary for use and development that met one of the requirements of Section 28.015: (a) the property is within an Urban Service Containment Area, or (b) a health or safety problem existed, or (c) the property was approved by Josephine County as a Destination Resort or Recreational Resort.
- (4) The subject property is residential and executed a conservation easement to freeze permitted development at a specified level, with further partitioning prohibited.

<sup>4</sup>28.016 Service Extension Beyond the Grants Pass Urban Growth Boundary

Except for health and safety problems as defined herein, as a prerequisite to extension of services, the owner of the property receiving municipal services shall enter into a contract with the City of Grants Pass. The contract, to be adopted by resolution by the City Council, shall include a Service and Annexation Agreement and other mutually agreed-upon development standards.

The City will not provide services to properties which are outside the Urban Growth Boundary except under the following circumstances:

- a. The properties are located in an urban services containment area which is acknowledged by the Land Conservation and Development Commission as an exception area consistent with Josephine County's Rural Comprehensive Plan, such as the North Valley Urban Services Containment area; or
- b. A health or safety problem exists; or
- c. The property is approved for development by Josephine County as a Destination Resort or Recreational Resort, as defined in Article 30 of this Code. The capacity of the services provided

shall not be greater than what would be required for the resort and for planned development within the Urban Growth Boundary. No hookups outside of the resort and the UGB will be permitted.

If approved for a Recreational Resort, the three additional conditions shall apply:

- (1) Necessary exceptions to Statewide Planning Goals have been acknowledged.
- (2) At least two million dollars shall be spent on improvements for on-site recreational facilities and visitor-oriented accommodations exclusive of costs for land, sewer and water facilities and roads.
- (3) As defined in Statewide Planning Goal 8. Recreational Needs, Overnight Lodgings do not include tent sites, recreational vehicle parks, mobile homes, dormitory rooms, and similar accommodations.

<sup>5</sup>28.017 Review of Urbanizing Area Development

Urban level development proposals outside the City limits and inside the Urban Growth Boundary shall be reviewed by the Director in accordance with the provisions described in an intergovernmental agreement between the City of Grants Pass and Josephine County for the joint management of the Grants Pass Urban Growth Boundary Area. Appropriate comments may be forwarded to the County for their consideration in deliberating on development proposals.

<sup>6</sup>28.018 Service Capacity

- (1) At some point, one or more of the basic urban services (water, sewer, storm drainage, streets) or other key urban services (fire, police, parks) that either precede development or proceed concurrently with development will reach designated capacity as then designed and developed. At that point in time, an area-wide improvement or improvements may be required for further development within that service area or group of service areas.

- (2) When such a point appears to have been reached, the Review body shall find that approval of further development in that service area or group of service areas be restricted or denied, until such time as the required area-wide system improvements have been made, or have been planned and agreed to by the City, County and/or benefited property owners, and adequate financing commitments have been made by the requisite agencies and/or benefited property owners.

28.030 Easements

- (1) Easements for water, sewer, storm drainage, electrical lines, other public utilities or cable television shall be conveyed wherever necessary. The Director may require the applicant to acquire the easements on adjoining or adjacent property whenever such easements are necessary to complete the proposed development.
- (2) Utility and drainage extensions to provide service to properties that do not abut existing utility lines shall be installed in public rights-of-way or in designated public utility easements.
- (3) Water, sewer and drainage facilities shall be extended in public rights-of-way. Where extension in public rights-of-way is unfeasible, water, sewer and drainage facilities shall be extended in designated public utility easements, as approved by the Site Plan Review Committee.
- <sup>16</sup>(4) Private water, sewer and drainage service extensions to serve a single residence or business proposed for a pre-existing lot or a lot created by a land division of four lots or less and accessed with a private street may extend in a private easement.
- (5) All easements shall be shown on the Site Plan accurately and to scale. Easements shall be recorded by the applicant in a form approved by the Director and the City Attorney prior to approval of the Development Permit.
- (6) Nothing in Sections 28.030(1) - (4) above shall diminish or affect the obligation of the applicant to extend services as provided in Section 28.013.



28.050 Water Systems

<sup>7</sup>28.051 Water System Design

- (1) Water mains of adequate size as approved by the City Engineer, shall be installed to serve each use and development to meet the requirements of the Oregon State Health Division Administrative Rules for Domestic Water Supply System. Fire hydrants with mains of adequate size as approved by the City Engineer, shall be installed to serve each use and development to meet the requirements as set out in the City's Fire Code, as amended from time to time. Water main extensions shall include services as necessary to serve abutting properties.
- (2) Water system design and extension shall conform to the adopted Water Plan, Official Water System Map and Grants Pass water standards. Actual capacity tests, if needed, shall be run by the City Public Safety Department, and potential capacity assessments, if needed, shall be run on the City's computer model of the Water Plan at the expense of the applicant.

<sup>8</sup>28.052 Service Extension

- (1) All proposed subdivisions shall, prior to final plat approval, extend city water mains from the existing water system along the entire public street frontage of the property to be developed. Water mains shall also be extended within the development to serve all proposed lots within the subdivision and to allow further extension of the water system.
- (2) All proposed partitions shall, prior to final plat approval, extend city water mains from the existing water system along the entire public street frontage of the property to be developed and within any streets proposed in the partition. Exceptions to the above are allowed if all of the following are met:
  - (a) The partition is not part of a series partition. For purposes of this section, a series partition is defined as a series of partitions resulting in the creation of four or more parcels over a period of more than one calendar year, commencing January 1, 1996.

- (b) All of the lot to be partitioned is more than 300 feet from the nearest City water main.
  - (c) The partitioner either installs the required water main as a "dry line" only along all public street frontages of the property, or, where the City Engineer finds such extension is not practical, secures or pays for the installation of the planned main in accordance with City standards.
- (3) All proposed major site plans shall, prior to final occupancy, extend city water mains from the existing water system along the entire public street frontage of the property.
  - (4) All new single-family dwellings, duplexes, and proposed minor site plans that result in an increase in water usage (except usage of irrigation water supplied by the Grants Pass Irrigation District) shall, prior to final occupancy, extend city water mains from the existing water system along the entire public street frontage of the property. Exceptions to the above are allowed if all of the following are met:
    - (a) The site is more than 100 feet from the nearest City water main.
    - (b) The total water usage would not be more than 1600 gallons per day total.
  - (5) All water main extensions shall be consistent with the Water Distribution System Plan and City utility standards.
  - (6) For the purposes of this section, an existing City water main shall be considered those mains already in ground or those mains to be installed in projects approved by Council. This section does not affect developer responsibilities to provide adequate fire protection as outlined in the City Fire Code, as amended from time to time.

<sup>9</sup>28.053 Well Usage

- (1) Existing Development: Existing residential development already using wells may continue to use them to satisfy potable water requirements. Lots that already are connected to the municipal water supply system are

prohibited from disconnecting and using a well for potable water purposes.

- (2) New development: New development may not use individual wells for potable water requirements unless exempted by Section 28.052 (4). Where a pump test is required under the provisions of Josephine County Groundwater Supply Ordinance 90-22, the developer shall demonstrate compliance with the provisions of that ordinance. If the property receives fire service protection from the City Public Safety Department, then the owner shall pay a service fee roughly equivalent to the portion of a regular user's fee that covers the provision of fire water flows.

<sup>11</sup>28.055 Condominium Conversion. When an apartment is converted into a condominium the existing water service may remain, and a new connection fee shall not be charged. All new construction of condominiums shall come under the multiple-family dwelling fee schedule for connection charge. The number of meters installed for condominiums shall be the applicant's choice on new construction.

<sup>12</sup>28.056 City Participation in Water System Costs. For property within the City limits of the City of Grants Pass, or under a Service and Annexation Agreement with the City, and on a first come-first served basis within budgetary restraints, the City shall participate in the cost of water system improvements as follows:

- (1) Local mains (8 inches and smaller including all appurtenances including hydrants, valves, service lines and meters, etc.):

- (a) No participation except as would be required as a landowner (does not include right-of-way).

- (2) Area facilities (pump station and oversizing):

- (a) No participation except as would be required as a landowner (does not include right-of-way).

- (b) These facilities will be advance-financed by the City or a developer but paid by served properties pro-rated on an acreage basis or other basis determined by the City Engineer. Charges will be on an actual cost basis plus current interest.

(3) Transmission lines 10-inch lines or larger:

(a) Financed by the City or a developer through local resources, bond issue and/or grant. Unless financed completely by a grant, properties immediately served by the transmission line will be assessed on the basis of an 8-inch main.

(4) Plant expansions and storage facilities:

(a) Financed by the City through local resources, bond issue and/or grant.

28.070 Sewer Systems

<sup>14</sup>28.071 Sewer System Design and Extension

(1) Sanitary sewers shall be installed to serve all land divisions, use and development. Design, to be approved by the City Engineer, shall take into account the capacity and grade to allow for desirable extension beyond the proposed use or development. Exceptions to the above are allowed if all of the following are met:

(a) The use and development is a Minor Site Plan as defined in section 19.032.

(b) All of the subject property is more than 300 feet from the nearest City sewer main.

(c) The use and development receives approval from the Department of Environmental Quality (DEQ) for the increase in impact to existing septic systems, for the expansion of existing septic systems, or for the installation of new septic systems to serve the use and development.

(d) The property owner secures or pays for the installation of the planned main along all public street frontages of the property in accordance with City standards. The City shall determine the required form of security, which at the City's sole discretion, may be a deferred development agreement, assignment of deposit, letter of credit, bond, or cash. Any form of security required by the City

shall include, or be accompanied by, a waiver of remonstrance for participation in a local improvement district.

- (2) Sewer system design and extension shall conform to the adopted Sewer Plan and Official Sewer System Map, and shall be approved by DEQ.

<sup>14</sup>28.072 Septic System Usage

- (1) Existing Development: Existing development already using septic systems may continue to use the septic system until it is necessary to repair or replace the septic system, at which time connection to public sewer will be required if public sewer is within 300 feet of the property. All existing development utilizing septic systems located on a property which receives tentative plat approval for a subdivision or partition shall connect to public sewer and properly abandon the septic system prior to final plat approval.
- (2) New Development: New development shall connect to public sewer and may not use septic systems unless exempted by section 28.071 (1). All applications for land division, including partitions and subdivisions, shall, prior to final plat approval, extend public sewer along the entire frontage of the properties to be served.

28.073 Alternative Pipe Material. Alternate pipe material shall be allowed in future sanitation sewer projects as stated in the Oregon Chapter of the American Public Works Association Standard Specifications.

28.074 Abandoned Sewer Lines. All abandoned sanitary sewer services shall be plugged by exposing said sanitary sewer service at the property line and plugging said line with concrete. Location of said sewer line by measurement to the nearest property corner shall be recorded with the Engineering Division of the City. Before said line is backfilled, the owner shall call the Engineering Division of the City for an inspection. If during inspection it is determined the sewer line is made of unapproved material, the sewer service line shall be plugged at the sewer main.

28.075 City Participation in Sewer System Costs. For property within the City limits of the City of Grants Pass, and on a first come-first served basis within budgetary

constraints, the City shall participate in the cost of sewer system improvements as follows:

- (1) Local sewers (8-inch and smaller including all appurtenances including stubs and manholes):
  - (a) No participation except as would be required as a landowner (does not include right-of-way).
- (2) Area facilities (pump stations, oversizing):
  - (a) No participation except as would be required as a landowner (does not include right-of-way).
  - (b) These facilities will be advance-financed by the City or a developer but paid by served properties pro-rated on an acreage basis. Charges will be on an actual cost basis plus current interest.
- (3) Interceptors (any sewer line 18 inches in diameter or larger):
  - (a) Financed by the City through local resources, bond issue and/or grant. Unless financed completely by a grant, properties immediately served by the interceptor will be assessed on the basis on an 8-inch main.
- (4) Plant Expansions:
  - (a) Financed by the City through local resources, bond issue and/or grant.
- (5) Stub-Outs:
  - (a) Advanced financed by the City or a developer for new stub-outs in the installation of new sanitary sewer mains at those locations not required for present use and outside an approved Local Improvement District and not being assessed for these stubs. The advanced sanitary sewer stub-out will, at the time of connection, be paid back at the cost of installation plus current interest.

28.090 Storm Drain Systems

<sup>13</sup>28.091 Storm Drain System Design

- (1) Drainage facilities shall be provided within a use or development, and connected to drainage ways or storm sewers outside the use or development that have an adequate capacity to accept drainage water from the use or development.
- (2) Design of drainage within the use or development, as approved by the City Engineer, consistent with the City's Master Storm Drainage Facilities and Management Plan and Official Storm Drainage Map, shall take into account the capacity and grade necessary to maintain unrestricted flow from areas draining through the use or development and to allow extension of the system outside the use or development. Drainage for the individual lots of the proposed use or development and the proposed use and development as a whole shall be accomplished in such a manner so as to prevent the excessive flow of water across property lines, sidewalks and other public rights-of-way.
- (3) Where land in a use or development, in the opinion of the Director, is or will be periodically subject to accumulations of surface water or is traversed by any water course, channel, stream or creek, the Director shall require the developer to provide for adequate unrestricted drainage.
- (4) Provision of drainage will be shown on a drainage plan for both within and adjacent to the use or development, and will show easements and improvements to be constructed. Such drainage plan shall be submitted with tentative plat materials for partitions, subdivisions or PUDs and with site plan review materials for all other applications.
- (5) Any such public improvements shall be approved by the Director as adequate for drainage needs of the area, or where necessary in the judgment of the Director for protection of such needs, by conveying ownership of such drainage land, for drainage purposes, to the City.

28.092 City Participation in Storm Drain System Costs. For property within the City limits of the City of Grants Pass, and on a first come-first served basis within budgetary restraints, the City shall participate in the cost of storm drain system improvements as follows:

- (1) When the proposed project is consistent with the City's drainage plan, the City will pay the incremental price differential between that necessary for local drainage and that required for the combined flow of local and through-drainage.
- (2) The following definitions shall apply:
  - (a) Local Drainage: That amount of run-off from the immediate project area (including served properties of a street project) in a 10-year storm, or a 12-inch pipe size at a minimum.
  - (b) Through Drainage: That amount of run-off in a 10-year storm beginning up-stream from the project and merely "passing through" the project area.

28.110 Other Utilities

28.111 Irrigation. The Grants Pass Irrigation District shall be consulted regarding any improvements on the property in which they have an interest. The applicant shall petition to remove any public rights-of-way in the proposed use or development from the Grants Pass Irrigation District. The applicant shall provide irrigation water through a system approved by the City Engineer and the Grants Pass Irrigation District, or the applicant shall buy out all unserved lots under the District's Policies.

28.112 Other Utilities. All utilities shall be placed underground. The applicant shall make necessary arrangements with the utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television shall be placed underground.



28.200 Streets and Access

See Article 27, Access Standards.

28.300 Review and Inspection

To insure proper installation and inspection of developer-installed improvements and Local Improvement Districts, all services and utilities installed shall be reviewed and inspected as follows:

- (1) The City, meaning the Engineering Division of the Department of Community Development, shall be notified not less than 24 hours in advance of the start of construction and be notified not less than 24 hours in advance of each Construction Inspection Stage.
- (2) The City, meaning any representative thereof, shall have the right to inspect all work at any time.
- (3) In cases of developer-installed improvements, the developer's Engineer has the sole responsibility to have a representative present during City inspections.
- (4) The City, meaning the Engineering Division of the Department of Community Development, will keep a job diary of inspections and will supply a copy of all Stage Inspection Reports to the developer's Engineer.
- (5) The Construction Inspection Stage shall include, but not be limited to, the following:
  - (a) Sanitary Sewer, means the main line and house services to property lines or house tees within easements, and following inspection states apply:
    1. Main and house services inspected before placing pipe zone material.
    2. Pipe zone material inspected before placing backfill material.
    3. Manholes inspected before pouring concrete base.

4. Trend backfill inspected before the placing base rock, compaction test.
5. Inspection tests shall include, but not be limited to the following:
  - a. Water-test manholes.
  - b. Air testing mains and house services shall be done upon completion of the line placement and backfill compaction. In cases of lines four feet or less in depth, air testing shall again be conducted after base rock for the street is in place at the City's discretion.
  - c. TV inspection shall be done by City crews consistent with City policy on TV inspections.

