



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

07/18/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Nyssa Plan Amendment
DLCD File Number 001-13

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, August 01, 2013

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

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

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Roberta Vanderwall, City of Nyssa
Gordon Howard, DLCD Urban Planning Specialist
Grant Young, DLCD Regional Representative
Christine Shirley, DLCD Natural Hazards/Floodplain Specialist
Amanda Punton, DLCD Natural Resources Specialist

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FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE MAILED

DEPT OF

JUL 15 2013

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Nyssa**

Local file number: **01-2013**

Date of Adoption: **6/11/2013**

Date Mailed: **7/11/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 1/23/2013

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The amendment repeals City of Nyssa Code Title 11 (Zoning) and replaces it with a new Title 11 "Development Code."

Does the Adoption differ from proposal? Yes, Please explain below:

Section 11-3.030 (D)(I) has been changed from four (4) architectural features per dwelling to two (2).

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 001-13 (19658) [17531]

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

Local Contact: **Roberta Vanderwall, City Manager** Phone: (541) 372-2264 Extension: 6
Address: **301 Main Street** Fax Number: 541-372-3737
City: **Nyssa** Zip: 97913- E-mail Address: NyssaManager@nyssacity.org

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS [197.615](#) and OAR Chapter [660, Division 18](#)

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

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

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

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 6, 2012

ORDINANCE NUMBER 635-13

AN ORDINANCE OF THE CITY OF NYSSA AMENDING AND REPLACING TITLE 11 OF THE NYSSA CITY CODE REGARDING ZONING AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, City of Nyssa received a grant from the Oregon Transportation and Growth Management (TGM) Program to update and amend the City of Nyssa Zoning and Land Division regulations; and

WHEREAS, input was received on the proposed changes before the Nyssa Planning Commission on February 21st, 2013; and

WHEREAS, notice to the public was advertised at least 20 days in advance of the City Council public hearing on said amendments; and

WHEREAS, a City Council public hearing was held on March 12, 2013 to receive public testimony; and

WHEREAS, the City Council determined that the proposed Development Code conforms to the City of Nyssa Comprehensive Plan and applicable State Planning Goals, and it is in the public interest to adopt it; and

WHEREAS, the State Department of Land Conservation and Development was duly notified of the proposed Development Code adoption not less than 35 days prior to the first hearing and did not object.

NOW THEREFORE, THE CITY OF NYSSA ORDAINS AS FOLLOWS:

The City of Nyssa Municipal Code, Title 11 and all enacting ordinances, with the exception of Appendixes A and B and those ordinances enacting such Appendixes, are hereby repealed and replaced in their entirety and for the purposes of this ordinance, Title 11 shall read as set out on Exhibit "A" attached hereto, with Appendixes A and B, as currently enacted included.

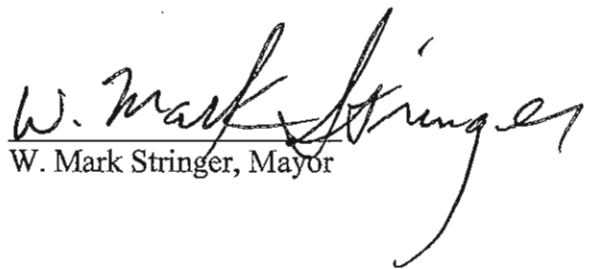
PASSED ADOPTED this 11th day of June, 2013 by the following vote:

Ayes: Council President Ross Ballard, Councilors: Pat Brewer, Diego Castellanoz, Harry Flock, Dave Hixson and Pat Oliver

Nays:

Abstain: Mayor W. Mark Stringer

Absent:


W. Mark Stringer, Mayor

Attest:


Marla Roberts, City Recorder

Marla Roberts, City Recorder

CITY OF NYSSA DEVELOPMENT CODE

CITY COUNCIL ADOPTION

JUNE 2013

ARTICLE 11-1 — DEVELOPMENT CODE: GENERAL PROVISIONS

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Article 11-1 — Development Code: General Provisions

Chapters:

- 11-1.1 Introduction
- 11-1.2 Title, Purpose, and General Administration
- 11-1.3 Lot of Record and Legal Lot Determination
- 11-1.4 Non-Conforming Situations
- 11-1.5 Code Interpretations
- 11-1.6 Enforcement

Chapter 11-1.1 — Introduction

Title 11, also referred to as the City of Nyssa Development Code (“Code”), is administered by the City Manager or his or her designee. The Code regulates land use and development within the City of Nyssa, and is organized as follows:

Article 11-1. Article 11-1 describes the title, purpose, authority, organization and general administration of the Code. Article 11-1 also explains how city officials interpret and enforce code requirements.

Article 11-2. Article 11-2 contains the zoning regulations. Zoning districts or “zones” are designated on the City of Nyssa Zoning Map, consistent with the City of Nyssa Comprehensive Plan. The zoning regulations specify allowed land uses, and lot and development standards that are specific to particular land uses or zones. Before commencing a new use or development, changing an existing use or development, or applying for a building permit, the property owner should verify the City’s zoning requirements. The owner is required to file a Zoning Checklist pursuant to Section 11-4.1.020, prior to issuance of building permits.

Article 11-3. Article 11-3 contains the City’s development design standards, including requirements for street access; pedestrian and vehicle circulation; parking; landscaping, screening, fences and walls; outdoor lighting; adequate transportation, water, sanitary sewer, and storm drainage facilities; and utility requirements. Article 11-3 applies to all development, including land divisions and projects for which no land use application or review is required; the City of Nyssa Public Works Design Standards support Article 11-3.

Article 11-4. Article 11-4 contains the City’s application requirements and review procedures for land use and development decisions, including but not limited to procedures for land divisions, property line adjustments, conditional use permits, site design review, master planned developments, and variances.

Article 11-5. Article 11-5 contains definitions and other exhibits that the City uses in interpreting and administering the Code. For example, where Article 11-2 contains a general list of land uses allowed in each zone, Article 11-5 provides examples of uses that are consistent with each general category.

Chapter 11-1.2 — Title, Purpose, and Authority

Sections:

Section 11-1.2.010	Title
Section 11-1.2.020	Purpose
Section 11-1.2.030	Compliance and Scope
Section 11-1.2.040	Rules of Code Construction
Section 11-1.2.050	Development Code Consistency with Comprehensive Plan and Laws
Section 11-1.2.060	Development Code and Zoning Map Implementation
Section 11-1.2.070	Zoning Checklist and Coordination of Building Permits
Section 11-1.2.080	Official Action

11-1.2.010 Title

The official name of Title 11 is “The City of Nyssa Development Code.” It may also be referred to as “Development Code” and, within Title 11, “this code.”

11-1.2.020 Purpose

This code is enacted to promote the public health, safety, and welfare; and to encourage the orderly and efficient development and use of land within the City of Nyssa, consistent with the City of Nyssa Comprehensive Plan and the following principles:

- A. Compact Physical Development**, which promotes the efficient provision of public services and infrastructure;
- B. Mixed-Use**, which places homes, jobs, stores, parks, and services within walking distance of one another;
- C. Orderly Growth and Utilization of Urban Services** (e.g., water, sewer, storm drainage, parks and transportation facilities), which maximizes the return on public investments in infrastructure;
- D. Transportation Efficiency**, or development of an interconnected street system supporting multiple modes of transportation, which yields more direct routes (shorter distances) between local designation, conserves energy, reduces emergency response times, and provides alternatives to the automobile for those who are unable or choose not to drive a car;
- E. Human-Scale Design**, or development in which people feel safe and comfortable walking from place to place because buildings, streetscapes, parking areas, landscaping, lighting and other components of the built environment are designed foremost with pedestrians in mind;
- F. Environmental Health and Open Space**, including adequate light and air circulation, provision of park lands with development, management of surface water runoff, and treatment and disposal of waste; and
- G. Efficient Administration of Code Requirements**, consistent with the needs of the City of Nyssa, a small city with limited administrative capacity.

11-1.2 – Title, Purpose, and Authority | Compliance and Scope

11-1.2.030 Compliance and Scope

- A. Compliance with the Development Code.** No structure or lot shall hereinafter be used, developed, or occupied, and no structure or part thereof shall be erected, moved, reconstructed, extended, enlarged or otherwise altered except as permitted by this code. Furthermore, annexations and amendments to the Zoning Map, and amendments to the Development Code shall conform to applicable provisions of this code.
- B. Obligation by Successor.** The requirements of this code apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest.
- C. Transfer of Development Standards Prohibited.** Except as otherwise specifically authorized by this code, no lot area, yard, landscaping, or open space that is used to satisfy a requirement of this code for one use shall be used to satisfy the same requirement for another use.

11-1.2.040 Rules of Code Construction

- A. Provisions of this code Declared to be Minimum Requirements.** The provisions of this code, in their interpretation and application, are minimum requirements, adopted for the protection of the public health, safety, and general welfare.
- B. Highest standard or requirement applies.** Where as the requirement of this code varies from another provision of this code or with other applicable regulations, the highest standard or regulation shall govern. The City Manager or Planning Commission, as applicable, shall determine which code provision sets the highest standard. Where the applicability of a code provision is unclear, the City Manager or Planning Commission, or upon referral the City Council, may issue a formal interpretation pursuant to Chapter 11-1.4 Interpretation.
- C. Tenses.** Words used in the present tense include the future; the singular form includes the plural; and the plural includes the singular.
- D. Interpreting Illustrations.** This code contains illustrations, which are intended to serve as examples of development design that either meet or do not meet particular code standards. Except where a graphic contains a specific numerical standard or uses the word "shall," "must," "required" or "prohibited," strict adherence to the graphic is not required.
- F. Severability.** The provisions of this code are severable; where any section, sentence, clause or phrase is judged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Code.

11-1.2.050 Development Code Consistency with Comprehensive Plan and Laws

- A. City of Nyssa Comprehensive Plan.** This code implements the City of Nyssa Comprehensive Plan. Except as otherwise required by applicable State or Federal law, all provisions of this code shall be construed in conformity with the Comprehensive Plan, including any Comprehensive Plan elements or public facility master plans, adopted pursuant to the Comprehensive Plan.
- B. Compliance with Other Laws Required.** In addition to the requirements of this code, all uses and development must comply with all other applicable City, State of Oregon, and Federal rules and regulations.
- C. References to Other Regulations.** All references to other City, State, and Federal rules and regulations are for informational purposes only and do not constitute a complete list of such requirements. The references do not imply any responsibility by the City for enforcement of State or Federal regulations. Where a proposal, permit, or approval is subject to both City of Nyssa requirements and State or Federal requirements, the property owner is responsible for contacting the applicable agencies and complying with their rules and regulations.
- D. Current Versions and Citations.** All references to the regulations of other jurisdictions refer to the most current version and citation for those regulations, except where this code, City Council policy, or applicable law require otherwise. Where a referenced regulation has been amended or repealed, the City Manager, Planning Commission or, upon referral, the City Council, through shall interpret this code and, based on adopted City policy, determine whether an equivalent standard applies. Such determinations, unless made through a legislative process, may be appealed to City Council.

11-1.2.060 Development Code and Zoning Map Implementation

- A. Zoning of Areas to be Annexed.** Concurrent with annexation of land to the City of Nyssa, the City Council, upon considering the recommendation of the Planning Commission, shall enact an ordinance applying applicable zoning designation(s) to the subject land, pursuant to Chapter 11-4.6. The Comprehensive Plan shall guide the designation of zoning for annexed areas.
- B. Land Use Consistent With Development Code.** Land and structures in the City of Nyssa may be used or developed only in accordance with this code, including all amendments thereto. A lawful use of land (“use”) is one that is permitted in accordance with this code, or is allowed as a legal non-conforming use, pursuant to Chapter 11-1.4, provided State or Federal law does not prohibit the use.
- C. Development Code and Zoning Map.** The City’s Official Zoning Map (“Zoning Map”), which may be published, amended, and filed separately, is part of this code. The zoning districts depicted on the Zoning Map correspond to the zoning districts in this code. In addition, this code may contain zoning regulations for special areas, (i.e., overlay zones), and for certain uses or structures that do not appear on the Zoning Map.
- D. Interpreting the Zoning Map.** Except as otherwise specified by this code, the City’s zoning boundaries are as designated on the Official Zoning Map, which is kept on file at City Hall. The City may adopt and publish supplemental zoning maps where it is impractical to illustrate all regulated features on one map;

11-1.2 – Title, Purpose, and Authority | Development Code and Zoning Map Implementation

examples regulated features include but are not limited to historical landmarks, special street setbacks, base flood (flood plain) elevation, local wetland inventories, and specific area plans. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property but its exact location is unknown.

- E. Boundary Lines.** Zoning district boundaries are determined pursuant to Section 11-2.1.030.
- F. Changes to Official Zoning Map.** Proposed changes to the Official Zoning Map are subject to review and approval under Chapter 11-4.6 Amendments.

11-1.2 – Title, Purpose, and Authority | Zoning Checklists and Coordination of Building Permits

11-1.2.070 Zoning Checklists and Coordination of Building Permits

- A. Land Use Approvals and Building Permits.** Land use and building approvals are processed by two city officials: The City of Nyssa Building Official (“Building Official”) administers Title 4 Building Regulations and issues building permits. The City Manager administers the Development Code, processes land use approvals, and coordinates with the Building Official on development and building projects to ensure compliance with the Development Code.
- B. Zoning Compliance Required for Building Permits.** A building permit shall not be issued until City Manager has confirmed that all applicable requirements of this code are met, or appropriate conditions of approval are in place to ensure compliance.
- C. Zoning Checklist.** Where a Zoning Checklist is required prior to issuance of a building permit, pursuant to Section 11-4.1.020, the City Manager through a Type I procedure shall review the project proposal. The Building Official shall not issue any building permit without an approved Zoning Checklist for the project. If in reviewing the project proposal the City Manager determines that other permits or approvals are required before development may commence or a building permit may be issued, the City Manager shall advise the applicant in writing, accordingly. See Article 11-4 Application Requirements, Administrative Procedures, and Approval Criteria.