(b) Domestic Water Main, means the main line and house services to the meter, and the following Inspection Stages apply:

1. Main and House Service inspected before the placement of backfill material within the pipe zone.
2. Thrust Blocking and Pipe Fittings inspected before the placement of backfill material within the pipe zone.
3. Trend Backfill inspected before the placement of the base rock, compaction test.
4. Inspection Testing shall include, but not be limited to, the following:
  - a. Disinfection of water mains and water sample approval.
  - b. Pressure Test, meaning the prescribed test, which shall be after the placement of the base rock.
  - c. Inspection Testing may occur after pipe is placed and backfill compacted if the street has been excavated to accept sub-base and the minimum 30 inch cover is

maintained. If the above conditions are not met, final testing will be done at the City's discretion.

- (c) Storm Drains, means those storm sewers that will be accepted by the City for maintenance.
- (d) Street means, but is not limited to, excavation, base rock, curbs and gutter, catch basins, valley gutters, sidewalks, driveway aprons and paving, and the following Inspection Stages apply:
  - 1. Excavation means before the placement of base rock, compaction test.
  - 2. Curbs and gutters means the inspection of the forms before pouring concrete, or the inspection of extruded curbs as they are being installed.
  - 3. Catch Basins means the inspection of forms before pouring concrete.
  - 4. Valley Gutters means the inspection of forms before pouring concrete.
  - 5. Base Rock means before paving, compaction test.
  - 6. Paving means during and after the placement of the paving, including condition of manholes, cleanouts and foreign materials in sewer and storm drain lines.
  - 7. Sidewalks and Driveway Aprons means the inspection of the forms before pouring concrete.
- (e) In developer-installed improvements involving pump stations, reservoirs or similar installations, a Construction Inspection Schedule shall be submitted to the City for approval prior to starting construction.
- (f) The City shall have the right to issue stop work orders for non-compliance with City specifications and plans as submitted and revised.

28.400 Performance

28.410 As-Built Drawings. Before the City will accept an improvement project that shall become a City-maintained project, the developer's Engineer or Project Engineer shall supply the City with mylar showing the as-built improvement project along with two copies of said as-built drawings.

28.420 Installation. Improvements shall be installed in accordance with Ordinance No. 4290, or as amended, which allows for developer installed-improvements, or Local Improvement Districts.

28.500 Fees and Assessments

28.510 System Development Charges

(1) To facilitate the extension of the area-wide urban service and utility system facilities required for full urbanization, applicants for urban-level development shall be responsible for payment of the system development charges, as follows:

(a) For Municipal Water Service: Connection fees shall be payable to the City consistent with City Ordinance No. 4352 (Utility Ordinance), or as amended.

(2) Charge Collection. The system development charges shall be paid prior to the issuance of a building permit.

(3) Segregation and Use of Revenues. All funds derived from the system development charge are to be segregated by accounting practices by both the City and the County, and shall be used for no other purpose than installing, constructing, expanding and extending urban service and utility systems beyond present capacity within the Urban Growth Boundary, except that all water system charges received by the City shall be applied to bond redemption as required by City Ordinance No. 4283.

28.520 Local Improvement Districts

28.521 Assessing for Improvements. Adjacent and benefiting properties shall be assessed for urban service and utility system improvements as follows:

- (1) Except as indicated in Subsections (9) and (11) below, assessments for benefited properties shall be based upon the property frontage abutting upon the improved street or utility line improvement, or prorated upon an acreage basis, or prorated upon a method approved by the Director.
- (2) If utility easements are required, assessments for properties lying along an easement in which a utility line is located shall be based upon the property frontage abutting upon the easement, or prorated upon an acreage basis, or prorated upon a method approved by the Director. Subject to budgetary limitation, if utility easements are required and obtained without cost to the City, the utility assessment may be deferred until the benefited property connects with the utility facilities, at which time the deferred assessment plus current interest.
- (3) Assessment for properties located where a particular project terminates, but which is not the proposed ultimate terminus of line or street, shall be based upon full property frontage abutting the street or public easement. The utility line or street shall be extended the full distance of said lots.
- (4) Assessments for properties located where a utility line or street is projected to ultimately terminate and can be served by said terminated utility line shall be based upon the full property frontage abutting or adjacent to the street or public easement in which said line or street will be installed. This shall include cul-de-sac streets as well as grade problem areas.
- (5) In the event that a portion of a lot has previously been assessed, the remaining portion of said lot will be assessed at a subsequent time when a future utility or street extension project is commenced.
- (6) Assessment for properties designated as through-lots (lots with front and rear lot lines abutting parallel streets) shall be based upon the property frontage abutting upon the street in which the utility line or street improvement is located, or prorated upon an acreage basis, or prorated upon a method approved by the

Director. Said properties shall also be assessed in the same manner for utility lines installed and street improvements on the second abutting parallel street.

- (7) If a utility line is extended along two sides of a parcel designated as a corner lot, the assessment shall be based upon the total frontage of the combined two sides, less 100 feet of the shorter side, whichever is the shorter. For street improvements, assessments shall be based upon the total frontage of the combined two sides, or prorated upon an acreage basis, or prorated upon a method approved by the Director.
- (8) If a utility line or street improvement is extended along three sides of a parcel which is both a through lot and a corner lot, the assessment shall be based upon the assumption of two corner lots equally divided between the two parallel streets, or prorated upon an acreage basis, or prorated upon a method approved by the Director.
- (9) Assessments for odd-shaped lots will be individually established based upon frontage consistent with other property assessments within the area and benefit received by said odd-shaped lots. A general rule of thumb principle provides for frontage to be equivalent to the length of pipe installed or street improvements abutting said property. However, when improvements are extended along two sides of a residentially-zoned parcel and said sides form an acute angle of less than 75°, the assessment shall be based upon the proportioned area of the parcel as it relates to the total area of the Improvement District. Commercially and industrially-zoned parcels shall be assessed on the basis of frontage abutting said property, or prorated upon an acreage basis, or prorated upon a method approved by the Director.
- (10) Assessments for properties may be based on a uniform or flat rate assessment for each parcel or building site to be served, if requested by the petitioner and/or approved by the Council.
- (11) Each Local Improvement District shall be solely responsible for all assessable costs associated with all projects constructed under the auspices of the Improvement District, and the costs for said project or projects shall not be averaged with any other construction project or Local Improvement District project.

28.522 Cost Overruns

- (1) The basic policy of the City is not to participate in cost overruns of improvement projects.
- (2) A bid will not be awarded for a Local Improvement District project when the bid is in excess of the public hearing estimate by more than 15%, unless the Council holds a subsequent public hearing with notice being given to affected property owners in the same manner as prescribed for the original hearing. The City Council may then award the bid if it remains apparent that the public interest, safety and health requirements of the community necessitate construction of the project.
- (3) Nothing stated in the above sections shall be considered to prevent the Council from authorizing City participation in project cost where it is considered in the best public interest to do so and within the budgetary limitations of the City. (Res. 973)

28.523 Interim Financing of LIDs

- (1) Interest-bearing warrants issued to vendors during the course of construction of local improvements are not always acceptable to financial institutions or private lenders due to prevailing economic conditions and statutory interest rate limitations.
- (2) Therefore, a bid for construction of a local improvement project shall not be awarded by the Council unless an acceptable commitment for the interim financing of the project is first obtained, either by the issuance of interest-bearing warrants to vendors in conjunction with financial institutions or private lenders, in accordance with statutory time and interest limitations, or by the express consent of the City Council to commit City funds at prevailing investment rates.

28.524 Utility Commission Review. If possible, the Utility Commission shall first review and comment on all petitions for Local Improvement Districts involving utility extensions prior to the Council's public hearing of said petition.

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- <sup>1</sup> Revised 5-31-97
  - <sup>2</sup> Revised 5-23-92, 5-31-97
  - <sup>3</sup> Added 5-31-97, Amended 11-7-01
  - <sup>4</sup> Revised 5-31-97
  - <sup>5</sup> Revised 5-31-97
  - <sup>6</sup> Revised 5-31-97
  - <sup>7</sup> Revised 5-31-97
  - <sup>8</sup> Revised 5-31-97
  - <sup>9</sup> Revised 10-7-92, 5-31-97
  - <sup>11</sup> Revised 5-31-97
  - <sup>12</sup> Revised 5-31-97, 8-11-97
  - <sup>13</sup> Revised 10-7-92
  - <sup>14</sup> Revised 5-31-01 (Ordinance 5063)
  - <sup>15</sup> Revised 11-7-01 (Ordinance 5081)
  - <sup>16</sup> Revised 9-4-02



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**1Article 29: Security and the Deferred Development Agreement Process**

29.010 Purpose

The purpose of this Article is to define two distinct processes intended to guarantee the future completion of work required as part of the approval process for a Development Permit. Providing security, as described in Sections 29.021 and 29.030 through 29.050 of this Article, is acceptable exclusively on a short-term, interim basis. Following the Deferred Development Agreement process, as described in Sections 29.022 and 29.060 of this Article, is acceptable exclusively on a long-term basis.

- (1) The ability to provide security in lieu of immediate installation is available for various procedures throughout this Development Code. It serves as the guarantee work will be completed and provides the funding for the City if the applicant fails to complete the installation requirements. The standards for security protect the public from additional expenditures. In general, security is accepted exclusively on a short-term, interim basis to allow for certain events to occur, such as occupying a building or securing final plat approval of a partition or subdivision, while guaranteeing the work will be completed within an identified time frame.
- (2) Following the Deferred Development Agreement process, which includes a cash deposit, applies exclusively on a long-term basis to allow for development to proceed, even though all of the required public improvements have not been completed or installed at the time of the development and will not be completed in the immediate future. Complying with the provisions of the Deferred Development Agreement process guarantees that work will be completed at the appropriate time.

29.020 General Provisions

29.021 Security is accepted for the following:

- (1) Erosion Control Plan (see 13.143)
- (2) Final Plat Approval of a Subdivision (see 17.422)
- (3) Certain required improvements for Site Plan (see 19.060)
- (4) Landscaping (see 23.053)
- (5) Street Improvements (see 27.110)

- (6) Public Sidewalks (see 27.312)
- (7) Public Water Lines (see 28.052)
- <sup>2</sup>(8) Public Sewer Lines (see 28.071)

29.022 The Deferred Development Agreement Process:

The signing of a Deferred Development Agreement and the posting of a cash deposit are accepted for any public improvement required by the Director, Hearings Officer, Urban Area Planning Commission or City Council that are part of a conditional approval for an application for a Development Permit and are not feasible to install at the time of application. Public improvements include but are not limited to the following:

- (1) Street improvements, including widening, final lifts or overlays, installation of curbs, gutters or sidewalks,
- (2) Installation of public water mains and appurtenances,
- (3) Installation of public sewer mains and appurtenances,
- (4) Installation of storm drain facilities,
- (5) Installation of traffic control devices, including traffic signals.

29.030 Security for Final Plat Approval of a Subdivision

29.031 Criteria for Security

Security may be deposited in lieu of the final installation and final acceptance for street and other public improvements if all of the following criteria are met:

- (1) The applicant and all other "persons with an interest in the property" have met all of the below listed criteria:

(Note: "persons with an interest in the property" shall NOT include persons with ALL of the following characteristics: they have only a security interest in the property, they do not have any right to direct or control any aspect of the day to day operations related to the development of the property; and they have not previously maintained any ownership interest in the property except as a security interest):

- a. no outstanding conditions for final plat more than 120 days old on any pending project.
  - b. not forfeited the security and required the City to complete a project within the last five years.
  - c. not been convicted of a violation of the Municipal, Development, or Building Code within the last five years.
  - d. not cleared significant size trees, or graded a proposed subdivision prior to the issuance of a development permit or grading permit, or cleared or graded in violation of that subdivision approval.
- (2) All permit, engineering, and tree fees which are due and payable by the applicant for the current and all other projects have been paid.
- (3) The City is provided with a Completion Contract signed by a licensed and bonded developer which authorizes the City or the Josephine County Homebuilders Association at the request of the City to complete installation of public improvements within the conditions stated in 17.422. The contract shall:
- a. Be signed with pre-qualified contractors for installation of the improvements. The contract shall include all items which have not been completed such as:
    - (i) Paving, including curb and gutter.
    - (ii) Sidewalks.
    - (iii) Any other conditions of approval that cannot be completed until the installation of the street.
    - (iv) Repair any damage to existing water, sewer, storm system, or base rock prior to the installation of paving.
  - b. Comply with the prevailing wage laws of the State of Oregon for local government construction of a public improvement as set forth in ORS 279.348 et. seq. (unless Josephine County Homebuilders Association administers and manages the Completion Contract in its entirety).

- c. Contain provisions allowing the City to require installation of the improvements and allowing the City to pay the contract amount from the security posted.
- d. Authorize the City to use the contract or install the improvements pursuant to the City's ordinary bidding process.

29.032 Items included in the Security.

Security may be deposited to temporarily delay the final installation of certain public improvements. The security shall include the following:

- (1) Inspection fees of 5% of the Completion Contract amount which shall be deducted from the deposit based on an hourly rate, with the balance of any fees returned to the applicant.
- (2) Management fee of 8% of the Completion Contract amount which is a flat fee paid to the City and not returned to the applicant if the City initiates the Completion Contract because of an applicant's failure to install all of the required improvements.
- (3) Administration fee of 2% of the Completion Contract amount which is a flat fee paid to the City and not returned to the applicant if the City initiates the Completion Contract because of an applicant's failure to install all of the required improvements.
- (4) Contingency for punch list items of 5% of the Completion Contract amount which shall be deducted from the deposit based on expenses actually incurred with the balance of any fees returned to the applicant.

29.033 Form of Security

- (1) Security must be in the form of cash, bank deposits, Certificates of Deposits or Letters of Credit.
- (2) Notwithstanding subsection (1), if the Completion Contract authorizes the Josephine County Homebuilders Association to administer and manage the Completion Contract through completion, and if the Association, accepts full responsibility for the same, then security may also be provided through performance bonding or other financial security acceptable to the Association.

29.034     Timing for completion

For those public improvements for which security has been allowed, construction of all remaining improvements, not including sidewalks and tree planting if required, shall be completed within seven months of the recording of the final plat. Occupancy of homes shall NOT be permitted until all public improvements have been installed, tested, and received final acceptance by the City, and final inspection of the home has occurred.

29.035     Release of Security

Security can be released upon written request of the applicant and with the demonstration of the completion of work. The amount of the release shall be based on the estimate for the work completed. An inspection and processing fee of \$100 will be deducted from each payment.

29.040     Security for all other public improvements not deferred through the Deferred Development Agreement Process

29.041     Items included in the Security.

Security may be deposited to temporarily delay the final installation of certain public improvements. The security shall include the following:

- (1) Estimated cost of improvement based on prevailing wages.
- (2) Inspection fees of 5% of the estimated cost which shall be deducted from the deposit based on an hourly rate with the balance of any fees returned to the applicant.
- (3) Management fee of 8% of the estimated cost which is a flat fee paid to the City and not returned to the applicant if the City initiates the improvements because of an applicant's failure to install all of the required improvements.
- (4) Administration fee of 2% of the estimated cost which is a flat fee paid to the City and not returned to the applicant if the City initiates the improvements because of an applicant's failure to install all of the required improvements.

(5) Contingency for punch list items of 5% of the estimated cost which shall be deducted from the deposit based on expense actually incurred with the balance of any fees returned to the applicant.

(6) An approved timetable for the completion of the work.

29.042 Form of security

Security shall be in the form of cash, bank deposits, Certificates of Deposits or Letters of Credit.

29.043 Release of Security

Security can be released upon written request of the applicant and with the demonstration of the completion of work. The amount of the release shall be based on the estimate for the work completed. An inspection and processing fee of \$100 will be deducted from each payment.

29.050 Security for all private improvements required of the development

29.051 Items included in the security

Security may be deposited to temporarily delay the final installation of minor improvements such as landscaping or erosion control measures. The security shall include the following:

- (1) Estimated cost of improvement based on prevailing wages.
- (2) Management fee of 5% of the estimated cost which is a flat fee paid to the City and not returned to the applicant if the City initiates the improvements because of an applicant's failure to install any of the required improvements.
- (3) Contingency of 5% of the estimated cost which shall be deducted from the deposit based on expenses actually incurred with the balance of any fees returned to the applicant.
- (4) An approved timetable for completion of the work.



29.052 Form of security

Security shall be in the form of cash, bank deposits, Certificates of Deposits or Letters of Credit.

29.053 Release of Security

Security can be released upon written request of the applicant and with the demonstration of the completion of work. The amount of the release shall be based on the estimate for the work completed. An inspection and processing fee of \$100 will be deducted from each payment.