11-1.2.080 Official Action

- A. Official Action.** The City Manager, Planning Commission, and City Council are vested with authority to issue permits and grant approvals in conformance with this code, pursuant to Article 11-4 Application Requirements, Administrative Procedures, and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this code.
- B. Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this code shall be void, unless the City modifies it in conformance with the Code. The City Manager shall determine when an approval is void and, as applicable, he or she shall refer it back to the decision body for modification to ensure Code compliance.
- C. Referral to Planning Commission.** In addition to those actions that require Planning Commission approval, the City Manager may refer any question or permit request to the Planning Commission, who then shall take action on the request pursuant to the applicable provisions of this code. See also, Chapter 11-1.5 Code Interpretations and Article 11-4 Application Requirements, Administrative Procedures, and Approval Criteria.
- D. Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this code, provided a good faith effort was made to notify all parties entitled to such notice report, or form. See Chapter 11-4.1 General Review Procedures.

11-1.3 – Lot of Record and Legal Lot Determination

Chapter 11-1.3 — Lot of Record and Legal Lot Determination

Sections:

11-1.3.010	Purpose and Intent
11-1.3.020	Criteria
11-1.3.030	Legal Lot Determination Procedure

11-1.3.010 Purpose and Intent

The purpose of Chapter 11-1.3 is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations) and in evaluating whether a hardship exists for purposes of approving a variance under Chapter 11-4.7.

11-1.3.020 Criteria

A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.176:

- A.** The plot of land was lawfully created through a subdivision or partition plat in Malheur County prior to annexation to the City of Nyssa;
- B.** The plot of land was created through a deed or land sales contract recorded with Malheur County prior to [effective date of code]; or
- C.** The plot of land was created through a deed or land sales contract recorded with Malheur County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision or partition regulations in effect at the time it was created.

11-1.3.030 Legal Lot Determination Procedure

The City Manager through a Type I procedure shall process requests to validate a lot of record, pursuant to ORS 92.010 to 92.190.

Chapter 11-1.4 — Non-Conforming Situations

Sections:

11-1.4.010	Purpose and Applicability
11-1.4.020	Non-conforming Use
11-1.4.030	Non-conforming Development
11-1.4.040	Non-conforming Lot

11-1.4.010 Purpose and Applicability

Chapter 11-1.4 provides standards and procedures for the continuation of uses and developments that are lawfully established but do not comply with current code standards (“non-conforming situations”). This code is intended to protect public health, safety, and general welfare, while allowing reasonable use of private property. The chapter contains three sections as follows:

- A. Non-conforming uses** (e.g., use is not allowed in zone) are subject to Section 11-1.4.020;
- B. Non-conforming developments** (e.g., structure does not meet development standard) are subject to Section 11-1.4.030; and
- C. Non-conforming lots** (e.g., lot is smaller than minimum area standard) are subject to Section 11-1.4.040.

11-1.4.020 Non-conforming Use

Where a use of land exists that would not be permitted under the current code, but was lawful at the time it was established, the use may continue, provided it conforms to the following requirements:

- A. Expansion of Non-conforming Use Limited.** Except as provided for residential uses, below, expansion of a non-conforming use is not permitted. Expansion of a non-conforming residential uses is allowed, subject to approval of a Conditional Use Permit under Chapter 11-4.3 and provided the use meets the following criteria: The expansion shall not exceed twenty (20) percent the subject site area or building footprint, and by not more than 500 square feet of the building footprint, cumulatively, whichever is less, based on the area that existed as of July 12, 2013.
- B. Location of Non-conforming Use.** A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this code.
- C. Discontinuation or Abandonment of Non-conforming Use.** Except as provided by Section 11-1.4.020.E, a non-conforming use that is discontinued for any reason other than fire or other catastrophe beyond the owner’s control for a period of more than twelve (12) months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the twelve (12) month period, a use is

11-1.4 – Non-Conforming Situations | Non-conforming Uses

discontinued upon the first occurrence of any one of the following:

1. The date when the use of land is physically vacated;
2. The date the use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods/stock, or office equipment, or the disconnection of telephone or utility service;
3. The date of termination of any lease or contract under which the non-conforming use has occupied the land;
4. The date a request for final reading of water and power meters is made to the applicable utility districts;
5. The date when the owner's utility bill or property tax bill account became delinquent; or
6. The date of an event similar to those listed in subsections 1-5, above, as determined by the Planning Commission.

D. Application of Code Criteria and Standards to Non-conforming Use. Once the City deems a use abandoned pursuant to subsection 11-1.4.020.C, any subsequent use of the subject lot shall conform to the current standards and criteria of this code. After the City has deemed a non-conforming use abandoned, the use shall not be allowed to resume, in whole or in part, under the same or different ownership/management; any such activity is a violation of this code and subject to enforcement proceedings under Chapter 11-1.6.

E. Extension of Non-Conforming Use. Notwithstanding the provisions of subsection 11-1.4.020.C, a non-conforming use that is discontinued shall not be considered abandoned where, through a Type III procedure, the Planning Commission approves an extension for ongoing, active renovation and efforts to lease the subject property. The owner must request the extension within 12-month period of discontinuance.

11-1.4.030 Non-conforming Development

Section 11-1.4.030 regulates non-conforming development. Non-conforming development includes situations where a development exists on the effective date of adoption or amendment of this code that could not be built under the terms of the Code today; for example, by reason of restrictions on lot area, lot coverage, location on a lot, setbacks, height, yard, equipment, access, parking, landscaping, or other physical restriction or requirement. If the development was lawful when constructed, it may remain on the site so long as it remains otherwise lawful and complies with the following regulations:

- A. Alterations.** Expansion a non-conforming development is limited to residential uses, and shall not exceed twenty (20) percent of the subject building area or development area, as applicable; for example, such area may include floor area or other surface area, paving, parking spaces, landscaping, outdoor storage, signage, lighting, or other developed areas lawfully in existence as the date of the requested alteration. Expansion of a non-conforming use, where allowed, requires approval of a Conditional Use Permit under Chapter 11-4.4. A non-conforming development shall not be enlarged or altered in a way that increases its non-conformity by more than (20) percent; approval of a variance is required to increase a development's non-conformity, and not more than one such variance shall be approved to expand the same development. A development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this code or moves in the direction conformity;
- B. Destruction.** Should a non-conforming development or non-conforming portion of development be destroyed by any means to an extent more than fifty (50) percent of its surface area (lot area or building floor space), it shall be reconstructed only in full conformity with this code. This does not preclude the reestablishment of a non-conforming use after fire or other catastrophe as allowed under Section 11-1.4.020;
- C. Roadway Access.** The owner of a non-conforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the non-conforming access into conformance with the standards of the applicable roadway authority.
- D. Relocation or Removal.** Once a non-conforming structure or a portion of a non-conforming structure or development is moved it shall thereafter conform to current Code standards.

11-1.4 – Non-Conforming Situations | Non-conforming Uses

11-1.4.040 Non-conforming Lot

A lot that meets the criteria for a legal lot or lot of record under Chapter 11-1.3, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone subject to other requirements of the zone, provided that if there is a lot area deficiency, residential use shall be limited to a single-family dwelling. See also, Chapter 11-1.3 Lot of Record and Legal Lot Determination.

Chapter 11-1.5 — Code Interpretations

Sections:

11-1.5.010 Code Interpretations

11-1.5.010 Code Interpretations

Some terms or phrases within this code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

- A. Authorization of Similar Uses.** Where a proposed use is not specifically identified by this code, or the Code is unclear as to whether the use is allowed in a particular zone, the City Manager may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this code specifically prohibits in the subject zone, and uses and activities that the City Manager finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the Type II procedure of Section 11-4.1.030. The City Manager may refer a request for a similar use determination to the Planning Commission for its review and decision in a public hearing, following the Type III procedure of Section 11-4.1.040.
- B. Code Interpretation Procedure.** Requests for code interpretations, including but not limited to similar use determinations, shall be made in writing to the City Manager and shall be processed as follows:
1. The City Manager, within fourteen (14) days of the inquiry, shall advise the person making the inquiry in writing as to whether the City will make a formal interpretation.
 2. Where an interpretation does not involve the exercise of discretion, the City Manager shall advise the person making the inquiry of his or her decision within a reasonable timeframe and without public notice.
 3. Where an interpretation requires discretion, the City Manager shall inform the person making the request that an application for code interpretation is required and advise the applicant on how to make the request. At a minimum, an application for code interpretation shall include a letter citing the nature

1.5 – Code Interpretations | Code Interpretations

and reasons for the request, and, as required, a City fee. The City Manager then shall review relevant background information, including but not limited to other relevant Code sections and previous City land use decisions, and issue a written decision following the Type II review procedure of Section 11-4.1.030.

- D. Written Interpretation.** Following the close of the public comment period on an application for a code interpretation (discretionary review under 11-1.5.010.B.3), the City Manager shall mail or deliver the City's decision in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony on the application. The decision shall become effective when the appeal period for the decision expires.
- E. Referral to City Council.** Where a code interpretation may have significant citywide policy implications, the City Manager may bypass the procedure in subsection 11-1.5.010.B and refer the request directly to the City Council for its legislative review in a public hearing; such public hearings shall be conducted following Type IV procedure of Chapter 11-4.1.050.
- F. Interpretations On File.** The City shall keep on file a record of its code interpretations.

11-1.6 – Enforcement

Chapter 11-1.6 — Enforcement

Sections:

11-1.6.010	Responsible Officer
11-1.6.020	Building Permit
11-1.6.030	Certificate of Occupancy
11-1.6.040	Non-compliance with Approved Plans
11-1.6.050	Stop Work Order
11-1.6.060	Violations

11-1.6.010 Responsible Officer

The Development Code is administered and enforced by the City Manager.

11-1.6.020 Building Permit

No building permit shall be issued for any development unless the City Manager has determined that the:

- A. Proposed development complies with the provisions of this code, including any conditions of approval established by the authority of the City Council, the Planning Commission, or City Manager, or otherwise authorized by this code, city ordinances, or state law;
- B. Proposed development complies with all applicable city ordinances and requirements, including all city-adopted public facilities master plans, and building and fire codes, and required land use and development permit(s) have been issued.

11-1.6.030 Certificate of Occupancy

No certificate of occupancy shall be issued for any development unless all requirements of this code have been met, including any conditions of approval established by the authority of the City Council, the Planning Commission, or the City Manager, or otherwise authorized by this code, city ordinances, or state law, or until the applicant has provided some written form of assurance acceptable to the City Manager and guaranteeing the completion of all requirements.

11-1.6.040 Non-compliance with Approved Development Plans

If the City Manager determines that a development substantially differs from the approved plans or the provisions of this code, including any conditions of approval, the City Manager shall notify the developer and Building Official in writing. Thereafter, the Building Official may issue orders to the developer as are within the range of authority available to the Building Official, and upon continued non-compliance may withhold site development permits and/or building permits for further construction or revoke those permits previously issued until compliance is achieved.

11-1.6.050 Stop Work Order

Whenever any work is done contrary to the provisions of this Code, including any conditions of approval, the City Manager may order the work stopped by notice in writing served on any persons engaged in the work, and any such persons shall immediately stop such work until authorized by the City Manager to proceed.

11-1.6.060 Violations

Use of land in the City of Nyssa not in accordance with the provisions of this code, including any conditions of approval established by the authority of the City Council, the Planning Commission, or the City Manager, or otherwise authorized by this code, city ordinances, or state law, constitutes a violation. Upon receiving information concerning a violation of this code, the City Manager may conduct an investigation to determine whether a violation exists. The City Manager may request the assistance of other governmental agencies and officers in conducting such investigations.

The City Manager may prepare and deliver to the City Attorney a request for prosecution indicating the location and nature of the suspected violation, applicable Code sections, and other information provided by the staff.

A. Classification of Violation. Violations shall be identified by the City Manager under one of the following classifications:

1. Type I - Violations which represent a serious threat to public health, safety, and welfare, or those unapproved actions deemed potentially to create serious adverse environmental or land use consequences as the result of continued development activity; or
2. Type II - Violations which do not pose a serious threat to public health, safety, and welfare, but do violate provisions of this code, including any conditions of approval.

B. Notice of Violation

1. Type I - After receiving a report of an alleged Type I violation, the City Manager will determine whether the violation requires that a citation be issued immediately or whether to provide notice of the violation prior to the issuance of a citation. Notice shall be in writing and shall be provided to the owner of record for tax purposes or to the person in charge of the property. Such a notice shall indicate the following:
 - a. Location and nature of the violation; and
 - b. Provision or provisions of this Code or conditions of approval which allegedly have been violated; and
 - c. Whether immediate enforcement will be sought or if a specified time period will be allowed to correct or remove the violation.
2. Type II - After receiving a report of an alleged Type II violation from the City Manager, the City Attorney shall, if he/she determines that probable cause exists, promptly give notice of the alleged violation by certified first-class mail, return receipt requested, or by personal service to the owner of record for tax purposes and to the person in charge of the property. Such a notice shall indicate the

11-1.6 – Enforcement

following:

- a. Location and nature of the violation;
- b. Provision or provisions of this Code or conditions of approval, which allegedly have been violated;
- c. Whether immediate enforcement shall be sought or if fifteen (15) days will be allowed to correct or remove the violation; and
- d. The date when the notice was personally served or, if the notice was sent by first-class mail, the date three (3) days after mailing if the address to which it was mailed is within this state and seven days after mailing if the address to which it was mailed is outside this State. However, a defect in the notice of violation with respect to this notice delivery provision shall not prevent enforcement of this code.

C. City Attorney to Pursue Enforcement. When the compliance deadline expires, the City Attorney shall proceed with any legal or equitable action deemed appropriate unless:

1. The City Attorney finds that the violation has been corrected, removed, or will not be committed; or
2. A court of competent jurisdiction has halted enforcement pending the outcome of a proceeding concerning the violation.

D. Penalties. Code violations may be subject to criminal, civil, or other sanctions authorized under ordinance of the City.