29.060 Deferred Development Agreement Process

29.061 Authority for Requiring Public Improvements

In accordance with Sections 2.034, 2.045, 2.055 and 2.066 of the Development Code, the Review Body (i.e. the Director, the Hearings Officer, the Urban Area Planning Commission or the City Council) can decide to approve, conditionally approve or deny an application for a Development Permit. The installation of specified public improvements may be a requirement of a conditional approval. The decision to conditionally approve the application must be based on the applicable criteria for approval, as set forth in this Code.

29.062 Applicable Criteria and Other Code Authority for Requiring Public Improvements

The Review Body can require the installation of public improvements based upon the following criteria:

- (1) Tentative Partition Plan, 17.312 (3) and (4)
- (2) Tentative Subdivision Plan, 17.413 (3) and (4)
- (3) Minor Site Plan Review, 19.042 (2) and (3)
- (4) Major Site Plan Review, 19.043 (2) and (5)

Additional authority for requiring the installation of public improvements in association with an application for a Development Permit is found in the following sections:

- (1) 27.110 Provision of Street Improvements
- (2) 27.310 Public Sidewalks and 27.312 Deferral of Installation
- (3) 28.013 Service Extension within the Urban Growth Boundary.
- (4) 28.071 Sewer System Design and Extension

29.063 Process for Deferring the Installation of Public Improvements

The Review Body must find the obligation to install specified public improvements is necessary to satisfy certain criteria for approval of an application for a Development Permit. It may allow installation to be deferred to a future date if the following conditions are satisfied:

- (1) The Review Body finds it is not feasible to install the public improvements at the current time and therefore deferring the installation to an unspecified, future date is preferable to the City.
- (2) The City Engineer establishes the cost of the deferred public improvements, based on the most recent and most applicable costs incurred through creation of a Local Improvement District and the applicant makes a cash deposit of 115% of the cost of the deferred public improvements
- (3) The applicant signs a Deferred Development Agreement, on a form provided by the City Manager, for the future installation of the deferred public improvements, to be used by the City if the cash deposit is insufficient to construct the public improvements at the time future construction is undertaken.

20.064 Use of the Cash Deposit and Deferred Development Agreement

The cash deposit, plus accrued interest, shall be spent at the appropriate time to pay the cost of installation of public improvements previously identified and deferred as part of the approval process for an application for a Development Permit.

Interest shall accrue at an annual rate adopted by the City Council by resolution. In January of each year, the Council shall adopt the interest rate for the current calendar year. The interest rate shall be the previous calendar year's average interest rate paid to investments by the Local Government Investment Pool, a division of the Oregon State Treasury. The Council may readjust the rate adopted in the previous January applicable to the past year.

The Deferred Development Agreement may be used to create a Local Improvement District or to complete a Local Government Improvement Project.

- (1) At the time of installation of the deferred public improvements, the City shall refund the difference, if any, between the original cash deposit, plus accrued interest, and the cost of the improvements, to the current owner of the property, without regard to mortgage holders.
- (2) At the time of installation of the deferred public improvements, if the cost is greater than the amount originally deposited, plus accrued interest, the City may use the Deferred Development Agreement to create a Local Improvement District or to complete a Local Government Improvement Project.
- (3) If the deferred public improvements are installed by the initiator of a Developer Installed Improvement Program, the costs to the current owner of the property obligated by the terms of the Deferred Development Agreement cannot exceed the amount of the original cash deposit, plus accrued interest. The initiator of the Developer Installed Improvement Program cannot use the Deferred Development Agreement to cover additional costs or expenses incurred as a result of installing the deferred public improvements.
- (4) The current owner of the property, obligated by the terms of the Deferred Development Agreement, with the written permission of the City, may choose to install the improvements. Upon inspection and approval of the public improvements by the City, the current owner may seek reimbursement of the costs of the public improvements up to the value of the original cash deposit, plus accrued interest. The City shall reimburse the deposit plus interest unless there are legal reasons preventing the City from doing so.

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1. Added 5-31-97, Amended 2/20/02 (Ordinance 5104)

2. Added 5-31-01 (Ordinance 5063)

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<u>30.010 Applicability</u> .....	30-1
<u>30.020 Definitions</u> .....	30-1



## <sup>1</sup>Article 30: Definitions

### 30.010 Applicability

As used in this Code, the words and phrases contained in this Article shall have the following meanings:

### 30.020 Definitions

Abut: Contiguous to, as shown in Concept Sketch 30-Adjacent and Abutting. For example, two lots with a common property line or common property corner. However, "abut" does not apply to buildings, uses or properties separated by public right-of-way. See also "adjacent."

Access: The place, means or way by which pedestrian or vehicles shall have ingress and/or egress to a property or parking space.

- (1) Primary: Provides the principal means of access to off-street parking areas and serves the general circulation needs of the property and development.
- (2) Secondary: Provides incidental access to the property. Service drives are typical of secondary access facilities.

<sup>2</sup>Access Control Line: A line or narrow strip of land that is recorded on a plat or other legal document across which vehicular and other specified types of access are prohibited.

<sup>122</sup>Access Management: Measures regulating access to streets, road and highways from public roads and private driveways. Measures may include but are not limited to restrictions on the siting of interchanges, restrictions on the type and amount of access to roadways, and use of physical controls, such as signals and channelization including raised medians, to reduce impacts of approach road traffic on the mail facility.

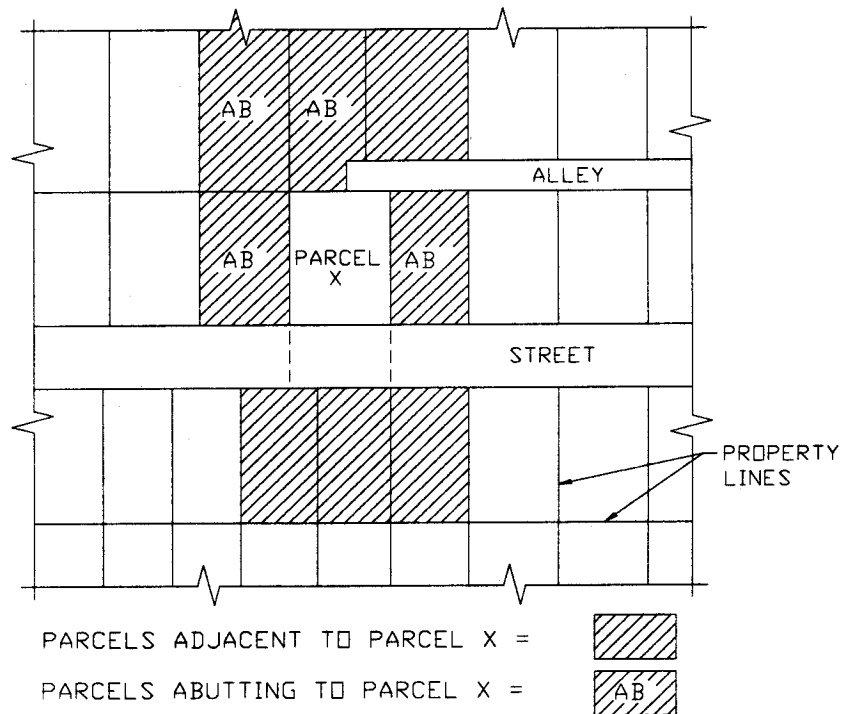
Accessory Buildings: A building of less than 1,000 sq. ft. the use of which is subordinate to and consistent with the principal use of the property.

Accessory Use: A use incidental, appropriate and subordinate to the principal use. See also "Principal Use."

Access Way: An unobstructed way of specified width containing a drive or roadway which provides vehicular access and connects to a public street.

Active Solar Energy System: See "Solar Energy System, Active."

Adjacent: Contiguous to a property boundary at a property line or property corner, or contiguous to a property line or corner as extended across an abutting right-of-way for an alley or street, as shown in Concept Sketch 30-Adjacent and Abutting.



**Concept Sketch 30 - Adjacent and Abutting**

Adjoin: Same as adjacent.

<sup>3</sup>Adult Business: Any person, group, firm, business, or organization (except non-profit corporations which are not open to the general public) which prohibits admission to all or a portion of the premises to any persons younger than 21 years of age.

<sup>4</sup>Adult Use: A use of whatever character, conducted on the premises of an adult business, which use is conducted in the area in which any persons under 21 years of age are prohibited.

Agriculture: The cultivation of tree crops, orchards, flower, berry and bush crops. Agricultural uses are of two types:

- (1) Intensive: Truck gardening and field crops; customary agricultural buildings, including plant nurseries and greenhouses; roadside stands only for display and sale of products raised on the premises; animals, including feed lots; public stables and riding academies.
- (2) Non-Intensive: Gardening; accessory gardening buildings, including plant greenhouses for plant propagation; animals, excepting feedlots, swine, poultry, rabbitry or kennels.

Alley: A public way not over 30 feet wide providing a secondary means of access to private property.

Alter, Alterations: A change, addition or modification in construction or use of a building or structure.

Ambulance or Paramedic Service<sup>1</sup>: A service for transporting the injured or sick or for providing emergency medical services before or during transportation to a hospital or clinic.

Amendment: A change in the text of the Code, or a change in the zone boundaries or district boundaries upon the zoning map or special district maps, or a change in the Comprehensive Plan text, Land Use Map or Urban Growth Boundary.

Apartment House: See "Dwelling, Multi-."

Appeal: A request that a final decision by the Director, Hearings Officer, Planning Commission or City Council be considered by a higher authority, either on the basis of a de novo hearing or with the inclusion of evidence in addition to the evidence considered by the maker of the initial decision.

Applicant: The owner of affected property, or such owner's duly authorized representative. The City Attorney may ascertain the sufficiency of the representative's alleged authorization by the owner to act as applicant on the owner's behalf.



Application: For purposes of this Code, application is defined as materials submitted, or required to be submitted under this Code.

<sup>6</sup>Area of Shallow Flooding: A designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and intermittent; and, velocity flow may be evident. AO is characterized as sheet flow, and AH indicates ponding.

<sup>7</sup>Area of Special Flood Hazard: The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

Arterial Street: A major street which functions primarily to move large amounts of traffic and is identified as an arterial street on the official street map.

<sup>8</sup>Athletic Clubs: Recreation facilities containing one or more athletic activities which are primarily indoor in character.

Auto Service Station: Provision of fuel for any motor vehicles, together with performance of associated services for motor vehicles when performed as an accessory use.

<sup>9</sup>Bankfull Stage: The stage or elevation at which water overflows the natural banks of streams or other waters and begins to inundate the upland. In the absence of physical evidence, the two-year recurrence interval flood elevation may be used to approximate the bankfull stage.

<sup>10</sup>Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always includes the letters A or V.

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

<sup>11</sup>Beds or Banks: The physical container of the waters of this state lying below bankfull stage.

<sup>12</sup>Bed and Breakfast Inn: A use providing temporary overnight lodging and a morning meal (breakfast), for which monetary compensation is paid and received. Bed and Breakfast does not include other similar service uses, such as eating and drinking establishments, religious services, clothing sales or distribution outlets, health or limited care for needy individuals, boarding homes, group quarters, transient quarters, or rescue missions.

Berm: A man-made mound or small hill or earth used to deflect sound or used as a buffer in landscaping provisions to separate incompatible areas or to provide aesthetic enhancement in site design.

Bicycle Parking Facilities<sup>1</sup>: Space and improvements dedicated exclusively for use of securing bicycles. They include, but are not limited to: marked spaces, structures including lockers, racks and enclosures, and areas providing maneuvering space for access to parking spaces and improvements.

<sup>14</sup>Bikeway: A paved facility provided for use by cyclists. There are four types of bikeways:

Shared Roadway: A type of bikeway where motorists and cyclists occupy the same roadway area.

Shoulder Bikeways: A bikeway which accommodates cyclists on paved roadway shoulder.

Bike Lanes: A section of the roadway designated for exclusive bicycle use.

Bike Paths: Bike lanes constructed entirely separate from the roadway, alone or in conjunction with pedestrian ways.

Block: An area of land containing one or more lots or parcels surrounded by streets, railroad rights-of-way, unsubdivided acreage or a combination thereof.

Board: Josephine County Board of County Commissioners.

Bond: Any form of security, including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City.

Buffer, Buffering: A landscaped area which provides a separation between potentially conflicting zoning districts, when developed as provided in Section 23.034, Type D.

Building: Any structure used or intended for supporting or sheltering any use or occupancy.

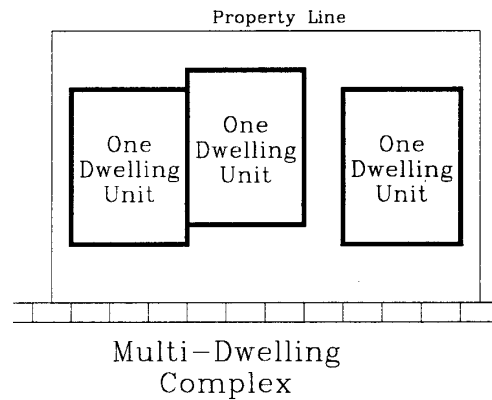
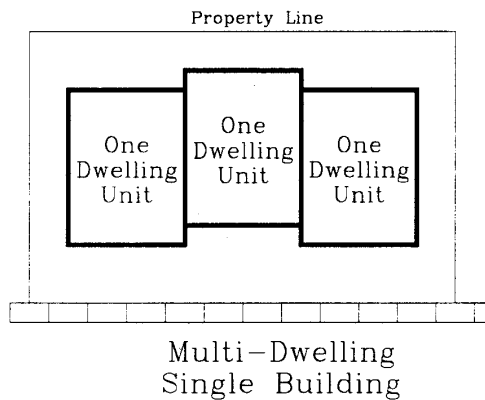
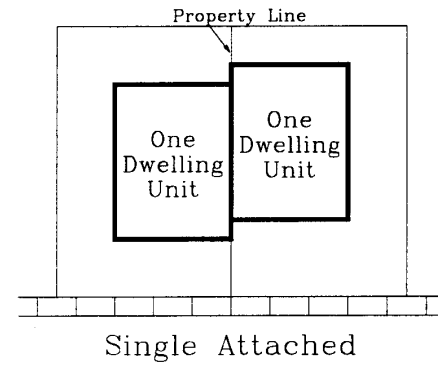
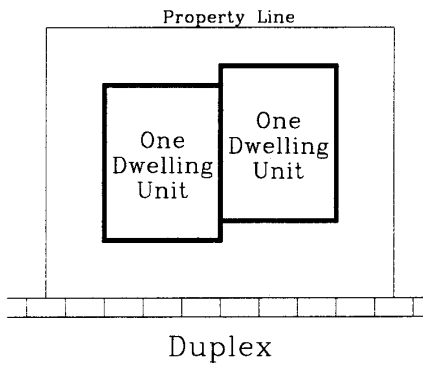
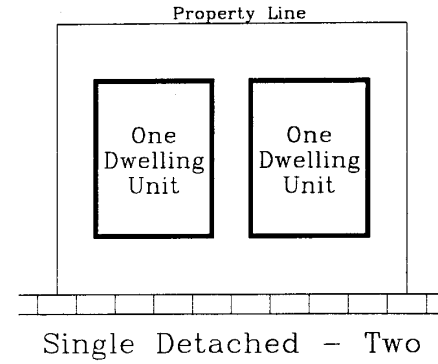
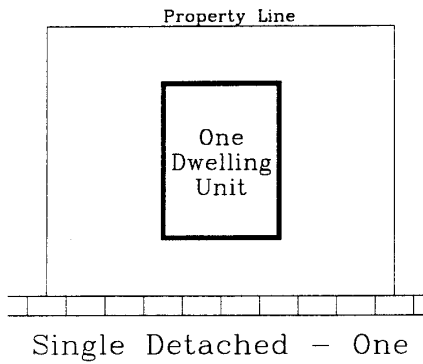
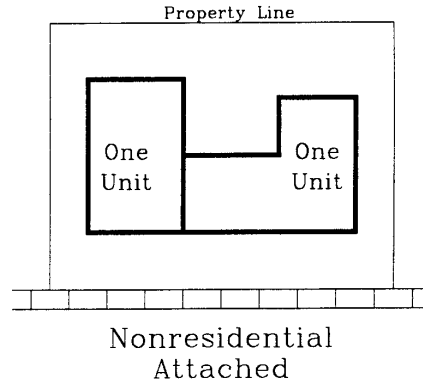
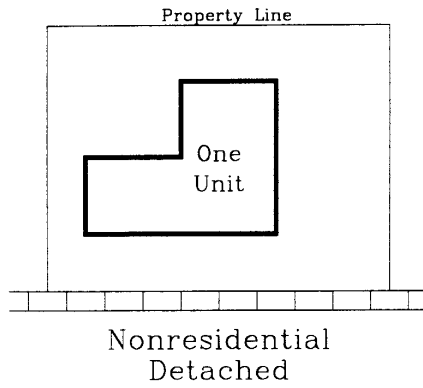
Building Envelope: That portion of a lot or development site exclusive of the areas required for front, side, and rear yards and other required open spaces and easements, and which is available for siting and constructing a building or buildings.