1. **Criminal Penalties** - Unless specified otherwise, every violation of the terms of this Code is a Class A infraction, punishable by a fine of up to \$500.00. Each day such violation continues, it shall be considered a separate offense.
2. **Civil Penalties and Remedies** - In addition to, or in lieu of, criminal actions, a violation of this Code or a permit issued hereunder may be the subject of a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.
 - a. The City Manager is authorized to impose a civil penalty of up to \$1,000.00 for any violation of this Code.
 - b. In imposing a penalty amount pursuant to the schedule authorized by this section, the City Manager shall consider the following factors:
 - i. The history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation;
 - ii. Any prior violations of statutes, rules, orders, and permits pertaining to development regulations;
 - iii. The economic and financial conditions of the person incurring a penalty;
 - iv. The gravity and magnitude of the violation,
 - v. Whether the violation was repeated or continuous; and

- vi. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act.
- c. Imposition and enforcement of civil penalties is not an exclusive remedy, but shall be in addition to any other procedures or remedies provided by law. Imposition or payment of a civil penalty under this section shall not bar any criminal proceeding authorized under this ordinance.
- d. A civil penalty shall be imposed under this section by issuance of a notice of penalty. A civil penalty may be imposed for each thirty (30) days the condition continues. The notice of penalty shall be provided in the manner as described under "e," below.
- e. Any civil penalty imposed under this section shall become due and payable when the notice of penalty is served upon the person incurring the penalty. Service shall be by personal service or by certified mail, return receipt requested, to the last known address of the person incurring the penalty. The notice of penalty shall include a:
 - i. Reference to the particular provision or law violated;
 - ii. Statement of the matters asserted or charged;
 - iii. Statement of the amount of the penalty or penalties imposed;
 - iv. Statement of the owner's right to appeal the penalty; and
 - v. Statement that if the penalty is not paid within the time required under "j," below, the penalty and any costs of service and recording fees shall be recorded by the City Recorder in the City Lien Docket and shall become a lien on the property of the person incurring the penalty.
- f. If the notice of penalty is returned to the City without service upon the named person, the City Manager shall post a notice of penalty on the premises where the violation has occurred. The notice shall be posted so as to be visible from the public right-of-way and shall be delivered to a person, if any, occupying the premises. The posted notice shall be affixed to the premises and shall also indicate that tampering or removal of the notice shall constitute a misdemeanor.
- g. The person to whom the notice of penalty is issued shall have twenty (20) days from the date of service of the notice in which to appeal the penalty before the municipal judge, after which time the notice of penalty becomes a final order. The appeal shall be as provided in "h," and "i," below.
- h. Any appeal shall be in writing and signed by the person against whom the penalty has been assessed or the attorney for that person. The appeal shall state the grounds of the appeal. A deposit in the amount of the civil penalty assessed and an appeal fee of \$50.00 shall accompany the appeal. The appeal shall be filed with the municipal court and served upon the City Attorney. Failure to comply with these provisions shall result in the appeal's dismissal.
- i. The only issues to be decided by the municipal judge are determinations of whether the condition of the property was as alleged in the notice of penalty and if so, whether that condition violated this code. If the judge finds that the alleged condition existed at the time and date specified on the notice of penalty, and that the condition violated this code, the municipal judge shall issue an order affirming the penalty. The order shall contain a provision for court costs to be paid by the violator in the amount of \$100.00. If the judge finds that the condition alleged in the notice of penalty did not

11-1.6 – Enforcement

exist at the time and date specified on the notice, the municipal judge shall void the notice of penalty. The order voiding the notice of penalty shall provide for return of the deposit, including the appeal fee. The judge's order is final.

- j. Unless the amount of penalty imposed under this Section is paid within ten (10) days after the notice of penalty or the order becomes final by operation of law or after appeal, the order shall constitute a lien on the owner's subject property and shall be recorded in the city lien docket. Where the service has been made by certified mail or other means providing a receipt, the returned receipt shall be attached to and made a part of the recorded order. The penalty and any added costs imposed by the order become a lien upon the real property. That lien shall have priority over all other liens and encumbrances of any form. The lien shall accrue interest at the rate applicable for municipal assessment liens from the date of docketing until clearance. The lien may be foreclosed on and the property sold as may be necessary to discharge the lien in the manner specified in ORS 223.505 through 223.650, as amended.
- k. Any lien for a civil penalty shall be released when the full amount determined to be due has been paid to the City, the owner or person making such payment shall receive a receipt stating that the full amount of penalties, interest, recording fees, and service costs have been paid, and that the lien is thereby released and the record of the lien satisfied.

E. Tampering with Official Notices.

- 1. No person shall remove or tamper with a notice posted on property pursuant to the provisions of this chapter unless authorized by the City Manager.
- 2. A violation of this provision shall be a Class "C" misdemeanor.

11-2.1 – Establishment of Zoning Districts | Purpose and Classification of Zoning Districts

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ARTICLE 11-2 – ZONING REGULATIONS

Chapters:

- 11-2.1 Establishment of Zoning Districts
- 11-2.2 Zoning District Regulations
- 11-2.3 Special Use Standards
- 11-2.4 Floodplain Overlay Zone

11-2.1 – Establishment of Zoning Districts | Purpose and Classification of Zoning Districts

Chapter 11-2.1 – Establishment of Zoning Districts

Sections:

11-2.1.010	Purpose
11-2.1.020	Classification of Zoning Districts
11-2.1.030	Determination of Zoning District Boundaries

11-2.1.010 Purpose and Classification of Zoning Districts

Chapter 11-2.1 establishes zoning districts, consistent with the City of Nyssa Comprehensive Plan. Every parcel, lot, and tract of land within the City of Nyssa is designated with a zoning district. The use of land is limited to the uses allowed by the applicable zoning district.

11-2.1.020 Classification of Zoning Districts

Zoning designations are as depicted on the City of Nyssa Zoning Map. The City Manager maintains official copies of the Zoning Map and Comprehensive Plan. Where a conflict between documents arises, the Comprehensive Plan shall govern.

A. Residential (R) Districts. Four residential districts (R-1, R-2, R-3, R-4, and R-5) accommodate a variety of housing at a range of planned densities, consistent with the housing needs of the city. The zoning regulations promote the orderly development and improvement of Nyssa's neighborhoods, facilitate compatibility between dissimilar land uses, allow residences in proximity, and with direct connections, to schools, parks, and community services, and to ensure efficient use of land and public facilities. The following summarizes the purpose of each residential district. See also, Chapter 11-2.2 Zoning District Regulations and Chapter 11-2.3 Special Use Standards.

1. The Single Family Residential (R-1) district permits detached single-family dwellings and community service uses such as schools, parks, religious institutions/places of worship, and public and semipublic structures such as fire stations and utilities.
2. The Medium Density (R-2) district permits single-family dwellings on small- to medium-sized lots, duplex dwellings, and multiple family dwellings with up to three (3) dwellings per lot. Permitted single-family dwellings include detached housing and attached (e.g., townhouse and multifamily) housing. The R-2 district also permits community service uses such as schools, parks, religious institutions/places of worship; and public and semipublic structures such as fire stations and utilities.
3. The Multifamily Residential (R-3) district permits single-family dwellings on small lots, duplex dwellings, and multiple family dwellings. Permitted single-family dwellings include detached housing and attached (e.g., townhouse and multifamily) housing. The R-3 district also permits community service uses such as schools, parks, religious institutions/places of worship; and public and semipublic structures such as fire stations and utilities.
4. The Multifamily-Manufactured Home Residential (R-4) district allows the same uses allowed in the R-3

11-2.1 – Establishment of Zoning Districts | Classification of Zoning Districts

district but at higher densities and includes manufactured/mobile home parks.

5. The Rural Residential (R-5) district provides areas for low-density residential development in a rural environment.

- B. Commercial (C) District.** The City's Commercial (C) district accommodate a mix of commercial services, retail, and civic uses, with existing residences permitted to continue, and new residential uses permitted in the upper stories of buildings. The zoning district regulations are intended to promote the orderly development and improvement of walkable commercial areas; facilitate compatibility between dissimilar land uses; provide employment opportunities in proximity, and with direct connections, to housing; and to ensure efficient use of land and public facilities.
- C. Industrial (I) District.** The City's Industrial (I) district accommodates a mix of intensive and less intensive uses engaged in manufacturing, processing, warehousing, distribution, and similar activities. The Industrial district standards are intended to: provide for efficient use of land and public services; maintain a high quality environment for business; offer a range of parcel sizes and locations for industrial site selection; avoid encroachment by incompatible uses; provide transportation options for employees and customers; and facilitate compatibility between dissimilar uses. The Industrial district standards, in conjunction with the design standards of Article 11-3, additionally provide for appropriate buffering and screening of intensive uses, such as those with processing, manufacturing, assembly, packaging, distribution and similar activities.
- D. Public Facilities (PF) District.** The Public Facilities (PF) district provides a zoning option for public and semi-public uses, including but not limited to schools, government offices, fire stations, police stations, libraries, public works yards, reservoirs, and other public facilities, consistent with adopted public facility master plans.

11-2.1 – Establishment of Zoning Districts | Determination of Zoning District Boundaries

11-2.1.030 Determination of Zoning District Boundaries

Where due to the scale, lack of scale, lack of detail or illegibility of the Zoning Map, or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of a zoning district boundary, the City Manager or, upon referral, the Planning Commission or City Council, shall determine the boundary as follows:

- A. Rights-of-way.** Boundaries that approximately follow the centerlines of a street, highway, alley, bridge, railroad, or other right-of-way shall be construed to follow such centerlines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same zoning district designation that is applicable to lands abutting the vacated areas. In cases where the right-of-way formerly served as a zoning district boundary, the vacated lands within the former right-of-way shall be allocated proportionately to the abutting zoning districts;
- B. Parcel, lot, tract.** Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries;
- C. Jurisdiction boundary.** Boundaries indicated as approximately following a City or County boundary, or the Urban Growth Boundary, shall be construed as following said boundary; and
- D. Natural features.** Boundaries indicated as approximately following a river, stream, topographic contour, or similar feature not corresponding to any feature listed in subsection A-C, above, shall be construed as following such feature.

11-2.2 – Zoning District Regulations | Purpose

Chapter 11-2.2 – Zoning District Regulations

Sections:

11-2.2.010	Purpose
11-2.2.020	Applicability
11-2.2.030	Allowed Uses
11-2.2.040	Lot and Development Standards
11-2.2.050	Setback Yards Exceptions
11-2.2.060	Residential Density Standards
11-2.2.060	Lot Coverage
11-2.2.070	Height Measurement, Exceptions and Transition

11-2.2.010 Purpose

Chapter 11-2.2 regulates allowed land uses (“uses”) and sets forth lot and development standards, including minimum dimensions, area, density, coverage, structure height, and other provisions that control the intensity, scale, and location of development. The regulations of this chapter are intended to implement the City of Nyssa Comprehensive Plan and the purposes of this Code, per Chapter 11-1.2.020.

11-2.2.020 Applicability

All real property in the City of Nyssa is subject to the zoning regulations of Chapter 11-2.2. Certain types of land uses are also subject to the Special Use regulations in Chapter 11-2.3. In addition, some properties are subject to both the general (“base zone”) regulations of Chapter 11-2.2 and the Floodplain Overlay regulations of Chapter 11-2.4. Property owners, realtors, project proponents, and others are advised to verify the regulations that apply to a particular property before beginning a new project, purchasing real estate, or marketing a property for sale.

11-2.2.030 Allowed Uses

- A. Uses Allowed in Base Zones.** Allowed uses include those that are permitted, those that are permitted subject to special use standards, and those that are allowed subject to approval of a conditional use permit, as identified by Table 11-2.2.030. Allowed uses fall into four general categories: Residential, Public and Institutional, Commercial, and Other. Where Table 11-2.2.030 does not list a specific use, and the definitions in Chapter 11-5 do not identify a use or include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of Section 11-1.5.020 Code Interpretations. Uses not listed in Table 11-2.2.030 and not found to be similar to an allowed use are prohibited.
- B. Permitted Uses and Uses Permitted Subject to Special Use Standards.** Uses listed as “Permitted (P)” are allowed provided they conform to Chapter 11-2.2.040 Lot and Development Standards. Uses listed as “Permitted Subject to Special Use Standards (S)” are allowed, provided they conform to the Chapter 11-2.3 Special Use Standards and Section 11-2.2.040 Lot and Development Standards. Uses listed as “Not Allowed (S)” are prohibited. Uses not listed but similar to those allowed may be permitted pursuant to Chapter 11-1.5.010.
- C. Conditional Uses.** Uses listed as “Conditional Use Permit Required (CU)” are allowed subject to the requirements of Chapter 11-4.4 Conditional Use Permits.
- D. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of Chapter 11-2.2, additional standards may apply to uses within overlay zones. In addition, an overlay zone may allow exceptions to some standards of the underlying zone. See Chapter 11-2.4.
- E. Master Planned Developments.** Uses that are not otherwise allowed by the underlying zone may be permitted through the Master Planned Development procedure under Chapter 11-4.5.
- F. Accessory Uses.** Uses identified as “Permitted (P)” are permitted as primary uses and as accessory uses. For information on other uses that are customarily allowed as accessory, please refer to the description of the Use Categories in Article 11-5 Definitions.
- G. Mixed-Use.** Uses allowed individually are also allowed in combination with one another, in the same structure or on the same site, provided all applicable development standards and building code requirements are met.

11-2.2 – Zoning District Regulations | Allowed Uses

- H. Outdoor Uses and Unenclosed Activities.** Notwithstanding the provisions of Table 11-2.2.030, any use, except for an allowed accessory use, that occurs primarily outside (i.e., not within a permitted building) requires a Conditional Use Permit under Chapter 11-4.4. Examples of outdoor uses and unenclosed activities that may or may not be considered accessory uses, depending on their location and size relative to other uses on the same property, include, but are not limited to, equipment storage related to industrial-agricultural, automotive services, vehicle and equipment repair, fueling, drive-in restaurants, drive-up windows and similar drive-through facilities, automatic teller machines, kiosks, outdoor assembly and theaters, outdoor markets, and similar uses.
- I. Temporary Uses.** Temporary uses are subject to the standards of Section 11-2.3.150.
- J. Disclaimer.** Property owners are responsible for verifying whether a specific use is allowed on a particular site. Submittal of a Zoning Checklist for review and approval by the City Manager is required in order to determine whether use is allowed on a given site, and whether further land use review is required.

Table 11-2.2.030 – Uses Allowed by Zoning District

Uses	Residential Zones					Commercial and Industrial Zones		Public Facilities Zone	Special Use Standards
	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>R-5</u>	<u>C</u>	<u>I</u>	<u>PF</u>	
A. Residential Uses¹									
Single-Family Dwelling, Non-Attached	P	P	P	P	P	S	S	N	Sec 11-2.3.080
Single-Family Dwelling, Attached (Townhome)	N	S	S	S	P	S	N	N	Sec 11-2.3.080; and Sec 11-2.3.210
Accessory Dwelling	S	S	S	S	P	CU	CU	N	Sec 11-2.3.160
Boarding/Rooming House	N	N	S	S	N	CU+S	CU	N	Sec 11-2.3.070; and Sec 11-2.3.080
Duplex Dwelling	S	P	S	S	N	N	N	N	Sec 11-2.3.060
Manufactured Home on a Lot	S	S	S	S	S	S	N	N	Sec 11-2.3.080; and Sec 11-2.3.120
Manufactured Home Park	N	N	N	S	N	N	N	N	Sec 11-2.3.130
Multifamily Dwelling, 3-4 dwelling units	N	S	S	S	N	S	N	N	Sec 11-2.3.070; and Sec 11-2.3.080
Multifamily Dwellings, more than 4 dwelling units	N	N	S	S	N	S	N	N	Sec 11-2.3.070; and Sec 11-2.3.080
Family Daycare	S	S	S	S	S	N	N	N	Sec 11-2.3.090
Residential Care Home	S	S	S	S	S	S	N	N	Sec 11-2.3.080; and Sec 11-2.3.100
Residential Care Facility	N	N	S	S	N	S	N	CU	Sec 11-2.3.080; and Sec 11-2.3.100
Home Occupation	S	S	S	S	S	P	N	N	Sec 11-2.3.110
Micro-Generation (wind and solar), except as permitted by ORS 227.505.	CU	CU	CU	CU	CU	CU	CU	CU	
B. Public and Institutional Uses²									
Airport, Public Use	N	N	N	N	N	N	P	P	[Reserved for

¹ **KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.**

² **KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.**

11-2.2 – Zoning District Regulations | Allowed Uses

Table 11-2.2.030 – Uses Allowed by Zoning District

Uses	Residential Zones					Commercial and Industrial Zones		Public Facilities Zone	Special Use Standards
	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>R-5</u>	<u>C</u>	<u>I</u>	<u>PF</u>	
									Airport Overlay]
Automobile Parking, Off-street Parking Facility	P	P	P	P	N	P	P	P	
Cemetery, including Crematorium	CU	N	N	N	CU	N	N	N	
Child Daycare Center	N	N	N	N	N	P	N	CU	
Club Lodge, Fraternal Organization	N	N	CU	CU	N	P	N	N	
Community Service; includes Governmental Offices	N	N	CU	CU	N	P	N	P	
Community Garden	CU	CU	CU	CU	CU	CU	CU	P	
Clinic, Outpatient Only	N	N	N	N	N	P	N	CU	Except Animal Clinic requires CU
Emergency Services; includes Police, Fire, Ambulance	N	N	N	N	N	CU	CU	P	
Hospital, including Acute Care Center	N	N	N	N	N	CU	N	CU	
Mortuary	N	N	N	N	N	P	N	N	
Non-Profit Member Organization Offices	N	N	N	N	N	P	N	CU	
Parks and Open Space, including Playgrounds, Athletic Fields, Trails, Courts, Swim Pools, etc	P	P	P	P	P	P	P	P	Sec 11-2.3.200

Table 11-2.2.030 – Uses Allowed by Zoning District

Uses	Residential Zones					Commercial and Industrial Zones		Public Facilities Zone	Special Use Standards
	R-1	R-2	R-3	R-4	R-5	C	I	PF	
B. Public and Institutional Uses³ (continued)									
Public Works/Utilities Storage Yards; includes Vehicle and Equipment, Maintenance, Repair	N	N	N	N	N	CU	P	CU	
Railroad Facilities	N	N	N	N	N	CU	P	CU	
Religious Institutions and Houses of Worship	CU	CU	CU	CU	CU	CU	N	N	
School, Preschool-Kindergarten	CU	CU	CU	CU	CU	CU	N	P	
School, Secondary	CU	CU	CU	CU	CU	CU	N	P	
School, College or Vocational	N	N	CU	CU	N	CU	N	P	
Solid Waste Disposal Transfer Station, in compliance with State and Federal requirements, and per Nuisance Ordinance	N	N	N	N	N	CU	CU	CU	
Transportation Facilities; includes construction, operation, and maintenance of travel lanes, curbs, gutters, drainage facilities, sidewalks, transit stops, landscaping, and related improvements, consistent with City of Nyssa Transportation System Plan.	P	P	P	P	P	P	P	P	
Utility Structures and Facilities, consistent with City master plan or subject to site design review approval; includes Micro-Generation (wind and solar) power generating facilities.	P	P	P	P	P	P	P	P	
Utility Structures and Facilities, Regional Projects; project is not part of an adopted City master plan or development review approval	CU	CU	CU	CU	CU	CU	CU	CU	
Wireless Communication Facilities – New Facilities	N	N	N	N	N	CU	P	CU	

³ **KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.**

11-2.2 – Zoning District Regulations | Allowed Uses

Table 11-2.2.030 – Uses Allowed by Zoning District

Uses	Residential Zones					Commercial and Industrial Zones		Public Facilities Zone	Special Use Standards
	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>R-5</u>	<u>C</u>	<u>I</u>	<u>PF</u>	
C. Commercial Uses⁴									
Amusement/Entertainment, Commercial Recreation; includes theater/concert hall, bowling alley, miniature golf, arcade, similar uses	N	N	N	N	N	CU	N	N	
Automotive Repair and Service, includes fueling station, car wash, tire sales and repair/replacement, painting, and other repair for automobiles, motorcycles, aircraft, boats, RVs, trucks, etc.	N	N	N	N	N	S	P	N	Sec 11-2.3.050
Automotive Sales and Rental; includes motorcycles, boats, RVs, and trucks	N	N	N	N	N	S	N	N	
Bed and Breakfast Inn (See also, Hotels, Motels and Similar Overnight Accommodations)	CU+S	CU+S	CU+S	CU+S	N	-	-	N	Sec 11-2.3.170.
Commercial Retail Sales and Services	N	N	N	N	N	P	N	N	
Commercial Retail Sales and Services, accessory to a Permitted Industrial Use	N	N	N	N	N	N	P	N	Applies only to Industrial zone
Computer Server Hotel/Data Center	N	N	N	N	N	CU	P	N	
Customer Call Center	N	N	N	N	N	P	P	N	
Drive-Through Service	N	N	N	N	N	CU+S	S	N	Sec 11-2.3.050
Golf Course and/or Driving Range, with/without pro shop and/or clubhouse/restaurant	N	N	N	N	N	CU	CU	CU	
Hotels, Motels and Similar Overnight Accommodations	N	N	N	N	N	P	N	N	
Kennel (See also, "Veterinary Clinic")	N	N	N	N	N	P	N	N	
Lumber Yard and Similar Sales of Building or Contracting Supplies, or Heavy Equipment	N	N	N	N	N	P	P	N	

⁴ **KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.**

Uses	Residential Zones					Commercial and Industrial Zones		Public Facilities Zone	Special Use Standards
	R-1	R-2	R-3	R-4	R-5	C	I	PF	
C. Commercial Uses (continued)⁵									
Micro-Generation (wind and solar), except as permitted by ORS 227.505.	CU	CU	CU	CU	CU	CU	P	P	
Medical Clinic, Outpatient	N	N	N	N	N	P	N	N	
Recreational Vehicle Park	N	N	CU	CU	CU	CU	N	CU	
Self-Service Storage, Commercial	N	N	N	N	N	P	P	N	
Veterinary Clinic	N	N	N	N	N	P	N	N	
D. Industrial and Employment Uses									
Artisanal/Light Manufacture Use – includes craft studio and uses providing instruction and/or retail sales related to painting, sculpting, photography, picture framing, knitting, sewing, literature, theater, music, specialty foods/catering, or similar uses.	N	N	N	N	N	S	P	N	Sec 11-2.3.040
Auction Yard	N	N	N	N	N	CU	P	N	Owners are responsible for compliance with Oregon DEQ rules and permit requirements.
Beverage and Bottling Facility, except as allowed as for Commercial Uses	N	N	N	N	N	CU	P	N	
Bulk Storage of Flammable Liquids or Gases; Petroleum Products Storage and Distribution; Wood or Biomass Fuel Dealers	N	N	N	N	N	N	CU	N	
Cement, Glass, Clay, and Stone Products Manufacture: except as allowed for Artisanal/Light Manufacture Uses	N	N	N	N	N	N	CU	N	
Chemical, Fertilizer, Insecticide, Paint Product Manufacture, or Similar Uses	N	N	N	N	N	N	CU	N	
Concrete or Asphalt Batch Plants	N	N	N	N	N	N	CU	N	
Dairy Products Manufacture, e.g., Butter, Milk, Cheese, Ice Cream; except where Artisanal/Light	N	N	N	N	N	N	CU	N	

⁵ **KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.**

11-2.2 – Zoning District Regulations | Allowed Uses

Uses	Residential Zones					Commercial and Industrial Zones		Public Facilities Zone	Special Use Standards
	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>R-5</u>	<u>C</u>	<u>I</u>	<u>PF</u>	
Manufacture Uses allowed									Owners are responsible for compliance with Oregon DEQ rules and permit requirements.
D. Industrial and Employment Uses (cont')⁶									
Data Center/Computer Server Hotel	N	N	N	N	N	CU	P	N	
Dwelling for a caretaker or watchman	N	N	N	N	N	CU	CU	P	
Finished Textile and Leather Products Manufacture; except as allowed for Artisanal/Light Manufacture Uses. See also Tannery	N	N	N	N	N	P	P	N	
Food Processing, including Canning, Freezing, Drying, Similar Processing and Preserving; except as allowed for Artisanal/Light Manufacture Uses.	N	N	N	N	N	CU	CU	N	
Freight Terminals, including Loading Docks, Storage, Warehousing, Wholesale Distribution, Cold Storage; except mini-storage warehouses	N	N	N	N	N	CU	P	N	
Machine Shop, Welding, and related Sales, Services and Repairs; except where Artisanal/Light Manufacture Uses allowed	N	N	N	N	N	CU	P	N	
Metal Manufacture, Plating; except where Artisanal/Light Manufacture Uses allowed	N	N	N	N	N	CU	CU	N	
Printing, except Artisanal/Light Manufacture Uses	N	N	N	N	N	P	P	N	
Special Trade Contracting Facilities, such as Floor Laying, Masonry, Stone, Plumbing, Electrical, Metal Work, Roofing, Heating/Air Conditioning, Cabinet making and Carpentry	N	N	N	N	N	CU	P	N	
Tanneries and Similar Uses	N	N	N	N	N	N	CU	N	
Wood Products Manufacture, including Sawmills, Assembly, and Paper and Allied Products; except where Artisanal/Light Manufacture Uses allowed	N	N	N	N	N	CU	P	N	
Wrecking, Demolition, and Junk Yards	N	N	N	N	N	N	CU	N	

⁶ **KEY: P = Permitted Use; S = Permitted with Special Use Standards; CU = Conditional Use Permit Required; N = Not Allowed.**

11-2.2.040 Lot and Development Standards

- A. Development Standards.** Chapter 11-2.2.040 provides the general lot and development standards for each of the City's base zoning districts. The standards of Chapter 11-2.2.040 are organized into two tables: Table 2.2.040.D applies to Residential zones, and Table 2.2.040.E applies to non-residential zones.
- B. Design Standards.** Standards for Access, Circulation, Site and Building Design, Parking, Storm Drainage, Landscaping, Fences and Screening, and Public Improvements, among others, are located in Article 11-3. Notwithstanding the provisions of Table 2.2.040 and Article 11-3, different standards may apply in specific locations, such as at street intersections, within overlay zones, adjacent to natural features, and other areas as may be regulated by this Code or subject to State or Federal requirements. For requirements applicable to the City's Floodplain Overlay, please refer to Chapter 11-2.4. See also, Public Works Design Standards.
- C. Disclaimer.** Property owners are responsible for verifying whether a proposed development meets the applicable standards of this Code. Submittal of a Zoning Checklist for review and approval by the City Manager is required in order to determine whether use is allowed on a given site, and whether further land use review is required.

11-2.2 –Zoning District Regulations | Lot and Development Standards

D. Lot and Development Standards for Residential Districts. The development standards in Table 2.2.040.D apply to new development in the city’s Residential zones.

Table 11-2.2.040.D – Lot and Development Standards for Residential zones (Except as provided by 11-2.2.040.F through 11-2.2.070, or as modified under Chapter 11-4.7 Variances, or as approved under Chapter 11-4.8 Master Planned Developments.)				
Standard	R-1	R-2	R-3 and R-4	R-5
Minimum Lot Area* (square feet)				
Single Family, dwellings not attached:				The minimum lot size is one (1) acre
Corner Lot	8,000 sf	5,000 sf	5,000 sf	
Interior Lot	8,000 sf	6,000 sf	6,000 sf	
Single Family, common-wall dwellings:				
Corner Lot	-	3,000 sf	3,000 sf	
Interior Lot	-	2,500 sf	2,500 sf	
Duplex	-	6,000 sf	6,000 sf	
Multiple-Family (3 or more dwelling units on a lot, where allowed)	-	7,500 sf for 3 dwelling units and 9,000 sf for 4 units on a lot	7,500 sf for the first dwelling unit, and 1,500 sf for each additional unit on a lot	
Non-Residential Uses	8,000 sf	5,000 sf	5,000 sf	

* Lot size may be reduced in new subdivisions through lot size averaging, per Chapter 11-4.3.050, or through approval of a Master Planned Development under Chapter 11-4.8, provided the density standards of this Section are met. Minimum lot sizes do not apply to open space tracts and similar properties where development is restricted.

11-2.2 –Zoning District Regulations | Lot and Development Standards

Table 11-2.2.040.D – Lot and Development Standards for Residential zones

(Except as provided by 11-2.2.040.F through 11-2.2.070, or as modified under Chapter 11-4.7 Variances, or as approved under Chapter 11-4.8 Master Planned Developments.)