Building Line: A line on a plat indicating the limit beyond which buildings or structures may not be erected, or the minimum distance as prescribed by this Code between the front property line abutting a street and the closest point of the foundation of any building or structure related thereto.

Building Types: The description of buildings according to their placement and arrangement on a site or sites as follows:

- (1) Nonresidential - That group of building types comprising the following:
  - (a) Detached: A single main building, freestanding and structurally separated from other buildings. (See Concept Sketch 30-Building Types.)
  - (b) Attached: Two or more main buildings placed side-by-side so that some structural parts are touching one another, located on a lot or development site or portion thereof. (See Code Concept Sketch 30-Building Types.)
- (2) Residential - That group of building types comprising the following:
  - (a) Single Detached-One: One dwelling unit, freestanding and structurally separated from any other dwelling unit or buildings, located on a lot or development site. (See Concept Sketch 30-Building Types.)

- (b) Single Detached-Two: Two dwelling units located on the same lot that are not attached in any manner. (See Concept Sketch 30-Building Types.)
  - (c) Duplex: Two dwelling units placed so that some structural parts are in common and are located on a single lot or development site. (See Concept Sketch 30-Building Types.)
  - (d) Single Attached: Two dwelling units attached side-by-side with some structural parts in common at a common property line. (See Concept Sketch 30-Building Types.)
  - (e) Multi-Dwelling: A structure or complex of structures containing at least three dwelling units in any vertical or horizontal arrangement, located on a lot or development site. (See Concept Sketch 30-Building Types.)
- (3) The following commonly used terms are not considered building types for purposes of this Code:
- (a) Cluster
  - (b) Condominium
  - (c) Townhouse
  - (d) Apartment



**Concept Sketch 30 - Building Types**

Building Official: The City Building Official.

Building, Principal: A building within which is conducted a principal use permitted on a lot.

<sup>15</sup>Calendar Year: The period of time from January 1 to December 31 inclusive.

Carport: A structure consisting of a roof with its supports and which is entirely open on two or more sides and is used for sheltering a motor vehicle.

Cemetery: Land use or intended to be used for the burial of the dead and dedicated for cemetery purposes, and which may include columbaria, crematories, mausoleums and mortuaries.

Church: The building and premises used for the conduct of regular religious services; church shall not include schools, other than premises used for religious instruction during regular religious services. See also "Schools."

City Engineer: The City Engineer of the City of Grants Pass or his designee.

City Manager: See "Manager."

<sup>16</sup>City Surveyor: An individual appointed to the office of Grants Pass City Surveyor who is responsible for performing the duties of such office in lieu of the County Surveyor as described by law.

Clearance: The highest point of the grade below a sign to the lowermost point of the sign.

<sup>17</sup>Clinic: A building for the diagnosis and treatment of human patients, for periods not exceeding 24 hours, by a health care provider licensed by the State of Oregon, including doctors, dentists, surgeons, chiropractors, physical therapists, psychologists, and health counselors.

Code: Shall mean the City of Grants Pass Development Code.

Collector Street: A major street which transports traffic from local streets to the arterial street system and is identified as such on the official street map.

Commercial: See "Trade Retail."

Compatible: To be used in determining the suitability of land uses within a zone and is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. Compatible may include being made compatible through screening, fencing, traffic pattern and site plan design, restriction of building openings, building design, building setbacks or other design solutions.

Comprehensive Land Use Plan/Comprehensive Plan: An official document which establishes the future land use pattern and land use goals and policies for the City.

Condominiums: A type of residential development offering individual ownership of units and common ownership of open spaces and other facilities and regulated, in part, by State Law (ORS Chapter 100).

Council: The Grants Pass Council.

<sup>18</sup>County Recorder: The Josephine County Clerk.

<sup>19</sup>County Surveyor: An individual appointed or elected to the office of Josephine County Surveyor and who is responsible for performing the duties of such office as described by law.

Courtyard: A landscape area enclosed by two or more walls.

Coverage, Building: That percentage of the total lot area covered by buildings.

Criteria: General rules or tests on which a judgment or decision can be based.

Cul-de-sac: A short street which has one end open to traffic and is terminated by a vehicle turn-around.

Cul-de-sac Bulb: The circular radius at the end of a cul-de-sac.

Day(s): Shall mean calendar days, unless working days are specified, which shall mean Monday through Friday, exclusive of official City holidays.

<sup>20</sup>Day Care: Care, supervision and guidance on a regular basis provided to five or more persons during part of the day, under appropriate local and State licensing. Day care is of two types:

- (1) Family: Day care provided for fewer than 13 children (under 13 years of age), including children of the provider, in the living area of the provider's home, regardless of full-time or part-time status, which meets the requirements of ORS 418.805 through 418.885.
- (2) Group: Day care provided in a place other than the recipient's home, excluding Family Day Care.

Dedication: The designation of land by its owner for any general or public use.

De Novo: A new hearing, usually without consideration of any previous hearing testimony.

Density: The number of residential dwelling units per acre of land.

<sup>21</sup>Destination Resort: As defined in Goal 8, Recreational Needs, Oregon's Statewide Planning Goals, as may be amended from time to time (OAR 660, Division 15).

Development: Any man-made change to improved or unimproved real estate, including but not limited to construction, installation or change of a building or other structure, land division and partition, establishment or termination of a right of access, storage on the land, drilling and site alteration such as that due to land surface mining, dredging, paving, excavation or clearing.

<sup>22</sup>Development, Existing: Development existing or authorized by City permit at the time of application for a Solar Access Permit.

Development Permit: A permit issued by the Director for a development which is in compliance with this Code and the Comprehensive Plan.

Development Plan: Any plan adopted by the City Council for the guidance of growth and improvement of the City. The Council may make adjustments in any such plan from time to time to meet unanticipated problems and conditions affecting landowners or the public.



Development Site: A tract of land either undivided or consisting of two or more contiguous lots of record which, on the effective date of this Ordinance or subsequently, came under single or common ownership and continued to be so owned at the time a Development Permit was applied for.

Director: Director of the City Community Development Department, or his/her designee.

<sup>23</sup>Disabled Person: An individual who has a physical or mental impairment which constitutes or results in a functional limitation to one or more major life activities for the individual.

District: A portion of territory of the Urban Growth Boundary within which certain uniform regulations and requirements of this Code apply.

Dividing Land: See "Land Division."

Drainageway: A natural or manmade watercourse which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation and which conveys significant seasonal concentrations of water over the surface of the land.

Driveway: The driving surface that provides access internal to a lot or parcel, which has access to the public or private street that constitutes frontage. A driveway does not constitute frontage. A driveway services only one lot or parcel, except where there are provisions for shared driveways and cross access easements. See definition of "Streets, Private."

Duplexes: A building under single or common ownership designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family. See also "Building Type."

<sup>24</sup>Dwelling, Accessory: A dwelling unit attached to a commercial building and on the same lot as a commercial use in a commercial zone.

Dwelling, Multi-: A building under single or common ownership designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family. See also "Building Type."

Dwelling, Single Family: A building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family, and if attached, under separate ownership from any attached dwelling. See also "Building Type."

<sup>25</sup>Dwelling Unit, Existing Residential: A residential dwelling unit that is currently certified for occupancy, that was constructed as a new residential dwelling unit in accordance with the standards in effect at the time of its construction.

Dwelling Unit, Residential: One or more habitable rooms which are occupied or which are intended or designed to be occupied by one family with one housekeeping facilities for living, sleeping, cooking and eating.

Easement: A recorded interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

Eating/Drinking Establishments: Uses providing facilities for consumption of prepared food and/or licensed beverages.

<sup>26</sup>Elevation, Average: The average of the lot elevation on the northerly side of a structure and the lot elevation on the southerly side of a structure.

Employees: All persons, including proprietors, working on the premises during the largest shift at peak season.

<sup>27</sup>Family: Any of the following:

- (1) An individual or group of persons not to exceed fifteen in number, related by blood, marriage or adoption;
- (2) An individual or group of disabled persons, not to exceed fifteen in number.

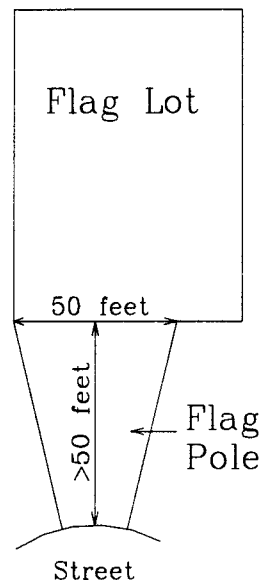
- (3) An individual or a group of not more than five persons (excluding servants) who need not be related by blood, marriage or adoption, living together in a dwelling unit.

Fenestration: The arrangement or design of windows and doors in a building.

Final Action: A final determination made by the review body and accompanied by adopted findings, if required, and signed by the review body or its designee. See also "Oral Action" and "Findings."

Findings: Written statements of fact, conclusions and determinations based on the evidence presented in relation to the Decision Approval Criteria and accepted by the review body in support of a decision.

<sup>28</sup>Flag Lot: A lot that has frontage on and primary access to a street by means of a flag pole (See Concept Sketch 30 - Flag Lot and Flag Pole).



**Concept Sketch 30 - Flag Lot and Flag Pole**

<sup>29</sup>Flag Pole: That portion of a lot that is a narrow strip of land to provide primary frontage and access to the main body of the lot. A flag pole has a width at all points that is less than 50 feet or the width of the lot, whichever is less. The width of the flag pole at any point is less than the depth of the flag pole from the street right-of-way to that point (See Concept Sketch 30 - Flag Lot and Flag Pole).

Flood: Any high stream flow which overtops the natural or artificial bank of any part of a stream or river that covers land not usually under water. The Intermediate Regional or Base Flood (often referred to as the 100-year flood) is a flood with a one percent chance of occurrence in any given year. This flood is mapped by the Army Corps of Engineers and is used by the Federal Emergency Management Agency and the City of Grants Pass for purposes of regulating development within flood boundaries.

Flood Fringe: The area bordering the floodway and within the floodplain and which acts as a reservoir of flood waters.

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

Flood Insurance Study: The official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary-Floodway Map and the water surface elevation of the base flood.

Floodplain: The combined area of the floodway and flood fringe as defined herein.

Floodway: The minimum area necessary for the passage of floodwaters, including the channel and adjacent land areas which must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot; or any area designated as a floodway on the Floodway Map, whichever is more restrictive.

Flood Area: The gross area, under roof, of all of the floors of a building, measured from the interior of exterior walls, excluding only space devoted to off-street parking or loading.

<sup>30</sup>Forestry: Any commercial activity relating to the growing or harvesting of forest tree species, including, but not limited to:

- (a) Reforestation;
- (b) Construction and maintenance of roads specifically for the growing or harvesting of forest tree species;
- (c) Harvesting of forest tree species;
- (d) Application of chemicals as part of growing or harvesting forest tree species; and
- (e) Disposal of slash.

Frontage: That portion of a property which abuts a street right-of-way.

<sup>122</sup>Functional Classification: The description of streets by the relative importance of the movement and access functions. See "Streets" for specific descriptions of each street classification.

Future Street Plan: An approved street plan indicating the location of future streets within undeveloped or partially developed portions of the Urban Growth Boundary.

Garage, Private Parking: A structure having one or more tiers of height used for the parking of automobiles for the tenants, employees or owners of the property for which the parking spaces contained in or on said garage are required by this Code and which are not open for use by the general public.

Garage, Public Parking: A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons or clients which are required by this Code, provided said parking spaces are clearly identified as free parking space(s) for the building or use.

Garage, Repair: A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental storage or parking of vehicles.

Goals: Statements identified as such in the Comprehensive Plan.

Governmental Bodies: Shall mean City, County, State and Federal Boards, Councils, Commissions and Agencies and the like. See also "Review Bodies."

<sup>31</sup>Government Buildings: All buildings and structures defined in ORS 446.210 through 446.280 used by the public which are constructed, purchased, leased or rented in whole or part by the use of State, County or Municipal funds, or the funds of any political subdivision of the State; and to the extent not required otherwise by federal law or regulations or not beyond the power of the State to regulate, all buildings and structures used by the public which are constructed, purchased, leased or rented in whole or in part by the use of federal funds.

Grade, Finish: The final grade of paving, sidewalk or landscaped area at any given point upon completion of construction.

<sup>32</sup>Group Care Home: Facilities licensed by the State of Oregon and the appropriate governing bodies providing convalescent or chronic care for periods exceeding 24 hours for elderly or physically dependent persons, or providing care and training on a daily basis for physically or mentally handicapped persons, for sixteen or more persons not related by blood, marriage or adoption to the administrator of such care and training.

Group Quarters: The residential occupancy of living units by groups of more than five persons who are not all related by blood, marriage or adoption, and where the communal kitchen and/or dining facilities are provided.

<sup>33</sup>Habitable Floor: Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

Half Street: Half of the width of a street, usually along the side of a subdivision where the remaining portion of the street could be provided in another subdivision.

<sup>34</sup>Handcrafted Manufacturing: Merchandise produced using non-power equipment and tools, except for low-impacting household appliances, such as sewing machines, jigsaws, small drills and sanders. In no case can the equipment and/or material used in production result in noise, vibration or air or water quality impact in excess of locally adopted standards.

Hearings Officer: A contracted individual empowered with certain decision-making authority by this Code.

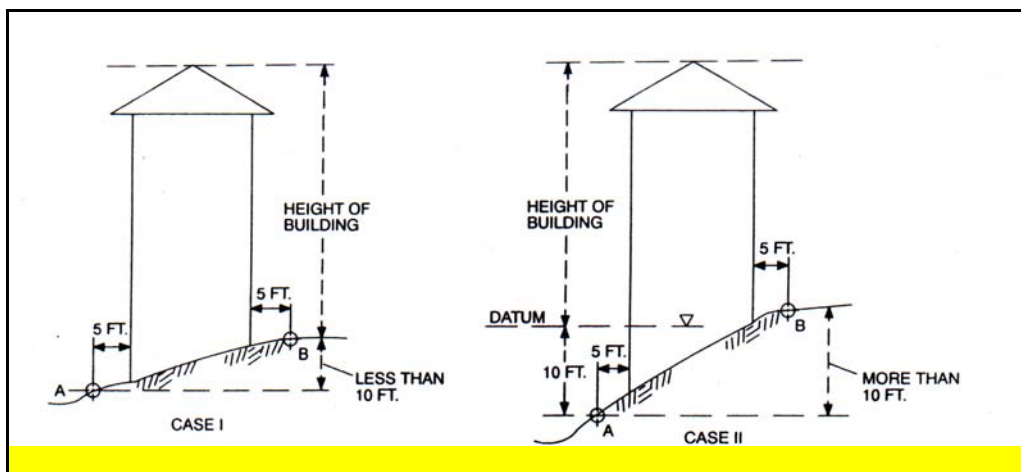
<sup>124</sup>Height of Building: The vertical distance above a reference datum measured to the highest point of the roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building.

- (1) The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade.

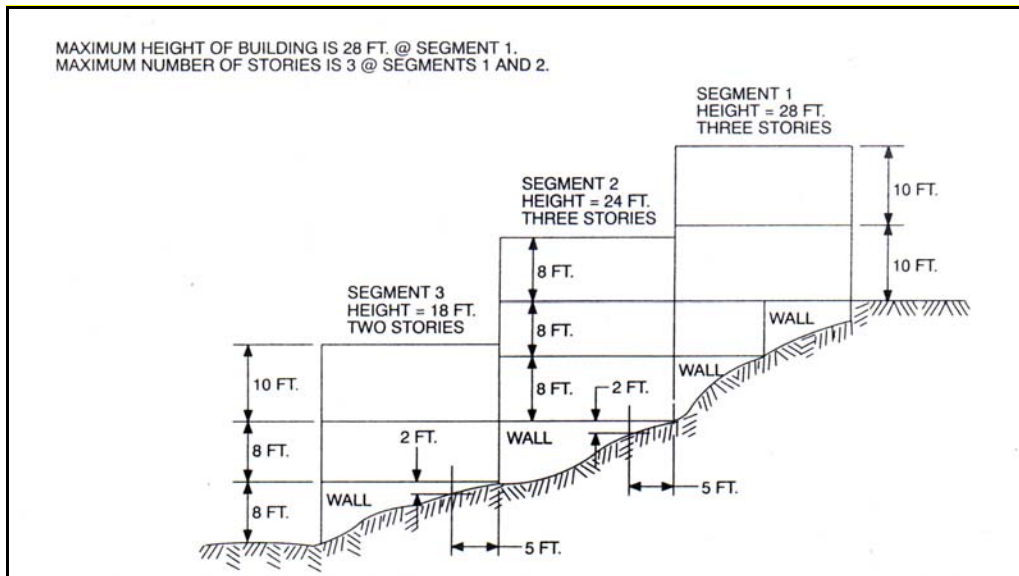
When a building has a covered porch, covered deck, or other unenclosed covered space without an exterior wall, the outermost point of the unenclosed space shall be considered an exterior wall.