Standard	R-1	R-2	R-3 and R-4	R-5
Minimum Lot Width				
Single Family, dwellings not attached:				
Corner Lot	80 ft	60 ft	60 ft	80 ft
Interior Lot	80 ft	50 ft	50 ft	80 ft
Single Family, common-wall/attached:				
Corner Lot	-	30 ft	30 ft	-
Interior Lot	-	25 ft	25 ft	-
Duplex	-	50 ft	50 ft	-
Multiple-Family (3 or more dwelling units on a lot, where allowed)	-	60 ft	60 ft	-
Non-Residential Uses	80 ft	60 ft	60 ft	80 ft
Minimum Lot Depth	100 ft	100 ft	100 ft	100 ft
Building/Structure Height (See also, Sections 11-2.2.040 Setback Yard Exceptions, 11-3.3.020 Clear Vision, and 11-3.4.050 Fences and Walls.)				
	35 ft	35 ft	45 ft	35 ft
<u>Fences and Non-Building Walls</u>				
Max. Height. – Front Yard	4 ft	4 ft	4 ft	See below
Max. Height. – All other yards (structures >6 ft in height require a building permit)	8 ft	8 ft	8 ft	
(See also, Chapter 11-3.4.040.)				
Lot Coverage (two options):				
1) Max. Lot Coverage (Foundation plane area as % of site area, per International Building Code):				
Single Family, not attached	50%	50%	50%	No standard
Single Family, common wall/attached	60%	70%	70%	
Duplex	60%	60%	60%	
Multifamily	60%	60%	60%	
Other, Non-Residential	60%	60%	60%	

11-2.2 –Zoning District Regulations | Lot and Development Standards

Table 11-2.2.040.D – Lot and Development Standards for Residential zones

(Except as provided by 11-2.2.040.F through 11-2.2.070, or as modified under Chapter 11-4.7 Variances, or as approved under Chapter 11-4.8 Master Planned Developments.)

Standard	R-1	R-2	R-3 and R-4	R-5
2) Lot Coverage Bonus	The Planning Commission, subject to review through a Type III procedure, may approve an increases to the lot coverage standards, above, pursuant to Chapter 11-2.2.060.			
Min. Landscape Area (% lot area) Landscape area may include plant areas and some non-plant areas as allowed under Chapter 11-3.4.030.	Not Applicable	20% where site contains non-residential use	20% where site contains non-residential use	See below
Minimum Setback Yard (feet) See also, Sections 11-2.2.040 Setback Yard Exceptions, 11-3.3.020 Clear Vision, and 11-3.4.050 Fences and Walls.)				
<u>Front/Street-Facing Side Setback Yard</u> Standard Setback Garage or Carport Opening Porch or Similar Open Structure (e.g., balcony, portico, patio, wall) Exception (0-feet for wheelchair ramp)	10 ft 20 ft 10 ft	10 ft 20 ft 10 ft	10 ft 20 ft 10 ft	See below
<u>Interior Side Setback Yards (side yard not facing street)</u> Structure >12' height Structure <=12' height, except as allowed for fences	8 ft 5 ft	5 ft 5 ft	5 ft 5 ft	See below
Note: Always check for utility easements prior to construction.				

11-2.2 –Zoning District Regulations | Lot and Development Standards

Table 11-2.2.040.D – Lot and Development Standards for Residential zones

(Except as provided by 11-2.2.040.F through 11-2.2.070, or as modified under Chapter 11-4.7 Variances, or as approved under Chapter 11-4.8 Master Planned Developments.)

Standard	R-1	R-2	R-3 and R-4	R-5
Rear Setback Yard				
<u>Structure >12' height</u>	15 ft	15 ft	15 ft	See below
<u>Structure <=12' height</u>	5 ft	5 ft	5 ft	
Build-To Line (feet):				
<u>Applies to New Buildings Only:</u>				See below
<p>1) At least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except that where a greater setback is required for a Planned Street Improvement, the build-to line increases proportionately.</p> <p>2) The City may also approve exceptions to the build-to line through Site Design Review where a pedestrian plaza, seating area, or similar amenity is provided between a primary building entrance and the street right-of-way. (See also, Chapter 11-3.2.050 Civic Space and Pedestrian Amenities.)</p>	Not Applicable	20 ft for buildings containing multifamily dwellings	20 ft for buildings containing multifamily dwellings	

Special Standards applicable to the Rural-Residential (R-5) District only:

1. No building or sight obscuring fence, other than rangeland fencing, shall be closer than forty (40) feet from a street or road right-of-way line, fifteen (15) feet from another other property line, twenty (20) feet from any major irrigation canal right-of-way, and one hundred (100) feet from the boundary line of an EFU, EFFU, or ERU zone.
2. No sight-obscuring fence exceeding three (3) feet in height shall be placed within the 40-foot street/road setback; also within this setback, shrubbery other than trees shall be maintained at heights not exceeding three (3) feet.
3. Accessory buildings greater than 200 square feet in lot coverage shall have a residential appearance; this standard is met by using materials; roof height, pitch and overhangs (3 feet or more); and window styles with proportions similar to a single family dwelling.

Special Setback for Planned Street Improvements: New structures or structure additions on lots abutting an existing public street that does not meet the minimum standards of Chapter 11-3.6.020 for right-of-way width shall provide setbacks sufficient to allow for the future widening of the right-of-way, plus the minimum required yard setback.

11-2.2 –Zoning District Regulations | Lot and Development Standards

E. Lot and Development Standards for Non-Residential Districts. The development standards in Table 11-2.2.040.E apply to all new development in the city's Non-Residential zones, as follows.

Table 11-2.2.040.E – Lot and Development Standards for Non-Residential zones (Except as provided by Sections 11-2.2.040.F through 11-2.2.070, or as modified under Chapter 11-4.7 Variances, or as approved under Chapter 11-4.8 Master Planned Developments.)			
Standard	C Zone	I Zone	PF Zone
Lot Area, Minimum (square feet)	None	5,000 sf	None
Lot Width and Depth, Minimum	None	50 feet	None
Building/Structure Height, Maximum	None, except the City may limit structure height and/or require fire suppression sprinkler systems where due to the structure's height sprinkler systems are necessary.		
Fences and Non-Building Walls (See also, Chapter 11-3.4.040.)	No standard, except height and materials subject to site design review.		
Lot Coverage, Maximum	90%	100%	90%
Landscape Area, Minimum (% site area) , includes required parking lot landscaping and any required screening. Landscape area in the Commercial (C) zone also includes street trees and civic space improvements, per Chapters 11-3.2.030.D and 11-3.2.060.	10%	None	10%

11-2.2 –Zoning District Regulations | Lot and Development Standards

Table 11-2.2.040.E – Lot and Development Standards for Non-Residential zones

(Except as provided by 2.2.040-2.2.070, or as modified under Chapter 11-4.5 Master Planned Developments and Chapter 11-4.7 Adjustments and Variances)

Standard	C Zone	I Zone	PF Zone
<p>Minimum Setbacks (feet): (See also, Chapter 11-2.2.070, R-1 Height Step-Down.)</p> <p><u>Front, Street-Side, Interior Side, and Rear</u> property lines, except as provided below or as required by other code provisions</p> <p><u>Garage/Carport Opening</u>, setback from street</p> <p><u>Alley</u></p> <p><u>Adjacent to R-1 District</u></p>	<p>0 ft</p> <p>20 ft</p> <p>3 ft</p> <p>10 ft</p>	<p>0 ft</p> <p>20 ft</p> <p>3 ft</p> <p>10 ft</p>	<p>0 ft</p> <p>20 ft</p> <p>3 ft</p> <p>10 ft</p>
<p>Build-To Line (feet): <u>New Buildings Only:</u> With new building development, at least one primary building entrance shall be built no farther from the street right-of-way than the build-to line; except where a greater setback is required for a Planned Street Improvement, then the build-to line increases proportionately. The build-to line may also be increased through Site Design Review when a pedestrian plaza, seating area, or similar amenity is provided between a primary building entrance and the street right-of-way. (See also, Chapter 11-3.2.050 Civic Space and Pedestrian Amenities.)</p>	<p>10 ft</p>	<p>Not Applicable</p>	<p>Not Applicable</p>

Special Setback for Planned Street Improvements: New structures or structure additions on lots abutting an existing public street that does not meet the minimum standards of Chapter 11-3.6.020 for right-of-way width shall provide setbacks sufficient to allow for the future widening of the right-of-way, plus the minimum required yard setback. Building permits shall not be issued for new structures or additions that do not meet this standard.

Note: Always check for utility easements prior to construction.

11-2.2.050 Setback Yards Exceptions

A. Encroachments

1. Except as otherwise restricted by applicable building codes, building elements such as eaves, chimneys, bay windows, overhangs, heating, cooling and ventilation systems, and similar incidental structures, may extend into the required setback yards by no more than thirty-six (36) inches, provided that a setback of not less than thirty-six (36) inches is maintained, all applicable building codes are met, and the clear vision standards in Chapter 11-3.3.030 are met.
2. Porches, decks, patios, and similar features not exceeding thirty (30) inches in height may encroach into setbacks, provided a minimum setback of not less than thirty-six (36) inches is maintained and all applicable building codes are met.
3. Fences may be placed within setback yards, subject to the standards of Chapters 11-2.2.040 and 11-3.4.040.

B. Reverse Frontage Lots. Buildings on reverse-frontage lots (through lots) are required to meet the front yard setback and build-to line standards of this Code on only one street frontage. Reverse frontage lots are subject to the landscape standards of Section 11-3.4.040.

11-2.2.060 Lot Coverage

- A. Lot Coverage Calculation.** The maximum allowable lot coverage shall be as provided in Table 11-2.2.120. Lot coverage is calculated as the percentage of a lot or parcel covered by buildings or structures (as defined by the foundation plan area) and other structures with surfaces greater than thirty-six (36) inches above the finished grade. It does not include paved surface-level developments such as driveways, parking pads, and patios.
- B. Lot Coverage Bonus.** The City Manager / Planning Commission, subject to review through a Type II / III procedure, may approve increases to the lot coverage standards for new development. The City may approve increases to the lot coverage standards in Table 11-2.2.040(A), as follows:
1. By up to one-half (1/2) square foot for every one (1) square foot of proposed parking area paving that uses a City-approved porous/permeable paving material (i.e., allowing storm water infiltration); and
 2. By up to one-half (1/2) square foot for every one (1) square foot of City-approved water quality treatment area (e.g., vegetative swale or bio-filtration) to be provided on the subject site; and
 3. In approving increases in lot coverage under subsections 1-3 of this section, the City may require additional landscape buffering or screening, above that which is required under Chapter 11-3.4, and may impose reasonable conditions of approval to ensure the ongoing maintenance of parking areas and surface water management facilities; and
 4. Notwithstanding the lot coverage increases authorized by subsections 1-4 of this section, all other development standards of this Chapter, and other applicable provisions of this Code, must be met.

11-2.2.070 Height Measurement and Exceptions

- A. Building Height Measurement.** Building height is measured consistent with the International Building Code.
- B. Exception from Maximum Building Height Standards.** Chimneys, bell towers, steeples, building systems equipment (e.g., heating, solar voltaic, ventilation, air conditioning, and similar building systems equipment), flag poles, and similar features not for human occupancy are exempt from the maximum building heights, provided that all applicable fire and building codes are met.
- C. Airport Approach.** Where construction is subject to airport approach requirements, the applicant shall coordinate with the Oregon Department of Aviation.

Chapter 11-2.3 – Special Use Standards

Sections:

11-2.3.010	Purpose
11-2.3.020	Applicability
11-2.3.030	Review Process
11-2.3.040	Artisanal Use/Light Manufacture
11-2.3.050	Drive-Through Service
11-2.3.060	Duplex Dwelling Standards
11-2.3.070	Multifamily Development Standards
11-2.3.080	Dwellings in Commercial and Industrial Zones
11-2.3.090	Family Daycare
11-2.3.100	Residential Care Homes and Residential Care Facilities
11-2.3.110	Home Occupations
11-2.3.120	Manufactured Homes
11-2.3.130	Mobile Home and Manufactured Home Parks
11-2.3.140	Mobile Homes and Recreational Vehicles Used as Dwellings
11-2.3.150	Temporary Uses
11-2.3.160	Accessory Dwellings
11-2.3.170	Bed and Breakfast Inn

11-2.3.010 Purpose

Special uses included in Chapter 11-2.3 are uses, which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These special use standards may differ from the development standards established for other uses in the same zoning district.

11-2.3.020 Applicability

All uses designated as Special ("S") Uses in Table 11-2.2.020, and uses the City determines to be similar to such uses, are subject to the standards of Chapter 11-2.3. The standards of this chapter supplement the other requirements of this Code. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

11-2.3 – Special Use Standards | Artisanal/Light Manufacture Uses

11-2.3.030 Review Process

The City uses the procedures for Site Design Review, under Chapter 11-4.2, in reviewing proposed uses for compliance with the requirements of Chapter 11-2.3.

11-2.3.040 Artisanal /Light Manufacture Uses

- A. Purpose.** The following provisions are intended to encourage mixed-use development, including cottage industries and business incubators, by integrating small-scale manufacturing with commercial uses. For the purposes of this Section, artisanal uses are those that blend manufacturing and retail uses such as brewpubs, winery tasting rooms, artist studios, cabinet makers, and similar uses, on the same site.
- B. Applicability.** The following standards apply where manufacturing uses are allowed in commercial zones and where retail uses are allowed in industrial zones. The standards are applied through Site Design Review or Conditional Use Permit review, as applicable.
- C. Standards.**
1. Where a manufacturing use is allowed in a commercial zone, it shall be permitted only in conjunction with a primary commercial use and shall not exceed the floor area of the primary commercial use; and
 2. Where a manufacturing use is allowed in a commercial zone, it shall be wholly enclosed in a building, except the city may permit unenclosed operations of any use subject to this Section, subject to approval of a Conditional Use Permit; and
 3. Where a manufacturing use is allowed in a commercial zone and the subject site is located within 100 feet of a residential zone, the City may limit the hours of operation of the commercial and/or industrial use(s) to between 7:00 a.m. and 9:00 p.m. where it has identified concerns about noise, parking, or other impacts related to the use; and
 4. Where a commercial use is allowed in an industrial zone, it shall be permitted only in conjunction with the primary industrial use and shall not exceed the floor area of the primary industrial use.

11-2.3.050 Drive-Through Service

Drive-through service uses are subject to site design review and shall comply with the design standards of Section 11-3.2.070.

11-2.3.060 Duplex Dwelling Standards

- A. Purpose.** The following provisions are intended to promote compatibility between duplex dwellings and single-family dwellings in the R-1 zone.
- B. Applicability.** The following standards apply where a duplex is proposed adjacent to a single-family dwelling where the duplex lot and single-family lot share a common property line. The standards are applied through a Zoning Checklist (Type I) review procedure, prior to submittal of building plans to the Building Official.
- C. Standards.** Duplexes shall meet the design standards in Section 11-3.030.

11-2.3.070 Multifamily Development Standards

- A. Purpose.** The following standards are intended to ensure that multifamily developments are planned with adequate open space and are designed to prevent conflicts between residential uses, on-site recreation, and vehicle circulation and parking areas. The standards supplement the design standards of Article 11-3.
- B. Applicability.** Section 11-2.3.070 applies to new multifamily developments.
- C. Standards.**
 - 2. Multifamily Housing Density.** The number of multifamily dwelling units shall not exceed three (3) units per lot in the R-2 district. In the R-3 and R-4 districts, the number of dwelling units permitted on a lot is three (3) units per 7,000 square feet of lot area, plus one unit for every 1,500 square feet of additional lot area. The density standards do not apply to boarding houses. Boarding houses are required to meet the requirements of the Oregon Structural Specialty Code.
 - 2. Common Open Space and Landscaping.** A minimum of fifteen (15) percent of the site area of a multifamily development shall be designated and permanently reserved as common area or open space, in accordance with all of the following criteria:
 - a. "Site area" for the purposes of this Section is defined as the subject lot or lots after subtracting any required dedication of street right-of-way;
 - b. The common area or open space shall contain one or more of the following: outdoor recreation area, tree grove (e.g., existing mature trees), turf play fields or playgrounds, sports courts, swim pool, walking fitness course, natural area with picnic benches, or similar open space amenities as appropriate for the intended residents.
 - c. In order to be counted as eligible toward the minimum open space area, such areas shall have dimensions of not less than twenty (20) feet;
 - d. Open space and common areas not otherwise developed with recreational facilities shall be landscaped.
 - 3. Private Open Space.** Private open space areas shall be required for dwelling units based on the

2.3 –Special Use Standards | Duplex and Multifamily Dwellings

following criteria. The standards do not apply to boarding houses.

- a. A minimum of forty (40) percent of all ground-floor dwelling units shall have front or rear patios or decks containing of at least forty-eight (48) square feet of usable area. Ground floor housing means the housing unit entrance (front or rear) is within five (5) feet of the finished ground elevation (i.e., after grading and landscaping);
 - b. A minimum of forty (40) percent of all upper-floor housing units shall have balconies or porches containing at least forty-eight (48) square feet of usable area. Upper-floor housing means housing units that are more than five (5) feet above the finished grade.
4. **Access, Circulation, Landscaping, Parking, Public Facilities.** The standards of Chapters 11-3.2 through 11-3.6 shall be met.
 5. **Trash Storage.** Trash receptacles, recycling and storage facilities shall be oriented away from building entrances, setback at least ten (10) feet from any public right-of-way and adjacent residences and shall be screened with an evergreen hedge or solid fence or wall of not less than six (6) feet in height. Receptacles must be accessible to trash pick-up trucks.

11-2.3.080 Dwellings in Commercial and Industrial Zones

A. Purpose. This section provides standards for residential uses in the C and I zones.

B. Applicability. This section applies to dwellings in the C and I zones.

C. Standards. Residential uses in the C and I zones shall conform to all of the following standards:

1. New residential uses shall not be established in any ground floor building space fronting Main Street. A new residential use may be established on a lot that fronts Main Street, provided the residential use is located above an allowed commercial or public/institutional use or it is setback from Main Street behind an allowed commercial or public/institutional use.
2. Single-family dwellings lawfully existing as of July 12, 2013 may continue as permitted uses; and in the event of involuntary damage or destruction due to fire or other event beyond the owner's control, such single-family use may be rebuilt and reestablished pursuant to Chapter 11-2.2.030 and applicable building codes.

2.3 – Special Use Standards | Family Daycare; Residential Care Homes and Facilities

11-2.3.090 Family Daycare

Family daycare uses are limited to on-site care for not more than sixteen (16) children, and shall conform to the state licensing requirements and standards under ORS 657A.250 and ORS 657A.440(4). Where required, family daycare uses must also have a current business license.

11-2.3.100 Residential Care Homes and Residential Care Facilities

Residential Care Homes and Residential Care Facilities, where allowed, shall conform to all of the following standards and procedures. Note: Residential Care Facilities are not the same as an Acute Care Facilities, which are classified as Community Service uses; and they are not the same as Senior Housing facilities that provide limited or no medical care, which are classified as Multifamily Housing.

- A. Licensing and State Requirements.** Residential Care Homes and Residential Care Facilities shall be licensed by the State of Oregon and comply with State requirements, pursuant to ORS 197.660 through 197.670.
- B. Residential Care Homes.** Residential Care Homes may provide residential care alone, or in conjunction with treatment and/or training, for five (5) or fewer individuals who need not be related. Staff required to meet State-licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents. The same Development Code standards that apply to single-family dwellings also apply to Residential Care Homes, except where State law supersedes city standards.
- C. Residential Care Facilities.** Residential Care Facilities may provide residential care alone, or in conjunction with treatment and/or training, for between six (6) and fifteen (15) individuals who need not be related. Staff required to meet State-licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents. The same Development Code standards that apply to multiple family dwellings also apply to Residential Care Homes, except where State law supersedes city standards.

2.3 – Special Use Standards | Residential Care Homes and Facilities

- D. Access.** The access and circulation standards of Chapter 11-3.3 shall be met.
- E. Parking.** The parking standards of Chapter 11-3.5 shall be met.
- F. Landscaping.** Residential Care Facilities are required to comply with the landscaping and screening standards of Chapter 11-3.4. The City may require the installation of a landscape hedge or fence on the property line separating a Residential Care Facility from an abutting lot containing a single-family dwelling for the purposes of visual screening and privacy between uses. The landscaping standards do not apply to building permits for individual Residential Care Homes.
- G. Building Design Standards.** Residential Care Facilities are required to comply with the building orientation and design standards for multifamily housing, pursuant to Chapter 11-3.1; except where a State requirement conflicts with a city standard, the State requirement, not the city standard, shall apply. The building design standards do not apply to Residential Care Homes.
- H. Review Procedure.** Residential Care Homes are subject to review and approval through a Type I Zoning Checklist review procedure under Chapter 11-4.1.020 prior to issuance of building permits. Residential Care Facilities are subject to a Type III (public hearing) review and approval under Chapter 11-4.1.040.

11-2.3 – Special Use Standards | Home Occupations

11-2.3.110 Home Occupations

- A. Purpose.** The purpose of this Section is to encourage those who are engaged in small commercial ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which by the nature of the venture are appropriate in scale and impact to be operated within a residence.
- B. Applicability.** This Section applies to Home Occupation uses in Residential zones. A home-based business in a commercial or residential-commercial zone is considered a commercial use and is not subject to the standards of this Section.
- C. Home Occupation in Residential Zones.** Home Occupations covering less than 500 square feet of lot area are permitted, provided the owner completes a Zoning Checklist and, where required, obtains a business license. Home Occupations covering more than 500 square feet of lot area are allowed, subject to approval of a Conditional Use Permit. For the purpose of this Section, "lot area" includes building floor area, areas within accessory structures, and all other portions of a lot. The above lot coverage limitations do not apply to Family Daycare uses, which are subject to 11-2.3.090; other requirements of section 11-2.3.110 may apply.
- D. Home Occupation Standards.** Home Occupations shall conform to all of the standards below, except the City may approve adjustments to the standards through the Conditional Use Permit approval, provided all uses and structures on the subject property conform to applicable City regulations, including but not limited to building codes and nuisance regulations.

I. Appearance of Residence:

- a. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
- b. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
- c. The home occupation shall not violate any conditions of development approval (i.e., prior land use development permit or approval).
- d. No products and/or equipment produced or used by the home occupation may be displayed to be visible from outside any structure.

2. Storage:

- a. Outside storage visible from the public right-of-way or adjacent properties that exceeds what is customary for a single-family residence in the vicinity is prohibited.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable material) beyond those normally incidental to residential use is prohibited.
- c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be enclosed in a structure or otherwise screened from view from adjacent properties and public right-of-way.

3. Employees:

- a. Other than family members residing within the dwelling located on the home occupation site, there shall be not more than two (2) employees at the home occupation site at any given time. As used in this chapter, the term “home occupation site” means the legal lot on which the home occupation is conducted.
- b. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home occupation site.
- c. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch of employees to other locations.

4. Advertising and Signs: Signs shall not exceed a total of four (4) square feet of surface area on each side of one or two faces. See also Chapter 11-3.7 Signs.

5. Vehicles, Parking and Traffic:

- a. Not more than one (1) commercially licensed vehicle associated with the home occupation is allowed at the home occupation site in the same 24-hour period. Vehicles shall be of a size that would not overhang into the public right-of-way when parked.
- b. There shall be no commercial vehicle deliveries during 9:00 p.m. to 7:00 a.m.

6. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation only from 7:00 a.m. to 9:00 p.m. only, Monday through Saturday.

7. Prohibited Home Occupation Uses:

- a. Any activity that produces radio, TV, or other electronic interference; noise, glare, vibration, smoke,

11-2.3 – Special Use Standards | Home Occupations

or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line, is prohibited.

- b. Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by the home business is allowed.
- c. The following uses and uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibration, are prohibited:
 - (1) Ambulance service;
 - (2) Animal hospital, veterinary services, kennels or animal boarding;
 - (3) Auto and other vehicle repair, including auto painting; and
 - (4) Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.

8. Enforcement: With cause, the City’s designated Code Enforcement Officer or other law enforcement official may visit a home occupation site to inspect the site and enforce the provisions of this Code. See also Chapter 11-1.6 Enforcement.

11-2.3.120 Manufactured Home on a Single-Family Lot

Manufactured homes are permitted on individual lots, subject to all of the following design standards. Manufactured dwellings relocated into the City of Nyssa shall conform to City standards.

- A. Floor Plan.** The manufactured home shall be multi-sectional and have an enclosed floor area of not less than 1,000 square feet;
- B. Roof.** The manufactured home shall have a pitched roof with a slope not less than 3 feet in height for each twelve (12) feet in width (14 degrees);
- C. Residential Building Materials.** The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered “superior” to metal siding and roofing);
- D. Garages and Carports.** If the manufactured home has a garage or carport, the garage or carport shall be constructed of materials like those used on the house;

11-2.3 – Special Use Standards | Manufactured Home on a Single Family Lot

- E. Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards, or equivalent standard, is deemed to satisfy the exterior thermal envelope certification requirement;
- F. Placement.** The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home;
- G. Floodplain.** Manufactured homes shall comply with Chapter 11-2.4 Flood Plain Overlay and the following standards.
1. The stand shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped. [Manufactured Dwelling Specialty Code, 4-3.1(5)]
 2. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of twelve (12) inches above BFE. [See definition of Lowest Floor in Manufactured Dwelling Specialty Code.]
 3. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for anchoring techniques). [44 Code of Federal Regulations 60.3(c)(6)]
 4. Electrical crossover connections shall be a minimum of twelve (12) inches above BFE. [Manufactured Dwelling Specialty Code 6-4.2(1)]
- H. Foundation Skirt.** The foundation area of the manufactured home shall be fully skirted with concrete, horizontal wood or vinyl siding, or other materials, pursuant to applicable building codes.
- I. Prohibited.** The manufactured home shall not be located in a designated historic district, except where the historic district regulations specifically provide for manufactured homes.

2.3 – Special Use Standards | Mobile Home and Manufactured Dwelling Parks

11-2.3.130 Mobile Home and Manufactured Dwelling Parks

Manufactured/mobile home parks (not including recreational vehicles) are permitted on parcels of one (1) acre or larger, subject to compliance with subsections A-D, below:

- A. Permitted Uses.** Single-family residences, manufactured home park manager's office, home occupations, and accessory structures that are necessary for the operation and maintenance of the manufactured dwelling park (e.g., landscape maintenance).
- B. Development Standards.** Development of manufactured and mobile home parks, including placement of manufactured and mobile homes with a park, shall comply with applicable building codes and State requirements for Mobile Home and Manufactured Dwelling Parks in ORS 446.
- C. Perimeter Landscaping.** When manufactured dwellings are oriented with their back or side yards facing a public right-of-way, the City **may** require installation of fencing and/or planting of a landscape buffer of five (5) to ten (10) feet in width between the right-of-way and a manufactured home park for the privacy and security of park residents or for privacy of adjacent residences.
- D. Floodplain.** Compliance with the City of Nyssa Floodplain Overlay, Chapter 11-2.4, is required.

[11-2.3.140 Reserved]

11-2.3 – Special Use Standards | Temporary Uses

11-2.3.150 Temporary Uses

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, seasonal sales such as Christmas tree sales and vegetable stands, and similar uses. This Code contains permit procedures for three types of temporary uses, Seasonal and Special Events, Temporary Sales Offices and Model Homes, and Temporary Buildings, Trailers, Kiosks, and Other Structures, as follows:

A. Seasonal and Special Events. Through a Type II procedure, pursuant to Chapter 11-4.1.030, the City shall approve, approve with conditions or deny a temporary use application for a Seasonal or Special Event based on the following criteria being met:

1. The use is permitted in the underlying zone, and does not violate any conditions of approval for the property (e.g., prior development permit approval);
2. The use occurs only once in a calendar year and for not longer than sixty (60) consecutive days;
3. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
4. The applicant, if different than the property owner, has proof of the owner's permission to place the use on his/her property;
5. Ingress and egress are adequate and do not raise safety concerns when the proposed use combined with the other uses of the site, pursuant to Chapter 11-3.3 Vehicular Access and Circulation;
6. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 11-3.4 Landscaping, Street Trees and Screening;
7. There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to the Chapter 11-3.5 Parking and Loading;
8. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 11-3.6 Public Facilities;
9. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use;
10. The use is adequately served by sewer or septic system and water, as applicable; and
11. The applicant shall be responsible for maintaining all required licenses and permits.