- (2) An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in Item 1 is more than 10 feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building.



HEIGHT OF BUILDING



TERRACED BUILDING

<sup>35</sup>Helipad, Medical: A landing and takeoff place for a helicopter for emergency medical services, such as patient transport.

Homeowners Association: An incorporated, non-profit organization operating under recorded land agreements through which each lot owner of a Planned Unit Development or other described land area is automatically subject to a charge for a proportionate share of maintaining a common property.

<sup>36</sup>Home Occupation: An accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services. The primary use of the dwelling unit is residential.

Hospitals: Institutions devoted primarily to the rendering of healing, curing and/or nursing care which maintain and operate facilities for the diagnosis, treatment and care of two or more non-related individuals suffering from illness, injury or deformity, or where other healing curing and/or nursing care is rendered over a period exceeding 24 hours.

Hospital, Small Animal: See Veterinary Clinic.

Hotel (Motel, Motor Hotel, Tourist Court): A building or group of buildings used for transient residential purposes containing rental units which are used, rented or hired out for sleeping purposes.



Indoor Recreation Area: A room or rooms within an enclosed building which is designed and used for recreational purposes by the public and/or occupants of a residential development. Activities provided for within an indoor recreation area many include, but are not limited to, the following: indoor swimming pools, saunas, gymnasiums, exercising rooms, dance floors, tennis or handball courts, and games such as pool, ping-pong, shuffleboard, etc.

Industrial: The on-site production of goods excluding agriculture. Industrial uses are one of three types:

- (1) Indoor: Those light industrial uses that can be accomplished within a wholly enclosed building, that require no outside production and little or no outside storage of materials. Indoor Industrial uses refer to industrial production of previously processed or prepared materials, as follows:
  - (a) Production, processing, assembling, packaging or treatment of food products from previously processed materials; or
  - (b) Production, processing, assembling and packaging of finished products from previously prepared materials; or
  - (c) Manufacturing and assembly of electronic instruments and equipment and electrical devices.
- (2) Outdoor: Those heavier industrial uses that require open air production, processing and storage of materials. Outdoor Industrial uses refer to:
  - (a) The manufacturing, processing or assembling of semi-finished or finished products from raw materials.
  - (b) The retail or wholesale trade in bulk of hazardous materials.
- (3) Prohibited: Those industrial uses within the City of Grants Pass, as follows:
  - (a) Manufacturing of explosives.

Intensity of Use: See "Land Intensity of Use."

Irrigation System: Method of supplying water which can be manually or mechanically-controlled to a needed area.

Itinerant Use: A temporary use offering the sale of goods, merchandise or services from a vehicle, trailer, cart or other temporary apparatus.

Kennels: A lot or premises on which three or more adult dogs are kept, whether by the owners of the dogs or by persons providing facilities and care, whether or not for compensation. An adult dog is one that has reached the age of six months.

Kitchen: Any room used or intended or designed to be used for preparation of food and storage of food, including any room having a sink, and either a 3/4-inch gas opening or provision for a range or stove.

<sup>37</sup>Laboratory, Medical: A laboratory that provides the processing and/or manufacture of medical products on an individual basis from another medical source, usually a health care provider. This includes, but is not limited to, a dental, blood, foot, radiology, and pharmaceutical laboratories.

Land, Intensity of Use: Relative measure of development impact defined by such characteristics as the number of dwelling units per acre, amount of traffic generated and amount of site coverage.

Land, Parcel of: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

Landscaping: Includes ground cover, trees, grass, bushes, shrubs, flowers and garden areas and any arrangement of fountains, patios, decks, street furniture and ornamental concrete or stonework areas.

Landscape Coverage: The degree to which living plant materials cover any given landscaped area, as measured no higher than six inches from the finish grade of the landscaped area.

Loading Space: An off-street space or berth on the same lot with a main building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading.

Lodge: A lodge, club or fraternal organization, except those carried on as a business for a profit, and excepting Group Care and Group Quarters uses.

<sup>38</sup>Lot: Either a discrete unit of land for planning, zoning, use, and development purposes, or subdivision lot, as the context dictates.

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

<sup>39</sup>Lot, Authorized: A lot which is recognized by the City of Grants Pass as a discrete unit of land for planning, zoning, use, and development purposes.

Lot, Corner: A lot situated at the intersection of two intersecting streets, where the interior angle of such intersection does not exceed 135 degrees.

Lot Coverage: The percent of a development site area covered by the vertical projection of any structures or buildings.

<sup>40</sup>Lot Depth: The average minimum horizontal distance between the rear lot line and the front lot line, unless,

- (1) the rear lot line is enclosed within a floodway, required stream setback, or similar area not to be used for building and the applicant chooses to designate the setback or floodway line to be the rear lot line; or
- (2) the lot is a flag lot, in which case the lot depth shall be the average minimum horizontal distance between the two lot lines most distant from one another.

Lot, Interior: A lot other than a corner lot and having frontage on only one street.

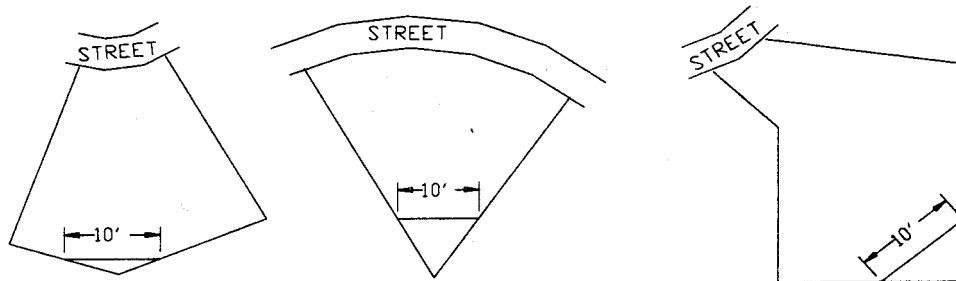
Lot Line: The property line bounding a lot.

Lot Line, Exterior: Any Side or Rear Lot Line abutting a street or alley.

Lot Line, Front: A property line which abuts the street. Where two or more property lines abut a street, one shall be the Front Lot Line and all others shall be Exterior Side or Exterior Rear Lot lines, as appropriate. The choice of Front Lot line shall be the applicant's.

Lot Line, Rear: The record lot line or lines most distant from and generally opposite the front lot line, except that in the case of a triangular lot or lot with more than four sides, it shall mean a straight line 10 feet in length which is a) parallel to the front lot line or its chord and b) intersects the other lot lines at points most distant from the lot line. (See Concept Sketch 30-Rear Lot Line.)

Lot Line, Side: Any lot boundary not a front or rear lot line.



**Concept Sketch 30 - Rear Lot Line**

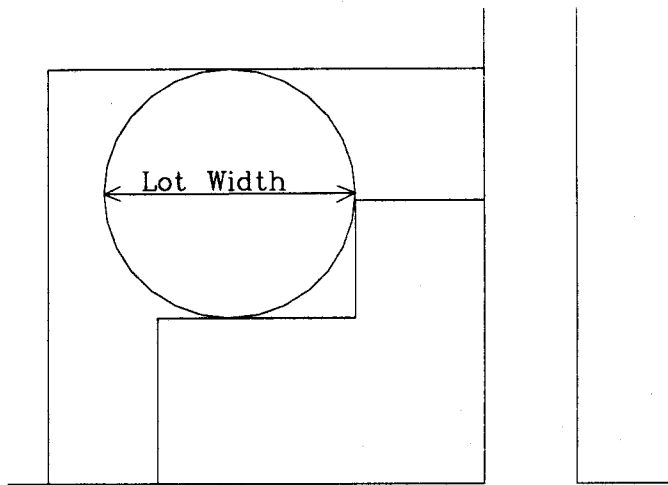
<sup>41</sup>Lot of Record: See "Lot, Authorized."

<sup>42</sup>Lot, Tax: A unit of land that has been assigned a lot number by the Josephine County Assessor, that may or may not be an authorized lot.

Lot, Through: A lot of record which has both a front and rear lot line abutting a street.

<sup>43</sup>Lot, Unauthorized: A lot which is not recognized by the City of Grants Pass as a discrete unit of land for planning, zoning, use, and development purposes.

<sup>44</sup>Lot Width: The diameter of the largest circle that can be inscribed within the property lines of a lot (See Concept Sketch 30 - Lot Width).



**Concept Sketch 30 - Lot Width**

<sup>45</sup>Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Code.

Maintenance: See Repair/Maintenance.

Major Zone District: The primary zone designation of property within the City such as R-1, GC or BP.

Manager: The City Manager of the City of Grants Pass or his designee.

<sup>46</sup>Manufactured Dwelling: A residential trailer, mobile home, or manufactured home.

<sup>47</sup>Manufactured Dwelling Park: Any place where four or more manufactured dwellings are located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured Dwelling Park" does not include a lot or lots located within a subdivision which are being rented or leased for occupancy by no more than one manufactured dwelling per lot.

<sup>48</sup>Manufactured Home: A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

Manufactured Home Space or Lot: A plot of ground within a manufactured dwelling park designed for the accommodation of one manufactured home, its accessory structures, parking spaces and required yard areas.

<sup>49</sup>Manufactured Housing Park: A manufactured dwelling park.

<sup>50</sup>Medical Office: A business office directly associated with a licensed health care provider or providers for activities directly related to the health care, such as supplying, billing, and record keeping, but not providing diagnosis or treatment of patients.

<sup>51</sup>Mobile Home. A structure constructed for movement on the public highways that has sleeping cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed 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.

<sup>52</sup>Mobile Home Park: A manufactured dwelling park.

<sup>53</sup>Modular Home: A factory-fabricated transportable building designed to meet the Uniform Building Code, to be used by itself or incorporated with similar structures or units at a building site into a modular structure. The term is intended to apply to major assemblies and does not include buildings constructed at a site from prefabricated parcels, trusses and other prefabricated supplements. A "Modular Home" is not considered a "Manufactured Home."

Mortuary: Mortuaries, crematories, and funeral and interment enterprises, where human bodies are kept prior to cremation or interment.

Motel, Tourist Court: See "Hotel".

Motor Vehicle and Trailer Sales Area: A lot used for display, sale or rental of new or used motor vehicles or trailers.

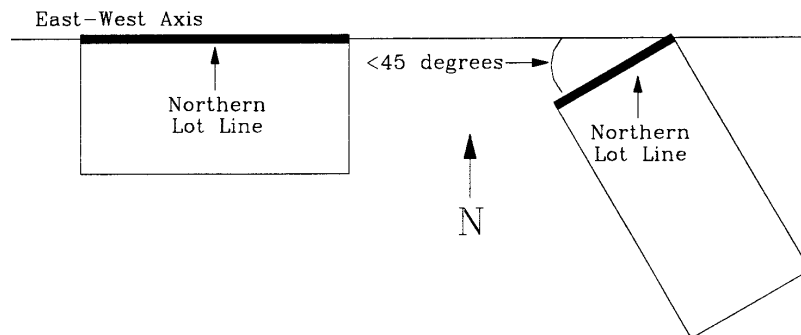
Non-Conforming Building: Any building which lawfully exists prior to the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the height, yard, area and/or coverage regulations, off-street parking requirements or other provisions of this Title.

Non-Conforming Lot: A parcel of land which lawfully existed as a lot on the effective date of this Code, or which is legally created after the effective date of this Code, but which in either case does not conform to the lot area and/or lot dimension standards for the zone in which it is located.

Non-Conforming Use: Any use which lawfully existed on the effective date of this Code but which, due to the requirements adopted herein, no longer complies with the schedule of permitted uses.

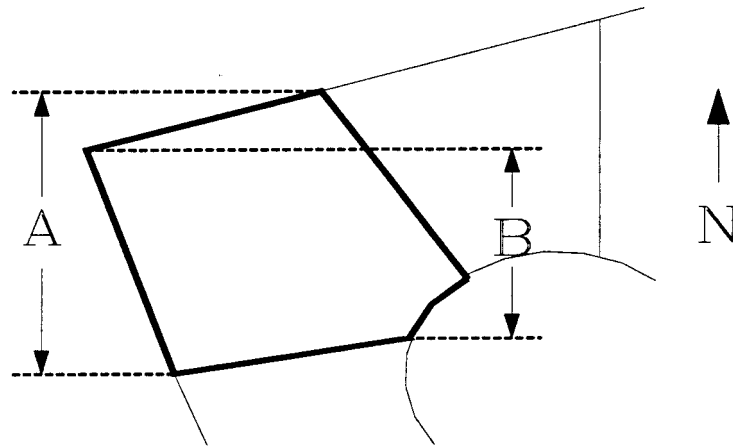
<sup>54</sup>Noon: Noon solar time, when the sun reaches its highest position in the sky on January 21.

<sup>55</sup>Northern Lot Line: A lot line or lines less than 45 degrees southeast or southwest of a line drawn east-west and intersecting the northernmost point of the lot, or, if no such line exists, the lot line the fewest degrees southeast or southwest of this east-west line. If the northern lot line adjoins an unbuildable area or areas (e.g. streets, alleys, public rights-of-way, parking lots, common areas) other than a required yard area, the northern lot line shall be northerly edge of the unbuildable area. (See Concept Sketch 30-Northern Lot Line.)



**Concept Sketch 30 - Northern Lot Line**

<sup>56</sup>North-South Lot Dimension: A distance that represents the general length of the north-south axis of a lot. It is calculated as one-half the sum of the distances between: (A) the northernmost point on the northern lot line and the southernmost point of the southern lot line, and (B) the southernmost point on the northern lot line and the northernmost point on the southern lot line. The north-south lot dimensions of flag lots shall be measured excluding the flag pole portion of the lot. (See Concept Sketch 30-North-South Lot Dimension.)



$$\text{North-South Lot Dimension} = (A+B)/2$$

**Concept Sketch 30 - North-South Lot Dimension**

Nursing Home: See "Group Care Home."

Nuisance: A use, development or building on a parcel which is found to be dangerous, or a potential threat to the health, welfare and safety of the community, and which may be cited by the City Manager for civil action.

<sup>122</sup>ODOT: Oregon Department of Transportation.

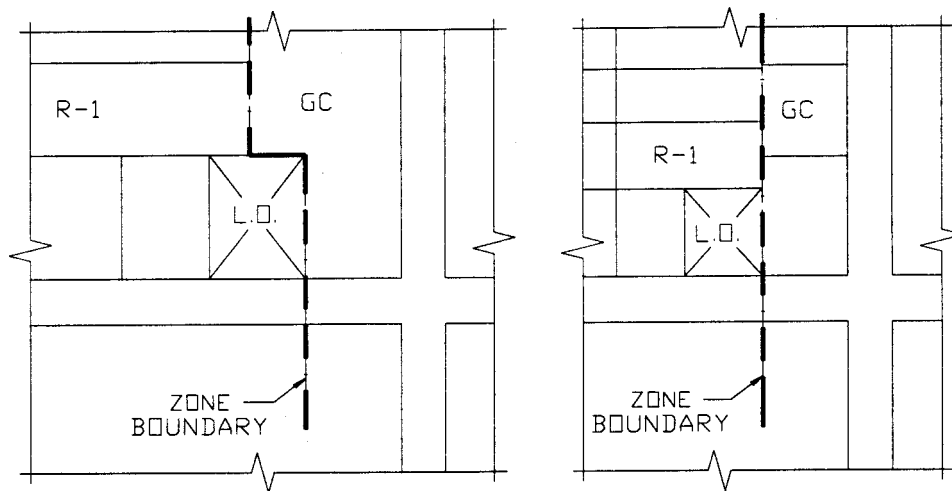
Offices: All offices maintained by business, professional and financial organizations and individuals for the performance of their business or profession, excepting repair/maintenance. Office uses are three types:

- (1) Professional: Office uses for the practice of a profession, including any office performing personal or business services, excepting repair/maintenance services. Professional office uses include medical and dental clinics, but do not include small animal



clinics, and do not include laboratories not incidental to medical/dental office or clinic operation.