B. Temporary Sales Office or Model Home. Through a Type II procedure, pursuant to Chapter 11-4.1.030, the City shall approve, approve with conditions or deny a temporary use application for a Temporary Sales Office or Model Home, based on the following criteria being met:

1. **Temporary sales office:** The use of any real property within the City as a temporary sales office, office for the purpose of facilitating the sale of real property, shall meet all of the following criteria:
 - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold;
 - b. The property to be used for a temporary sales office shall not be permanently improved for that purpose; and
 - c. Conditions may be imposed regarding temporary utility connections, and as necessary to protect public health, safety, or welfare.
2. **Model house:** The use of any real property within the City for a model home, including a model home in any subdivision or on any tract of land within the City, shall meet all of the following criteria:
 - a. Where the model house is located in a Residential zone, it shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated;
 - b. A model house located in a Residential zone shall be designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements; and
 - c. A model house located in a non-Residential zone, as with a manufactured home sales display lot, shall be removed when the use of the subject site for home sales ends.

C. Temporary Buildings, Trailers, Kiosks, and Other Structures. Through a Type II procedure, pursuant to Chapter 11-4.1.030, the City shall approve, approve with conditions or deny an application for a placement and use of a temporary building, trailer, kiosk, or other structure, based on following criteria:

1. The use is permitted in the underlying zone and does not violate any conditions of approval for the property (e.g., prior development permit approval);
2. The applicant, if different than the property owner, has proof of the owner's permission to place the use on his/her property;
3. The lot development standards of Chapter 11-2.2.040 are met;
4. Ingress and egress are adequate and do not raise safety concerns when the proposed use combined with the other uses of the site, pursuant to Chapter 11-3.3 Vehicular Access and Circulation;
5. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 11-3.4 Landscaping, Street Trees and Screening;

11-2.3 – Special Use Standards | Temporary Uses

6. There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to the Chapter 11-3.5 Parking and Loading;
7. The temporary use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 11-3.6 Public Facilities;
8. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use;
9. The use is adequately served by sewer or septic system and water, as applicable;
10. The structure complies with applicable building codes;
11. Except where specifically authorized by the City Manager, the length of time that the temporary structure may remain on a site shall not exceed ninety (90) cumulative days in any one calendar year;
12. The applicant shall be responsible for maintaining all required licenses and permits; and
13. The City Manager may require installation of a water meter and may require other improvements, pursuant to Chapter 11-3.6 Public Facilities, as necessary, to protect public health, safety, or welfare.

11-2.3.160 Accessory Dwellings

Accessory dwellings, where allowed, are subject to review and approval through a Type II procedure, pursuant to Chapter 11-4.1.030, and shall conform to all of the following standards:

- A. One Unit.** A maximum of one (1) Accessory Dwelling unit is allowed per legal lot and is included in the permissible residential density for the subject lot;
- B. Floor Area.** An Accessory Dwelling unit shall not exceed 600 square feet of floor area, or forty (40) percent of the primary dwelling unit's floor area, whichever is smaller. The unit may be a detached cottage, a unit attached to a dwelling, or in a portion of an existing dwelling. The floor area of any garage associated with the primary dwelling is not included in the calculation of maximum floor area;
- C. Lot Size.** The minimum lot size for a lot with an Accessory Dwellings is 6,000 square feet;
- D. Building Design.** The Accessory Dwelling shall be constructed of materials that are the same or similar to the materials used on the primary dwelling. The Accessory Dwelling shall comply with applicable Oregon Structural Specialty Code requirements;
- E. Building Height.** The height of an accessory dwelling shall not exceed the height of the primary dwelling;
- F. Parking.** A minimum of two (2) off-street parking spaces is required, total, including parking for the primary single-family dwelling unit and for the accessory dwelling unit, on the subject site; and
- G. Screening and Buffering.** The City may require a landscape hedge or fence be installed on the property line separating a detached accessory dwelling from an abutting lot containing a single-family dwelling for the purposes of visual screening and privacy between uses. Screening and buffering shall conform to the standards of Chapter 11-3.4.

11-2.3 – Special Use Standards | Bed and Breakfast Inns

11-2.3.170 Bed and Breakfast Inns

Bed and Breakfast Inns, where allowed, are subject to review and approval through a Type II procedure, pursuant to Chapter 11-4.1.030, and shall conform to all of the following standards:

- A. Accessory Use.** The use must be accessory to a household already occupying the site.
- B. Maximum Size.** A maximum of six (6) bedrooms for guests, and a maximum of twelve (12) guests are permitted per night.
- C. Length of Stay.** The maximum length of stay is twenty-eight (28) days per guest; any stay longer is classified as a hotel or commercial lodging use.
- D. Employees.** The inn shall have not more than two (2) non-resident employees on-site at any one time. There is no limit on residential employees.
- E. Food Service.** Food service shall be provided only to overnight guests of the business, except where a restaurant use is also an allowed use (as in the C zone);
- F. Signs.** Signs shall not exceed a total of four (4) square feet of surface area on each side of one or two faces. See also sign regulations in Municipal Code.
- G. Screening and Buffering.** The City may require a landscape hedge or fence be installed on the property line separating a detached accessory dwelling from an abutting single-family dwelling for the purposes of visual screening and privacy between uses. Screening and buffering shall conform to the standards of Chapter 11-3.4.

Chapter 11-2.4 – Flood Plain Overlay Zone

Sections:

11-2.4.010	Description and Purpose
11-2.4.020	Permitted Uses Outright
11-2.4.030	Permitted Buildings and Building Uses
11-2.4.040	Water Service Extension Prohibited

11-2.4.010 Description and Purpose

The Flood Plain (FP) designation may be applied in any zone as hereinafter set forth where the area is subject to inundation by flooding of surface water. The area subject to flooding shall be as determined by the Army Corps of Engineers and the Federal Emergency Management Agency's (FEMA's) most recent data, including FEMA's Flood Insurance Rate Map, which designates the area subject to a one percent (1%) or one hundred (100) year flood. The purpose of the FP overlay zone is to minimize property loss, danger of injury and health hazards. To accomplish this purpose, the City prior to issuing any building permits shall establish flood elevations.

11-2.4.020 Permitted Uses Outright

The City Manager may establish Flood Plain (FP) areas, subject to Planning Commission approval by designating the boundaries thereof. Such designation shall be based upon objective flood plain and surface water data. Such designation shall be removed by the City Manager upon it being established to his or her satisfaction that, because of additional flood control measures, control of development through the establishment of minimum floor elevations is no longer necessary.

In any zone where the zone symbol is followed by the parenthetically enclosed letters "FP," raising and harvesting crops and other compatible agricultural or horticultural uses are permitted outright and only the following other land uses are allowed (permitted or permitted subject to conditional use permit), if said uses are allowed in such zone classification:

- A.** Parking area, private;
- B.** Parking area, public; and
- C.** Parks, playgrounds, golf courses or driving ranges

11-2.3 – Special Use Standards | Bed and Breakfast Inns

11-2.4.030 Permitted Buildings and Building Uses

In any zone also designated “FP,” the following buildings only are permitted:

- A.** Accessory building normal and incidental to the uses provided in Section 11-2.4.020; and
- B.** Uses normally permitted in the zone classification upon approval of the City Manager only where it appears no hazard to property, person or health would exist or be created by reason of such building and building use. (Ord. 480, 4-10-70)

11-2.4.040 Water Service Extension Prohibited

Municipal water services will not be extended to new development within designated flood plain areas.

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Article 11-3 - Community Design Standards

Chapters:

- 11-3.1 Design Standards Administration
- 11-3.2 Building Orientation and Design
- 11-3.3 Access and Circulation
- 11-3.4 Landscaping, Street Trees, and Screening
- 11-3.5 Parking and Loading
- 11-3.6 Public Facilities
- 11-3.7 Signs

Chapter 11-3.1 - Design Standards Administration

Sections:

11-3.1.010	Purpose
11-3.1.020	Applicability

11-3.1.010 Purpose

Article 3 contains design standards for the built environment. The standards are intended to protect the public health, safety and welfare through multimodal accessibility and interconnectivity, and through the provision of parking, landscaping, adequate public facilities, and appropriate signage.

11-3.1.020 Applicability

The provisions Article 3 apply to permits and approvals granted under this code, and other City actions, as summarized in Table 3.1.020.

11-3.1 – Design Standards Administration | Applicability

Table 11-3.1.020 Applicability of Design Standards to Approvals and Permits						
Approvals*	11-3.2 Building Design	11-3.3 Access Circulation	11-3.4 Landscapes & Screening	11-3.5 Parking & Loading	11-3.6 Public Facilities	11-3.7 Signs
Zoning Checklist Review	Review and determine whether a land use application is required.					
Access/Approach Permit	N	Y	N	Y	Y	N
Annexation	N	N	N	N	Y	N
Building Permit	The City reviews building plan proposals through a Type I (Zoning Checklist) procedure and determine which standards apply.					
Code Interpretation	Standards are subject to City interpretation under Chapter 11-1.5.					
Code Text Amendment	Chapters apply where amendment affects design standards.					
Comprehensive Plan Map Amendment	N	N	N	N	Y	N
Conditional Use Permit	Y	Y	Y	Y	Y	Y
Home Occupation	N	N	N	N	N	Y
Legal Lot Determination	N	Y	N	N	Y	N
Master Planned Development	Y	Y	Y	Y	Y	Y
Modification to Approval or Condition of Approval	Individual chapters may apply, depending on the modification request.					
Non-Conforming Use or Structure, Expansion of	Y	Y	Y	Y	Y	Y
Partition or Re-plat of 2-3 lots (See also, Chapter 11-4.3)	Y (if bldg exists)	Y	Y (for flag lot)	Y (if use exists)	Y	N
Property Line Adjustments, including Lot Consolidations (See also, Chapter 11-4.3)	Y (if bldg exists)	Y	Y (for flag lot)	Y (if use exists)	Y	N
Site Design Review (See also, Chapter 11-4.2)	Y	Y	Y	Y	Y	Y
Subdivision or Replat of >3 lots (See also, Chapter 11-4.3)	Y (if bldg exists)	Y	Y (for flag lot)	Y (if use exists)	Y	N
Variances	Individual chapters may apply, depending on the variance request.					
Zoning District Map Change	N	N	N	N	Y	N

* The applicant may be required to comply with the design standards of other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this code.

Chapter 11-3.2 – Building Orientation and Design

Sections:

11-3.2.010	Purpose
11-3.2.020	Applicability
11-3.2.030	Residential Buildings
11-3.2.040	Non-Residential Buildings
11-3.2.050	Civic Space and Pedestrian Amenities
11-3.2.060	Drive-Up and Drive-Through Uses and Facilities

11-3.2.010 Purpose

Chapter 11-3.2 regulates the placement, orientation, and design of buildings. The regulations are intended to protect public health, safety, and welfare through clear and objective standards that promote land use compatibility and livability, while protecting property values and ensuring predictability in the development process. In summary, Chapter 11-3.2 is intended to create and maintain a built environment that:

- A.** Is conducive to alternative modes of transportation, such as walking and bicycling;
- B.** Provides natural surveillance of public spaces, or “eyes on the street,” for crime prevention and security;
- C.** Reduces dependency on the automobile for short trips, thereby conserving energy and reducing unwanted congestion;
- D.** Supports reusable energy generation, through the use of solar, wind, and renewable sources; and
- E.** Creates a sense of place that is consistent with the character of Nyssa, including historical development patterns and the community’s vision for downtown.

11-3.2.020 Applicability

Chapter 11-3.2 applies to all new buildings, except the following building types are exempt:

- A.** Single-family detached dwellings; and
- B.** Exterior alterations and remodels where at least fifty percent (50%) of the existing building floor area and associated exterior walls are retained.

11-3.2 – Building Orientation and Design | Residential Buildings

11-3.2.030 Residential Buildings

- A. Purpose.** The following requirements are intended to support development that is conducive to walking, reduces dependency on the automobile for short trips, provides natural surveillance for safety in public spaces, and avoids parked vehicles encroaching into the public right-of-way.
- B. Building Orientation.** Residential buildings subject to the provisions of this Chapter, pursuant to Section 11-3.2.020, shall conform to all of the following standards:
- 1. Building Orientation to Street.** Except as provided below, dwelling units shall orient toward a street and have a primary entrance opening toward the street and connected to the right-of-way via an approved walkway or residential front yard.
 - a. A dwelling may have its primary entrance oriented to a yard other than the front/street yard where the only permitted access to the property is from a shared driveway or flag lot drive and orienting the dwelling entrance to the street is not practical due to the layout of the lot and driveway; and
 - b. Where there is no adjacent street to which a dwelling may be oriented, or it is not practical to orient a dwelling to an adjacent street due to lot layout, topographic, or other characteristics of the site, the dwelling may orient to a walkway, courtyard, open space/common area, lobby, breezeway (i.e., for multiple family buildings).
 - 2. Limitation on Parking Between Primary Entrance and Street.** Off-street parking is not allowed between a primary building entrance and the street to which it is oriented, except that assisted living facilities, group care facilities, and similar institutional-residential uses serving clients with disabilities may have one driveway located between the primary building entrance and an adjacent street as required to serve as a drop-off/loading zone, provided the primary building entrance shall connect to an adjacent street by a pedestrian walkway that conforms to the standards of Section 11-3.3.030. The intent of this exception is to provide for one drop-off/loading zone while maintaining a direct, convenient and safe pedestrian access to a primary building entrance.
 - 3. Build-to Line.** Where a new building is proposed in a zone that requires a build-to line per Section 11-2.2.040, the building shall comply with the build-to line standard and the development shall meet the standards for pedestrian access under Section 11-3.3.030.
- C. Garages.** The following standards apply to vehicle storage areas, including but not limited to buildings, carports, canopies, and other permanent and temporary structures. The standards are intended to balance residents' desire for a convenient, safe, and private access to their vehicles with the public interest in maintaining safe and aesthetically pleasing streetscapes.
- 1. Alleys and Shared Drives.** Where a garage or carport abuts an alley or a shared driveway, it shall orient to the alley or shared drive, as applicable, and not a street.

2. **Setback for Garage Opening Facing Street.** In order to avoid the instance of parked vehicles encroaching into the street right-of-way, garage and carport openings shall be placed not closer than twenty (20) feet to a street right-of-way.
3. **Garages for Duplex Dwellings.** Where a duplex is located on a corner lot and contains two garages, one for each dwelling unit, each garage shall orient to different street so as to create the appearance of individual single-family dwellings facing each street frontage. Where two or more duplexes are to be situated on abutting lots, their garages or carports, as applicable, shall receive vehicle access from a rear alley or a shared side-yard driveway, as generally illustrated on page 3-12.