- (2) Business: Office uses provided for the conduct of business other than professional, excepting repair/maintenance services, and not involving retail or wholesale trade on the premises. See also "Trade, Wholesale."
- (3) Limited: Professional or Business Offices, but only when abutting GC or CBD Zoning Districts by either (a) an interior side lot line or (b) an interior side and interior rear lot line. (See Concept Sketch 30-Limited Office.)



**Concept Sketch 30 - Limited Office**

<sup>57</sup>Open Space, Recreational: Area on a lot that is suitable for recreational use such as play, picnics, gardens, or sports. While recreational open space generally contains pervious surfaces, it may include impervious surfaces necessary to the recreational activity such as decks or sports courts. Recreational open spaces may be any of the following:

- (1) lawn or similar living ground cover that allows active recreational use. This does not include areas covered with decorative rock, landscaping bark, shrubs, or similar materials.
- (2) decks, patios, balconies, picnic areas, gazebos, or similar facilities that are designed solely for recreation.

- (3) active recreation facilities such as playgrounds, swimming pools, and sports courts.
- (4) walking, jogging, biking, or similar trails, including adjoining natural areas. This does not include trails within a required exterior yard.
- (5) cultivated gardens.

<sup>58</sup>Open Space, Pervious: Area on a lot with surfaces permeable to water. This includes required landscaped yards, buffer areas, other landscaped areas, ponds, creeks, and other natural areas. It does not include streets, accessways, parking areas, areas covered by structures, decks, or areas covered by asphalt, concrete, or decorative rock.

Oral Action: The initial determination made by the review body at a public meeting or hearing, subject to the Final Action and adoption of findings. See also "Final Action" and "Findings."

Outdoor Storage: The keeping, in an unroofed area, of non-explosive materials, merchandise, goods and/or vehicles in the same place for more than 24 hours. Storage shall be screened with a solid fence or wall and shall not encroach into any required setback.

Owner: Where used in relationship to real property, the legal owner of record or, where there is a recorded Land Sales Contract in force, the purchaser thereunder.

Parapet or Parapet Wall: That part of any wall above the roof line as defined in Uniform Building Code, Oregon Edition.

<sup>59</sup>Parcel: A partition parcel, a property line adjustment parcel, or a discrete unit of land for planning, zoning, use, and development purposes, as the context dictates.

Parking Area, Commercial: Privately or publicly owned property other than streets or alleys, on which parking spaces are defined, for use by the general public, either free or for remuneration, and not provided as part of a parking requirement for some other use.

Parking Area, Private: Privately or publicly owned property, other than streets and alleys, on which parking spaces are defined, designated or otherwise identified for use by the tenants, employees or owners of the

property for which the parking area is required and not open for use by the general public.

Parking Area, Public: Privately or publicly owned property other than streets or alleys, on which parking spaces are defined, designated or otherwise identified for use by the general public, provided as a part of a parking requirement for an adjoining land use.

<sup>60</sup>Parking Space: The minimum gross area available for the parking of an automobile as required by this Code.

<sup>61</sup>Parking, Voluntary: A private parking area provided in a residential zone for use by a business or use on an adjacent lot in a commercial or industrial zone. Parking is provided voluntarily and is in excess of any parking spaces required by this Code. The number of spaces is not more than 50 percent of the number of spaces required for the use, or ten spaces, whichever is greater. Voluntary parking is of two types:

- (1) Local Impact: Voluntary parking involving ten or fewer spaces with no access to a street in a residential zone.
- (2) Area Impact: Voluntary parking involving more than ten spaces or access to a street in a residential zone.

<sup>62</sup>Partition: Either an act of partitioning of land or an area or tract of land partitioned.

<sup>63</sup>Partition Parcel: A single unit of land that is created by a partitioning of land.

<sup>64</sup>Partition Land: To divide land into two or three parcels of land within a calendar year, but does not include:

- (1) A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots.
- (2) A property line adjustment.
- (3) The division of land resulting from the recording of a subdivision or condominium plat.

- (4) A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the Comprehensive Plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r). However, any property divided by the sale or grant of property for state highway, county road, city street or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

<sup>65</sup>Partition Plat: A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

<sup>66</sup>Party: Any person, organization, or governmental body, including the applicant, that appeared at a public hearing by submitting written or oral testimony concerning a particular application or matter, or who submitted written testimony concerning a particular matter or application during a noticed public comment period prior to a land use decision or limited land use decision.

Passive Solar Energy System: See "Solar Energy System, Passive."

<sup>122</sup>Pedestrian Connection: A continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, pedestrian ways, stairways and pedestrian bridges.

<sup>67</sup>Pedestrian Connector Route: A right-of-way dedicated and constructed to accommodate pedestrian travel between rights-of-way or properties.

<sup>68</sup>Pedestrian Way: An access, trail, sidewalk, or similar path that accommodates pedestrian travel.

<sup>69</sup>Pedestrian Way, Private: A pedestrian way that is located on private property.

<sup>122</sup>Performance Standards: A measure of the quality of traffic operations at an intersection or roadway segment. Performance standards can include level of service, volume to capacity ratio, average stopped delay, and other methods of measurement.

Person: An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more people having a joint or common interest, or any other legal entity.

<sup>70</sup>Personal Services: Services, the primary function of which is to enhance the appearance, health, or hygiene of individuals. Providing these personal services for the convenience of walk-in customers is the primary function. The sale of any product is accessory to these services. Typical uses include beauty and barber shops, professional masseuses, shoe repair shops, and coin operated laundries. Personal services do not include medical or dental offices or clinics.

<sup>71</sup>Pharmacy: A retail store where medicines are compounded and sold. Not more than 25 percent of the floor area may be devoted to retail sale or rental of goods other than medicines, durable medical goods, or medical related products.

Planned Unit Development: A land development project comprehensively planned as an entity via a unified site plan which permits flexibility in building siting, mixtures of building types and land uses (provided those land uses are permitted in the underlying zone), usable open spaces and the preservation of significant natural features.

<sup>72</sup>Planning Commission: The Urban Area Planning Commission, except that the Historical Buildings and Sites Commission may be substituted for the Planning Commission in Section 2, Procedures, and Section 10, Appeals, when referencing action by the Historical Buildings and Sites Commission under the Procedures or Appeals Sections.

<sup>73</sup>Plat: A final subdivision plat, replat, partition plat, property line adjustment plat or map.

Pre-Existing Lot: See "Authorized Lot."

<sup>74</sup>Preliminary Plan: See "Tentative Plan."

Premises: A lot, parcel or tract of land occupied, or to be occupied, by a building or unit or group of buildings and their accessory buildings.

Principal Use: The main use to which the premises are devoted and the primary purpose for which the premises exist. See also "Accessory Use."

Private Driveway: A driveway to serve residential premises.

<sup>75</sup>Property: A unit or tract of land.

<sup>76</sup>Property Consolidation: The creation of one unit of land where more than one unit of land previously existed.

<sup>77</sup>Property Line: The legally recognized division line between two units of land.

<sup>78</sup>Property Line Adjustment: The relocation of a common property line between two abutting properties, when recorded with the County Recorder by the appropriate parties, when such adjustment is done in accordance with the applicable standards in effect at the time of recordation.

<sup>79</sup>Property Line Adjustment Parcel: A unit of land created by a property line adjustment.

<sup>80</sup>Property Line Vacation: The removal of the property lines separating two units of land resulting in the consolidation of abutting properties.

<sup>81</sup>Public Building: All buildings and structures used by the public that are constructed, purchased, leased or rented in whole or in part by the use of private funds, where the building or structure has a ground area of more than 4000 square feet or is more than 20 feet in height from the top surface of the lowest flooring to the highest interior overhead finish of the building or structure.

Public, Major: Government or publicly owned facilities which have substantial impact, including materials storage or equipment repair facilities, warehouses, detention and correction institutions, open air utility substations and pumping stations.

<sup>82</sup>Public, Minor: Government, public or semi-public facilities and utilities which have a local impact upon surrounding properties, including libraries, museums, fire stations, reservoirs and wholly-enclosed pumping stations or utility sub-stations. It also includes municipal water or sewage treatment plants when separated from any adjacent residential development by a minimum 50 foot wide Type B landscaped buffer.

Public Need: A conclusion based on presentation of factual evidence which demonstrates that a particular request for a change is in the best public interest for economic, social, and environmental reasons.

<sup>123</sup>Public Park: A tract(s) of land set apart and devoted to the purposes of pleasure, recreation, ornament, light and air for the general public and under the management or control of a public agency. Parks may include playgrounds, recreation facilities, athletic fields, courts and open space. Uses generally occur outdoors, but buildings for indoor uses and enclosed spaces may be permitted by the Review Body as Accessory Uses. Parks are classified as Mini-Neighborhood, Neighborhood, Community, and Metropolitan Parks in accordance with the definitions found in the Parks and Recreation Master Plan for the City of Grants Pass Urban Growth Boundary.

Quasi-Judicial Action: An action which involves the application of adopted policy to a specific development application or amendment, as provided by this Code.

Ramada: A structure having a roof extending over a manufactured home or manufactured home space which is designed for protection of the manufactured home from sun and rain.

<sup>122</sup>Reasonably Direct: A route that does not deviate unnecessarily from a straight line or involve a significant amount of out-of-direction travel for likely users.

Recreation, Commercial: Provision of sports, recreation and entertainment for both participants and spectators, provided both indoors and outdoors. Specifically excluded from this category are Residential Recreation uses. Commercial Recreation uses are of two types:

- (1) Local Impact: Uses catering primarily to participants, with only incidental spectator use,

conducted within an enclosed building with a capacity of 300 persons or less.

- (2) Area Impact: Uses catering primarily to spectators of an event; uses conducted outdoors, or conducted within an enclosed building with a capacity of over 300 persons.

Recreation, Residential: Provision of recreation facilities for participants, with only incidental spectator use, such that compatibility with residential uses can be maintained. Provided primarily outdoors, with only incidental and accessory indoor uses.

Residential recreation uses are of two types:

- (1) Local Impact: Facilities for the private use of an individual family and non-paying guests, including members of a PUD.
- (2) Area Impact: Facilities for use of the general public or membership of a private organization where not a part of a PUD.

<sup>83</sup>Recreational Resort: As defined in Section 14.142 of the Josephine County Zoning Ordinance, as may be amended from time to time (Acknowledged Plan, December 1985).

<sup>84</sup>Recreational 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 recreational vehicle by the manufacturer or registered as such with the State, it is prima facie a recreational vehicle.

Rental Unit: Any housing unit, which is occupied pursuant to a lawful rental agreement, oral or written, expressed or implied, which was not owned as a condominium unit or cooperative unit on the effective date of this Code. A condominium housing unit in a converted rental building for which there has been no acceptance of sale on the effective date of this Code shall be considered a rental unit.

Repair/Maintenance: A use whose primary function is the repair and maintenance of equipment, machines, and/or vehicles. Repair/Maintenance uses are of two types:



- (1) Commercial: Repair and maintenance of household and personal machines and equipment, of light business machines and equipment, and of cars, pickup trucks and mobile homes.
- (2) Industrial: Repair and maintenance of heavy business machines and equipment, large contractor and farm equipment, and of motorcycles, heavy trucks and truck and trailer tractors. A repair/maintenance use with any industrial component shall be designated as an Industrial Repair/Maintenance use.

<sup>85</sup>Replat: The act of platting the lots, parcels and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

Reserve Strip: A strip of property, usually one foot in width, overlaying a dedicated street which is reserved to the City for control of access until such time as additional right-of-way is accepted by the City for continuation or widening of the street.

<sup>86</sup>Residential Care: Services such as supervision, protection, assistance while bathing, dressing, grooming or eating, management of money, transportation, recreation and the providing of room and board.

Residential Dwelling Unit: See "Dwelling Unit, Residential."

<sup>87</sup>Residential Facility: A facility licensed by the State of Oregon which provides residential care alone or in conjunction with treatment or training, or a combination thereof, for six to fifteen individuals who need not be related. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

<sup>88</sup>Residential Home: A home licensed by the State of Oregon which provides residential care alone or in conjunction with treatment or training, or a combination thereof, for five or fewer individuals who need not be related. Staff persons required to meet State licensing requirements shall not be counted in the number of facility residents and need not be related to each other or to any resident of the residential home.

<sup>89</sup>Residential Trailer: A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed before January 1, 1962.

Restaurant: An establishment where meals are prepared and served to the public for consumption either on or off the premises.

Retirement Housing. Housing for an older person as defined in the Fair Housing Act.

<sup>90</sup>Revegetation Fee: Fees collected for the purchase and improvement of trees in public open spaces.

<sup>91</sup>Review Body: The Director, Hearings Officer, Planning Commission, Historical Buildings and Sites Commission or City Council, whichever has authority for making a determination under the various provisions of this Code.

Right-of-way: The area between boundary lines of a street.

<sup>92</sup>Rip Rap: The act of facing a streambank with rock or similar substances to control erosion.

<sup>93</sup>Road: A street

Roadway: The portion or portions of a street right-of-way improved for vehicular traffic.

<sup>94</sup>Sale or sell: Every disposition or transfer of land in a subdivision or partition or an interest or estate therein.

School: Facilities for the instruction of children, youth and adults. School uses are of two types:

- (1) Public: Public, private or parochial, kindergarten, primary, secondary and high schools and colleges, including accessory administrative uses, but not child care facilities, except when operated in conjunction with a school.
- (2) Technical: Technical, business, trade, dancing, music or sports schools, including accessory administrative uses.

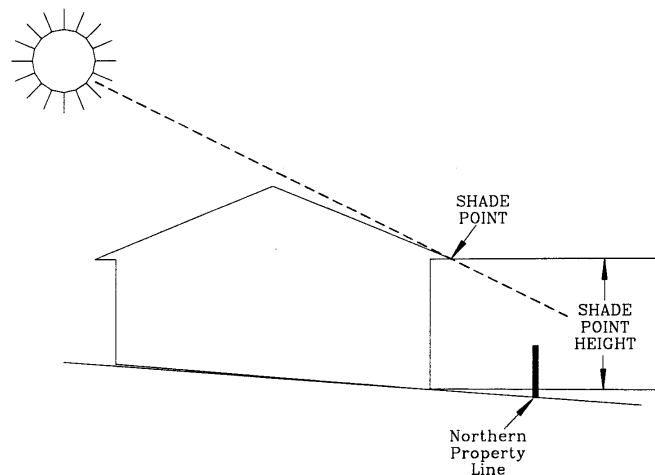
Service Station: An establishment selling fuel and oil for vehicles; selling, servicing and installing tires, batteries, accessories and related products; furnishing minor repair and service when conducted entirely within an enclosed building, and at which incidental services are conducted. "Minor repair and service," as used in this definition, shall be understood to exclude activities such as painting, bodywork, steam cleaning, and/or tire recapping.

Service Driveways: Any driveway constructed, installed, maintained in or over any portion of the public right-of-way for the purpose of ingress and egress of vehicles from the street to the property abutting the street.

Setback: The minimum allowable horizontal distance from a given point or line of reference, which for purposes of this Code shall be the property line, unless otherwise stated, to the nearest vertical wall of a building or structure, fence, or other elements as defined by this Code.

Shade: A shadow, except a shadow caused by a narrow object, including but not limited to such narrow objects as a utility pole, antenna, wire, flagpole or reasonable-sized chimney or flue.

Shade Point: The point on a structure that would cast the highest shadow at the northern lot line at noon on January 21. (See Concept Sketch 30-Shade Point and Shade Point Height.)



**Concept Sketch 30 - Shade Point and Shade Point Height**

Shade Point Height: The vertical distance between the shade point and the finished grade at that point. If the shade point is on a ridgeline that runs generally north-

south, then the shade point height is one-foot less than what otherwise would be the shade point height. (See Concept Sketch 30-Shade Point and Shade Point Height.)

<sup>95</sup>Significant size tree: A tree which is greater than 12" diameter measured 4.5 feet from the base or a Madrone which is greater than 24" diameter measured 4.5 feet from the base.

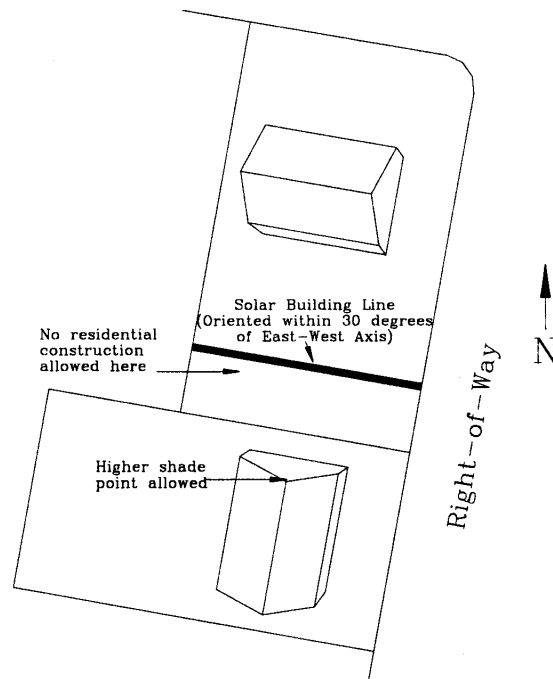
Site: That parcel of real property in common ownership, notwithstanding that the particular application may be for development of a portion of the site only. Conveyance of less than fee title to different persons, such as by ground lease, shall not operate to prevent the requiring of site design review of the entire parcel.

Site Plan: A plan, prepared to scale, showing accurately and with complete dimensions, all the uses proposed for a parcel of land and other information as required by specific sections of this Code.

<sup>96</sup>Solar Access Permit: A document that describes the maximum permitted height of non-exempt vegetation on properties to which the permit applies to protect solar access on the property of the permit applicant, to the extent authorized by the City. A Solar Access permit shall include, but is not limited to, the legal description of the properties benefited and restricted by the Permit and copy of the sun chart, solar access permit height limitations, and information listed in The Solar Access Permit Height Limitations (Solar Envelope) of the solar energy system.

<sup>97</sup>Solar Access Permit Height Limitations: A series of contour lines rising in four-foot increments at an angle to the south not less than 27 degrees from the horizon (the altitude of the sun on January 21 at noon) and extending at an angle not greater than 55 degrees (the azimuth of the sun on March 21 and September 21 at 9 AM and 3 PM, respectively) east and west of true south, parallel to and beginning at the bottom edge of a solar energy system for which a Solar Access Permit is requested.

<sup>98</sup>Solar Building Line: A line designated on a lot south of which residential structures are precluded. The purpose of this line is to allow construction of a higher shade point on the lot to the south than would otherwise be allowed (See Concept Sketch 30-Solar Building Line).

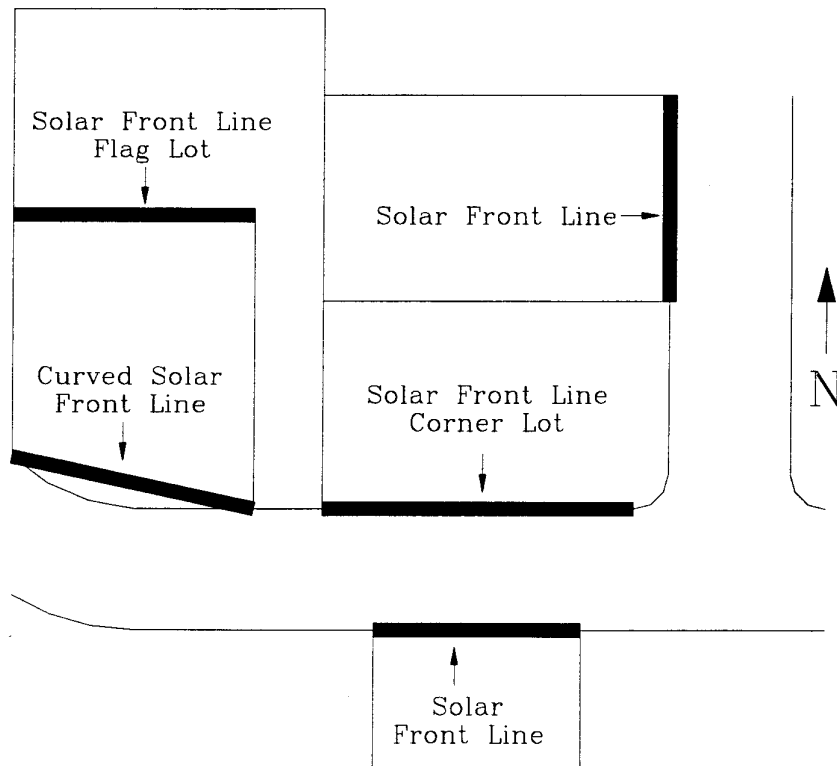


**Concept Sketch 30 - Solar Building Line**

<sup>99</sup>Solar Energy System: A device or combination of devices or elements that rely on direct sunlight as any energy source, including but not limited to a substance or device that collects sunlight for the following uses: heating or cooling of a structure or building; heating or pumping of water; or, generating electricity. A solar energy system may be used for purposes in addition to collecting solar energy, including but not limited to serving as a structural member or part of a roof or a building or structure and serving as a window or wall. A south-facing wall of a habitable structure is a solar system to the extent it is unshaded.

<sup>100</sup>Solar Front Line: A line used to determine the solar orientation of a lot. It is the same as the front lot line, except in the following cases:

- (1) For a curved front lot line, a line that connects the endpoints of the curve.
- (2) For a lot with more than one frontage, the exterior lot line that runs closest to east-west.
- (3) For a flag lot, the side or rear property line, exclusive of the flagpole, that runs closest to east-west. (See Concept Sketch 30-Solar Front Line)



**Concept Sketch 30 - Solar Front Line**

<sup>101</sup>Solar Heating Hours: The hours and dates during which solar access is protected under a Solar Access Permit, not to exceed those hours and dates when the sun is lower than 27 degrees altitude or greater than 55 degrees east or west of true south.

<sup>102</sup>Solar Setback: A line parallel to the northern lot line which is the minimum distance that the shade point of a structure shall be set back from the northern lot line.

<sup>103</sup>Solar Sunchart: A photograph or photographs, taken in accordance with guidelines issued by the Director, which plot the position of the sun during solar heating hours. The sunchart shall contain, at a minimum, the southern skyline as seen through a grid which plots solar altitude for a 42-degree northern latitude in 10-degree increments and solar azimuth measured from true, south in 15-degree increments. If the solar energy system is less than 20 feet wide, a minimum of one sunchart shall be taken from the center of the bottom edge of the system. If the solar energy system is wider than 20 feet, a minimum of two suncharts shall be taken, one from each end of the bottom edge of the system.

<sup>104</sup>Solar Energy Systems, Active: Utilizes heat collection which is separate from the area being heated, with a mechanical method of transferring heat between the two areas.

<sup>105</sup>Solar Energy System, Passive: Requires no external energy input to collect and disperse solar heat. In new building design this means utilizing site design, building orientation, window placement, insulation, vegetation, etc. to heat and cool a building. Passive solar systems may also include the addition of such solar collectors as greenhouses, water traps, improved insulation or other weatherization techniques.

<sup>106</sup>Southern Building Line: A line establishing the southernmost location for a structure on a lot.

<sup>107</sup>Southern Lot Line: A lot line or lines less than 45 degrees southeast or southwest of a line drawn east-west and intersecting the southernmost point of the lot, or, if no such line exists, the lot line the fewest degrees southeast or southwest of this east-west line.

Special Purpose District: Overlay zone designations which set forth specific land use regulations in addition to the standards of the underlying Zoning District.

Staff: An employee or employees of the City of Grants Pass.

Stand: A hard-surfaced area within a manufactured home space or lot designed for placement of a manufactured home.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six feet above finish grade, such basement or cellar shall be considered a story.

Story, Half: A basement or cellar, except as provided in this Code, which has less than six feet of its height above finish grade.

Street Plug: An area of land that is dedicated to the public for a future street or other specified purpose, over which current access is prohibited or specifically limited.

Streets, Public: Those designated on the City of Grants Pass Official Street Map.

- (1) Cul-de-sac: A local street with only one outlet and having an appropriate terminal for safe and convenient turnaround of vehicles.
- (2) Hammerhead street. A dead-end street that terminates in a turn-around other than a circular cul-de-sac, usually shaped like a "T" or a "Y". Typically these are private streets, and are used only where use of a circular cul-de-sac is impractical.
- (3) Loop Street. A local access street with outlets that begin and end on the same street. Typically, they serve 100 dwelling units or less, and are less than 1200 lineal feet in length.
- (4) Local: A street intended to provide direct access to other streets from individual properties and allow traffic movement within a neighborhood.
- (5) Local Collector: A street intended to move traffic from local roads to collectors or arterial. A local collector services a neighborhood or large subdivision.
- (6) Collector: A street intended to collect and transport traffic from a varying number of local neighborhoods to arterials, and having a minimal number of controlled access points, and which may have two or more travel lanes.
- (7) Arterial: A street intended to transport large quantities of traffic in an efficient, rapid manner, and having a minimal number of controlled access points.

<sup>122</sup>Streets, Private: A private street constitutes frontage and may serve more than one lot or parcel. Private streets may be accessed by driveways. See definition of "Driveway".



<sup>108</sup>Structure: Anything 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. This includes, but is not limited to, carports, swimming pools, hot tubs, permanent signs, above ground gas or liquid storage tanks, fences, railings, sheds, manufactured homes, antennae, satellite dishes, well pump houses, mechanical equipment, and portable buildings. It also includes tents, awnings, stands, carts, and tables, except those used temporarily for an itinerant use. It does not include portable items solely for sale or temporary storage on the premises, including manufactured homes, portable buildings, and vehicles.

<sup>109</sup>Subdivide Land: To divide land into four or more lots within a calendar year.

<sup>110</sup>Subdivision: Either an act of subdividing land or an area or tract of land subdivided.

<sup>111</sup>Subdivision Lot: A single unit of land that is created by a subdivision of land.

<sup>112</sup>Subdivision Plat: A final map and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

Tax Lot: See "Lot, Tax."

<sup>113</sup>Tentative grading plan: A grading plan submitted with the application and used for public review. It shall be drawn at a scale of either 1:50 or 1:100 and indicate intervals of 5 feet. It shall indicate cuts, fills, and retaining walls, and shall be replaced with a final grading plan.

<sup>114</sup>Tentative Plan: A map showing the proposed layout of a property line adjustment, partition, subdivision, or planned unit development.

Tourist Court, Motel: See "Hotel."

Townhouse: Two or more common wall single family dwelling units, each unit of which is built upon an individually owned subdivided or partitioned lot or parcel.

<sup>115</sup>Trade, Retail: The distribution, retail sale and/or rental of goods. Retail trade may include Wholesale trade and Handcrafted Manufacturing, but only as an accessory use to retail trade, when retail trade is the dominant use. In no case shall retail trade include manufacturing or assembly, except in the case of handcrafted items crafted for sale.

- (1) Ground Floor Level: Handcrafted Manufacturing or Wholesaling uses shall not exceed more than 25% of floor area. Not more than two handcrafted power machines may be operating at the same time.
- (2) Other than Ground Floor: No area restriction. Not more than one handcrafted power machine for every 400 square feet of floor area may be operating at the same time.

Retail Trade may include those offices necessary to the function of the retail trade operation. Retail trade does not include bulk fuel oil or bulk vehicle fuel sales; sale of explosives, and/or live animal sales other than small domestic pets. Retail Trade uses are of two types, as follows:

- (1) Indoor: Retail Trade uses which do not require more than 5% of the enclosed square footage for outdoor uses accessory to the enterprise, other than parking.
- (2) Outdoor: Retail Trade uses which require more than 5% of the enclosed square footage for outdoor uses accessory to the enterprise, other than parking.

Trade, Wholesale: The distribution and sale of goods at wholesale. Wholesale trade may include retail trade as an accessory use when wholesale trade is the dominant use. Wholesale trade does not include storage and/or sale of bulk fuel oil, bulk fuel, explosives or other hazardous material, or sale of live animals other than small domestic pets, when such sales are made from the premises. Wholesale Trade by brokerage only, with no display or storage of merchandise on the premises, shall be considered a Business Office use.

<sup>116</sup>Transient Quarters: A private, non-profit organization providing temporary housing, food, clothing and other support services primarily to adult, transitory individuals.

<sup>122</sup>Transportation Facilities: Any physical facility that moves or assists in the movement of people or goods, but excluding electricity, sewage and water systems. A plan or land use regulation amendment significantly affects a transportation facility if it:

- (1) Changes the functional classification of an existing or planned transportation facility;
- (2) Changes standards implementing a functional classification system;
- (3) Allows types or levels of land uses which would result in levels of travel access which are inconsistent with the functional classification of a transportation facility; or
- (4) Would reduce the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan.

<sup>122</sup>Transportation System Management Measures: Techniques for increasing the efficiency, safety, capacity or level of service of a transportation facility without increasing its size.

Urban Area: Lands within the Grants Pass Urban Growth Area.

Use: The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is, or may be, occupied or maintained.

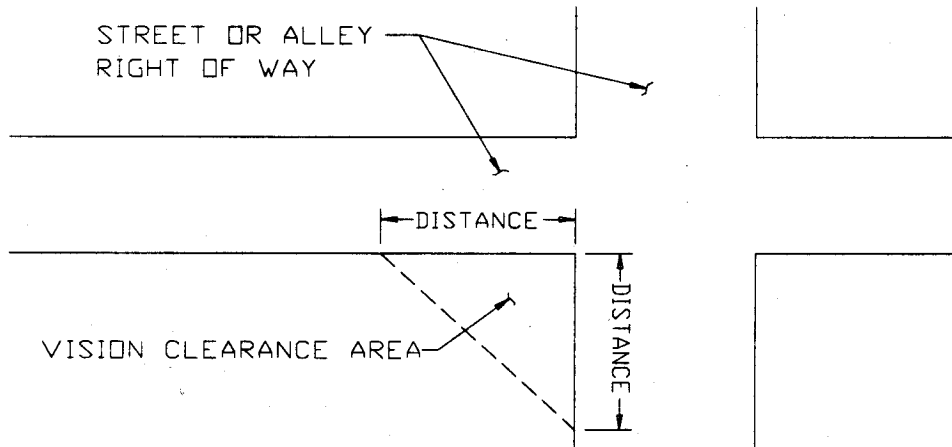
<sup>117</sup>Vegetation, Exempt: Existing vegetation that is shown on a sunchart to shade a Solar Energy System during solar heating hours, and existing deciduous vegetation to the extent that it shades a Solar Energy System used solely for space heating, or formerly non-exempt vegetation that has been allowed to grow more than 10 feet into the skyline protected by a Solar Access Permit.

<sup>118</sup>Vegetation, Non-Exempt: Vegetation other than exempt-vegetation.

<sup>119</sup>Veterinary Clinics: Facilities providing for veterinary care to animals, where overnight accommodation is limited to emergency care and treatment, where animals are treated and kept indoors, and where laboratories are incidental to the operation of the clinic.

Vision Clearance Area: A triangular area located at the intersection of two streets, a street and a railroad, or a street and a driveway; defined by a line across the

corners, the ends of which are on the street or alley lines, an equal and specified distance from the corner. (See Concept Sketch 30-Vision Clearance area.)



### Concept Sketch 30 - Vision Clearance Area

Visual Obstruction: Any fence, hedge, tree, shrub, device, wall or structure between the elevations of 2 1/2 feet and 8 feet above the adjacent curb height or above the elevation of gutter line of street edge where there is no curb, as determined by the City Engineer, and so located at a street, drive, or alley intersection as to limit the visibility of pedestrians or persons in motor vehicles on said streets, drives, or alleys.

Water-Dependent Use: A use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for water-borne transportation, recreation, energy production or source of water.

<sup>120</sup>Waters of this State: Natural waterways, including all bays, estuaries, any stream which flows during a portion of every year and supports aquatic life, rivers, creeks, lakes and other bodies of water in this State. (See OAR 141-85-100)(24)).

Water-Oriented Use: Any use which receives a demonstrable benefit from being located with a view to the river. Examples might include restaurants, residential structures and commercial structures when river views are incorporated into the design of the river.

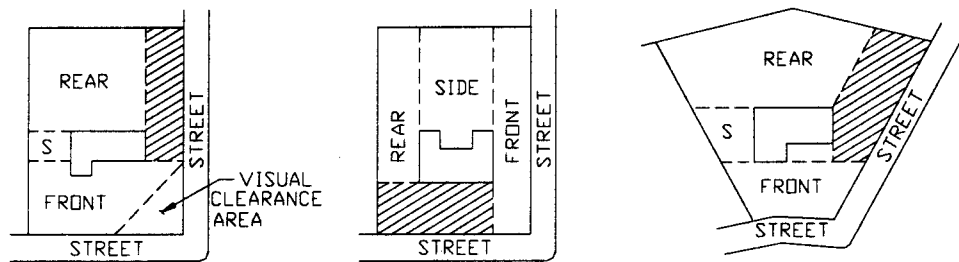
Water-Related: Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water-dependent land or waterway use, and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

<sup>121</sup>Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions.

Wrecking Yard, Motor Vehicles and Building Materials: Any premises used for the storage, dismantling or sale of either used motor vehicles, trailers, machinery and/or building materials, or parts.

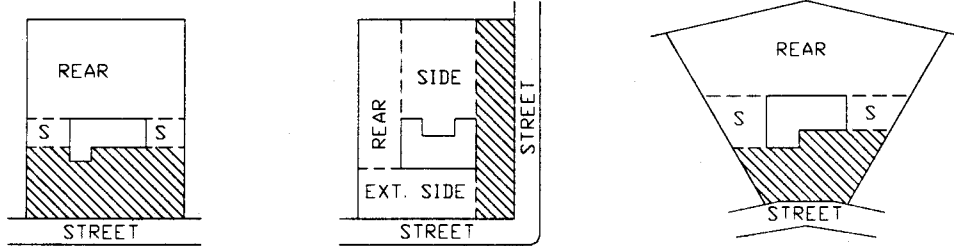
Yard: An open space unobstructed from the ground upward except as otherwise provided in this Code.

Yard, Exterior Side: A yard extending from the front yard to the rear lot line on the street side of a corner lot. (See Concept Sketch 30-Yard, Exterior Side.)



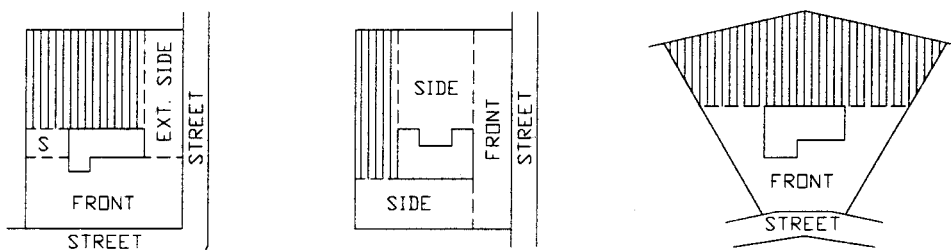
**Concept Sketch 30 - Yard, Exterior Side**

Yard, Front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto at the nearest point of the main building. (See Concept Sketch 30-Yard, Front.)



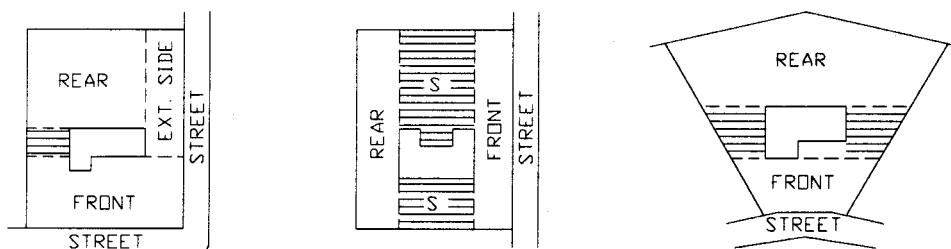
**Concept Sketch 30 - Yard, Front**

Yard, Rear: A yard extending across the full width of the lot between the rear main building and the nearest point of the rear lot line. (See Concept Sketch 30-Yard, Rear.)



**Concept Sketch 30 - Yard, Rear**

Yard, Side: A yard between the main building and the side lot line extending from the Front Yard or front lot line where no front yard is required, to the rear yard. The width of the required Side Yard shall be measured horizontally from the nearest point of the side lot line to the nearest part of the main building. (See Concept Sketch 30-Yard, Side.)



**Concept Sketch 30 - Yard, Side**

Zoning District: A classification of land in which only uses specified by this Code are allowed, except for non-conforming uses, and for which specific requirements are set forth pertaining to height, yard, area, coverage, landscaping, parking and other land use restrictions.

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1. Revised 2/2/83
  2. Added 3/16/94
  3. Added 3/21/94
  4. Added 3/21/94
  5. Added 12/4/96
  6. Added 4/6/88
  7. Added 4/6/88
  8. Added 6/1/90
  9. Revised 3/6/96
  10. Added 4/6/88
  11. Revised 3/6/96
  12. Added 8/7/85
  13. Added 5/25/93
  14. Revised 5/25/93
  15. Added 2/16/94
  16. Added 2/16/94
  17. Added 12/4/96
  18. Added 2/16/94
  19. Added 2/16/94
  20. Revised 12/19/90
  21. Added 1/15/92
  22. Added 3/8/85
  23. Added 12/19/90
  24. Added 2/7/96
  25. Added 12/19/90
  26. Added 3/8/85
  27. Revised 12/19/90
  28. Revised 2/16/94
  29. Revised 2/16/94
  30. Added 4/3/91
  31. Added 4/3/91
  32. Revised 12/19/90
  33. Added 4/6/88
  34. Added 10/19/88
  35. Added 12/4/96
  36. Revised 7/4/92
  37. Added 12/4/96
  38. Revised 2/16/94
  39. Added 2/16/94
  40. Revised 2/16/94
  41. Revised 2/16/94
  42. Revised 2/16/94
  43. Added 2/16/94
  44. Revised 2/16/94
  45. Added 4/6/88; Revised 3/6/96
  46. Revised 10/7/92
  47. Revised 10/7/92
  48. Revised 10/7/92

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49. Revised 10/7/92
  50. Added 12/4/96
  51. Revised 10/7/92
  52. Revised 10/7/92
  53. Revised 10/7/92
  54. Added 3/8/85
  55. Added 3/8/85
  56. Revised 1/3/96
  57. Added 3/6/96
  58. Added 3/6/96
  59. Revised 2/16/94
  60. Revised 3/6/96
  61. Added 8/17/88; Revised 3/6/96
  62. Revised 2/16/94
  63. Added 2/16/94, Revised 11/15/95
  64. Added 2/16/94
  65. Added 2/16/94
  66. Added 2/16/94
  67. Added 5/25/93
  68. Added 5/25/93
  69. Added 5/25/93
  70. Added 2/7/96
  71. Added 12/4/96
  72. Added 8/2/84; Revised 3/6/96
  73. Revised 2/16/94
  74. Added 2/16/94
  75. Added 2/16/94
  76. Revised 2/16/94
  77. Added 2/16/94
  78. Revised 2/16/94
  79. Added 2/16/94
  80. Added 2/16/94
  81. Added 4/3/91
  82. Revised 6/4/97
  83. Added 1/15/92
  84. Revised 3/6/96
  85. Added 2/16/94
  86. Added 12/19/90
  87. Added 12/19/90
  88. Added 12/19/90
  89. Revised 10/7/92
  90. Added 5/31/97
  91. Added 8/2/84; Revised 3/6/96
  92. Added 8/2/84; Revised 3/6/96
  93. Added 2/16/94
  94. Added 2/16/94
  95. Added 5/31/97
  96. Added 3/8/85
  97. Added 3/8/85



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98. Added 1/3/96
  99. Added 3/8/85
  100. Added 1/3/96
  101. Added 3/8/85
  102. Revised 1/3/96
  103. Added 3/8/85
  104. Added 3/8/85; Revised 1/3/96
  105. Added 3/8/85; Revised 1/3/96
  106. Added 3/8/85
  107. Added 1/3/96
  108. Revised 4/6/88; Revised 5/12/95
  109. Revised 2/16/94
  110. Revised 2/16/94
  111. Added 2/16/94, Revised 11/15/95
  112. Added 2/16/94
  113. Added 5/31/97
  114. Revised 3/6/98
  115. Revised 3/6/98
  116. Added 3/23/84
  117. Added 3/8/85; Revised 1/3/96
  118. Added 1/3/96
  119. Revised 1/6/93
  120. Added 8/24/84
  121. Revised 1/8/92
  122. Added 9/4/02
  123. Added 8/6/03
  124. Revised 2/4/04 (Ordinance 5213)

AMENDMENTS

The City of Grants Pass Development Code has been amended as follows:

Ordinance No.	Date	Description
4490	8/21/83	Adopted Development Code
4497	11/02/83	Minor revisions
4508	3/21/84	Transient Quarters
4528	12/19/84	Outdoor Storage in Business Park
4531	1/16/85	19.053: Housing not excluded by site plan conditions; 5.053: Annexation procedures
4538	3/6/85	Establishes solar access provisions
4539	3/20/85	13.235(1) Deletes the word "significant" regarding flooding
4550	8/07/85	Bed and Breakfast Inns
4560	2/19/86	Allows mobile home parks in R-3
4616	4/6/88	Amends flood hazard regulations
4623	8/17/88	Voluntary parking standards
4623	9/21/88	Adopts triple majority method of annexation.
4629	10/19/88	Retail trade includes handcrafted manufacturing
4631	11/16/88	Permits retail trade in business park zone.
4659	4/4/90	Adds air conditioning units to heat pumps for noise standards
4660	4/4/90	Allows Athletic Clubs in industrial zones
4663	6/11/90	Revises Article 17 to comply with state law
4669	7/18/90	Revises Article 2 to comply with state law
4670	7/18/90	Allows use of City Surveyor
4675	8/15/90	Revises Article 3 to comply with state law

Ordinance No.	Date	Description
4681	10/12/90	Adds a Riverfront Tourist Commercial Zone to Article 12
4683	10/12/90	Add Riverfront Tourist Commercial Development Standards as Article 21
4688	12/10/90	Changes requirements for when sidewalk installation is required
4689	12/10/90	Amends air quality standards in Article 24
4691	12/19/90	Changes pertaining to Day Care, Group Care, and Residential Care
4699	4/3/91	Changes pertaining to manufactured housing
4700	4/3/91	Changes pertaining to Development Permit fees, development approval criteria, disabled person parking spaces, parking for senior housing, and forestry.
4702	5/15/91	Amends Article 28 regarding domestic water supplies and the extension of municipal water services
4709	8/7/91	Revises regulations pertaining to residential development in commercial zones
4710	8/7/91	Revises Article 24 regarding water resource quality
4711	8/7/91	Revises Article 24 regarding noise standards
4718	1/8/92	Revises wetlands rules
4720	1/8/92	Revises Article 24 regarding land quality standards
4723	1/15/92	Amends Historic District rules
4724	1/15/92	Allows extension of services outside the UGB to resorts
4744	9/2/92	Amends the home occupation sections
4747	10/7/92	Revises sections pertaining to procedure types, forestry, land division, and manufactured housing definitions

Ordinance No.	Date	Description
4755	1/6/93	Revises the definition of veterinary clinics
4768	5/19/93	Revises sections pertaining to bicycle parking, pedestrian ways, sidewalks, pedestrian connector routes, and bikeways
4782	10/20/93	Allows placement of landscaping in the planter strip between the sidewalk and curb to fulfill landscaping requirements
4787	2/22/94	Amending the Comprehensive Plan and Development Code regarding planning commission quorums, appeals, flood hazard standards, disabled person parking and land divisions.
4788	3/2/94	Restricts the location of adult businesses
4789	3/16/94	Sets standards for manufactured housing and architectural features for single and duplex residences.
4810	10/19/94	Amends sections relating to setbacks, heat pumps, residential noise standards, and fences
4816	12/7/94	Creates a procedure and penalty structure for violations of permits and the Development Code
4843	11/15/95	Changes related to 1995 legislatures
4848	1/3/96	Amends residential development and solar standards
	2/7/96	Adds "personal services," amends allowed uses in the neighborhood commercial district
4853	3/6/96	Corrects errors and discrepancies
4868	9/18/96	Amends alley paving requirements
4874	12/4/96	Adopts medical overlay district
4883	3/20/97	Amends height measurements in the General Commercial Zoning District.
4889	5/31/97	Amends Article 13, Article 17, Article 18, Article 23, Article 27, Article 30 and adopting Article 29.

Ordinance No.	Date	Description
4890	5/31/97	Amends Article 28- Utilities
4893	6/11/97	Amends the definition of "Minor Public" to include Municipal Water or Sewage treatment plants.
4902	8/7/97	Allows City participation in water main over sizing outside of City limits.
4903	8/6/98	Allows extensions of subdivisions submitted prior to adoptions of Ord. #4890
4917	12/3/97	Adopts the Grants Pass Urban Area Master Transportation Plan (does not amend the Development Code)
4919	1/7/98	Adopts Wetland Resource Plan and amends the Development Code.
4929	2/18/98	Repeals language of Section 26.023 (3).
4930	3/6/98	Amends the definition of Retail Trade.
4950	11/9/98	Allows hospitals in the General Commercial Zone District.
4952	12/2/98	Repeals Article 26, adopts new sign standards within the Municipal Code and declaring an emergency.
4956	1/6/99	Amending Fee Schedule.
5061	5/31/01	Revises Article 23 amending landscaping standards and irrigation requirements
5062	5/31/01	Amends membership of the Historical Building and Sites Commission.
5063	5/31/01	Defines requirements for extension of public sewer.
5081	11/7/01	Amends Article 5 and Article 28. Eliminates requirement for a legislative hearing prior to signing an annexation agreement, and authorizes the City Manager to execute annexation agreements. Provides for terms for service extension in the annexation agreement form.

Ordinance No.	Date	Description
5104	2/20/02	Amends Article 27 and Article 29. Establishes the Deferred Development Agreement Process and requirement for a cash deposit with Deferred Development Agreements.
5117	5/1/02	Amends Sections 12.027 and 12.331 to add professional offices as a permitted use in the Industrial Park zone, only when the subject property is located within the Medical Overlay District.
5152	9/4/02	Amends Articles 2, 3, 4, 6, 12, 15, 17, 18, 19, 21, 27, and 28, implementing the Oregon Transportation Planning Rule. Revises requirements for subdivision development and street design standards.
5186	8/6/03	Amends Article 12 to add Public Parks as a permitted use in all zones excepting "I", "IP" and "NC", and specifies associated procedure types. Amends Article 30 to add a definition for "Public Parks."
5194	10/01/03	Amends Article 22, Section 22.333, pertaining to the requirement for an excavated, backfilled foundation for a manufactured home on an individual lot.
5205	12/17/03	Amends Articles 6, 12, 15, and 19 pertaining to variances and nonconforming use and development.
5209	1/21/04	Amends Section 25.042 pertaining to parking standards for mortuaries.
5213	2/4/04	Amends Articles 12 and 30 defining building height and revising building height requirements.
5240	6/21/04	Amends Article 17 pertaining to Property Line Vacations and Deed Requirements.
5257	10/06/04	Amends Article 27, Section 27.110, pertaining to requirements for provision of street improvements.
5285	4/20/05	Amends Articles 2, 3, 4, 6, 10, 12, 13, 14, 15, 17, 18, 19, 21, 22, 24, and 25 pertaining to procedures and appeals.
5286	4/20/05	Amends Section 12.352, Schedule 12-17, Section 23.033, Schedule 23-3, and Section 23.034, Schedule 23-4 pertaining to setbacks for the "I" Outdoor Industrial Zone and zone buffers.

J:\PLANNING\DEVCODE\NEWCODE\AMENDMEN

**Last Revision Date  
of Grants Pass Development Code by Article**

<b>Article</b>	<b>Last Revision Date</b>	<b>Ordinance Number</b>
1	11/15/95	4843
2	04/20/05	5285
3	04/20/05	5285
4	04/20/05	5285
5	11/07/01	5081
6	04/20/05	5285
7	05/31/01	5062
8	03/06/96	4853
9	03/06/96	4853
10	04/20/05	5285
12	04/20/05	5285 & 5286
13	04/20/05	5285
14	04/20/05	5285
15	04/20/05	5285
17	04/20/05	5285
18	04/20/05	5285
19	04/20/05	5285
21	04/20/05	5285
22	04/20/05	5285
23	04/20/05	5286
24	04/20/05	5285
25	04/20/05	5285
26	Repealed 12/02/98 – See Sign Standards in Municipal Code	
27	10/06/04	5257
28	09/04/02	5152
29	02/20/02	5104
30	02/04/04	5213

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