D. Architecture. This code requires variation in architectural plans to avoid monotony in new development. The standards support the creation of architecturally varied neighborhoods, whether a neighborhood develops all at once or one lot at a time, avoiding homogeneous street frontages that detract from the community's appearance. The standards are applied through the Site Design Review process, and are in addition to the special use requirements of Chapter 11-2.3. The City, upon the applicant's request, may approve a subdivision or site design review application with house plans pre-designated for specific lots, thereby exempting those lots from future site design review.

1. **Detailed Design.** Dwelling designs shall incorporate not fewer than two (2) architectural features per dwelling unit from a-k below. Applicants are encouraged to use those elements that best suit the proposed building style and design.
 - a. Covered front porch: not less than six (6) feet in depth and not less than thirty (30) percent of the width of dwelling, excluding the landing for dwelling entrance.
 - b. Dormers: minimum of two (2) required per building; must be a functional part of the structure, for example, providing light into a living space.
 - c. Recessed entrance: not less than three (3) feet deep.
 - d. Windows: not less than thirty (30) percent of surface area of all street-facing elevation(s).
 - e. Window trim: minimum four-inch (4-inch) width (all elevations).
 - f. Eaves: overhang of not less than twelve (12) inches.
 - g. Offset: offset in facade or roof (as per subsection 11-3.2.030.D.2, "Articulation").
 - h. Bay window: projects from front elevation by twelve (12) inches.
 - i. Balcony: one (1) per dwelling unit facing street.
 - j. Decorative top (e.g., cornice or pediment with flat roof or brackets with pitched roof).
 - k. Other feature not listed but providing visual relief or contextually appropriate design similar to options a-j, as approved by the City Manager or Planning Commission, subject to Site Design Review.

2. Articulation

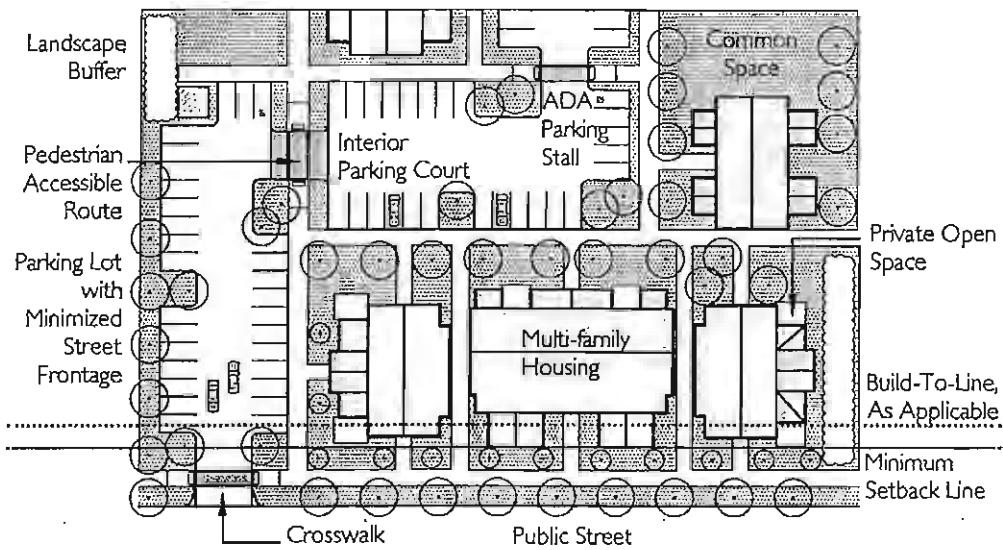
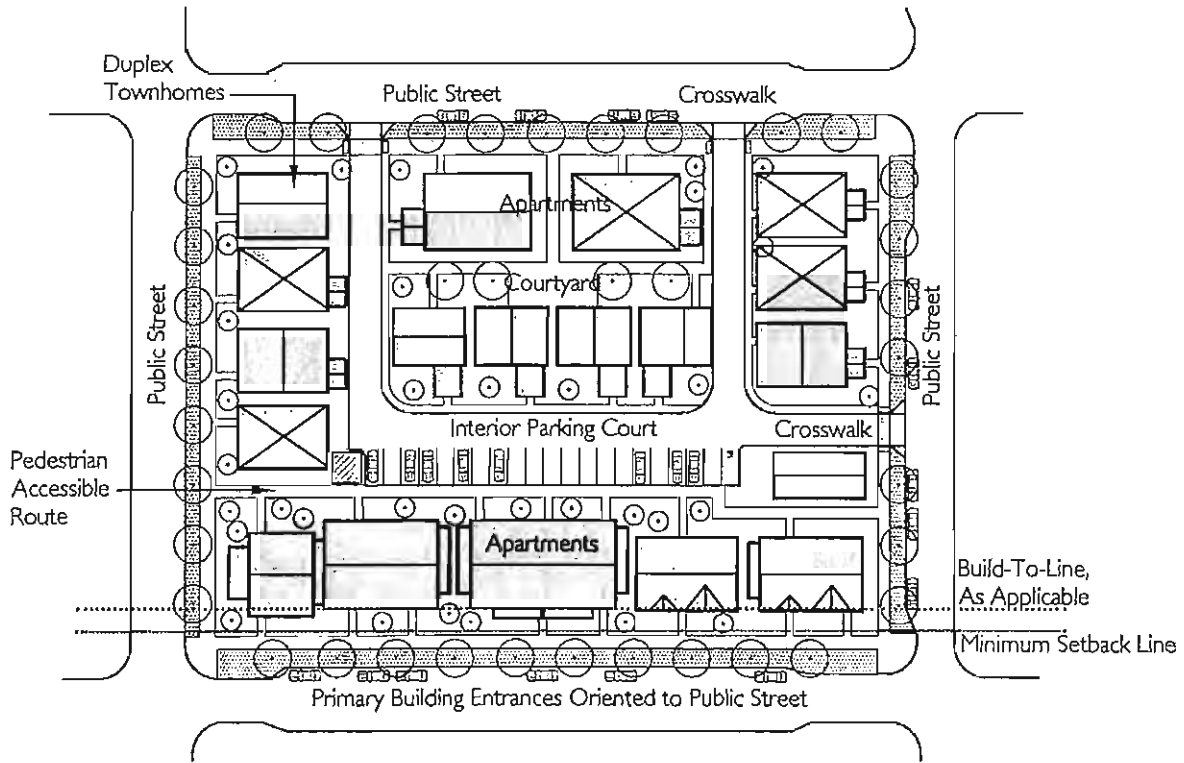
Residential buildings subject to this Chapter shall incorporate design features to break up large building walls and provide visual relief. Such elements shall occur at a minimum interval of 30-40 feet, and each building story shall contain at least two (2) elements meeting the following criteria:

- a. Recess that has a minimum depth of four (4) feet and that runs horizontally for a minimum length of four (4) feet – examples include a porch, courtyard entrance, balcony, or similar feature;
- b. Projection of not less than four (4) feet that runs horizontally for a minimum length of four (4) feet – examples include a porch, balcony, overhang, or similar feature;
- c. Offset or break in roof elevation of two (2) feet or greater in height, not including chimneys, vents, mechanical equipment, and other non-structural elements; and
- d. Other features, as approved by the City Manager, which break up an otherwise long, uninterrupted building wall.

3.2 – Building Orientation and Design | Residential Buildings

3.2.030.B Building Orientation, Multi-family Development

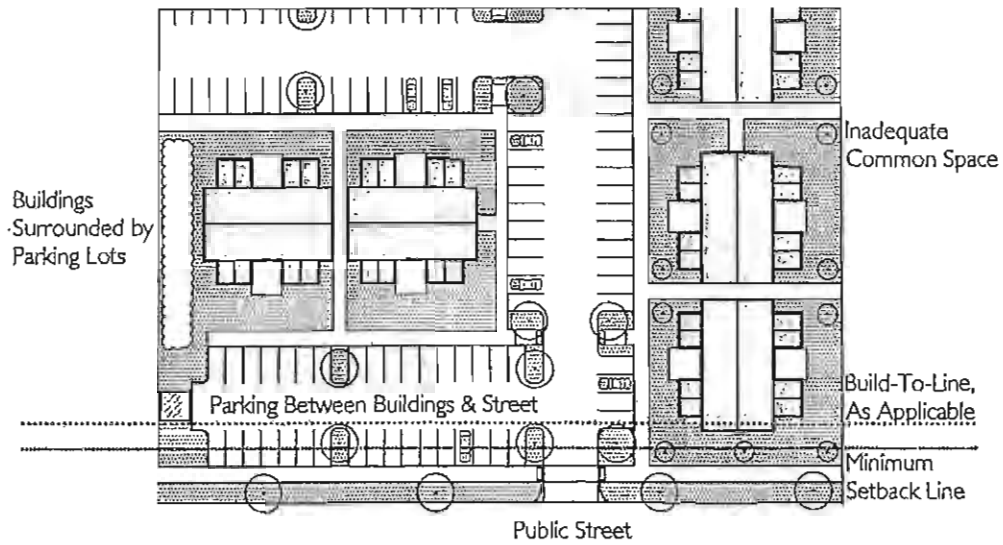
Examples of Code Compliant Features



3.2 – Building Orientation and Design | Residential Buildings

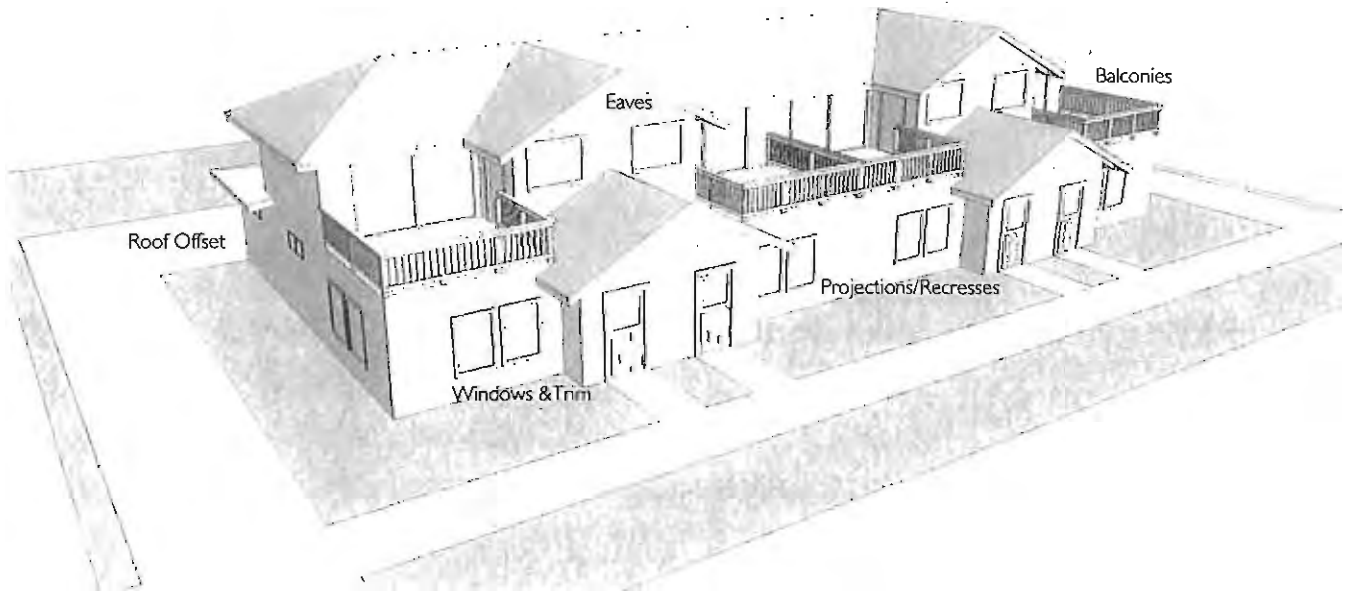
3.2.030.B Building Orientation, Multi-family Development

Examples of Non-Compliant Features

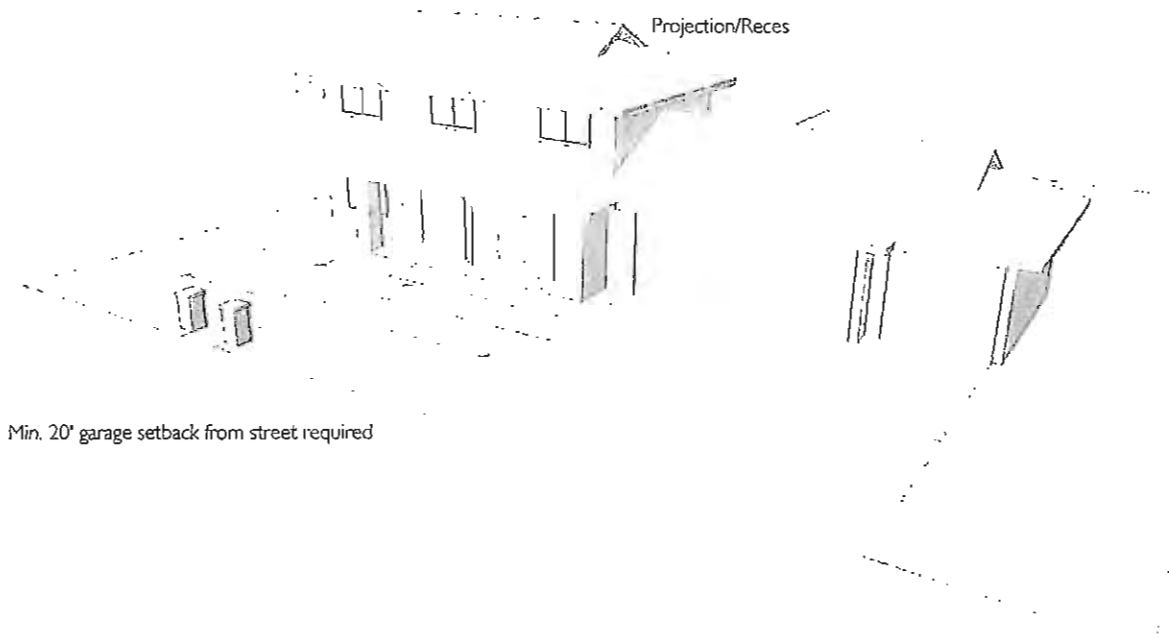


3.2 – Building Orientation and Design | Residential Buildings

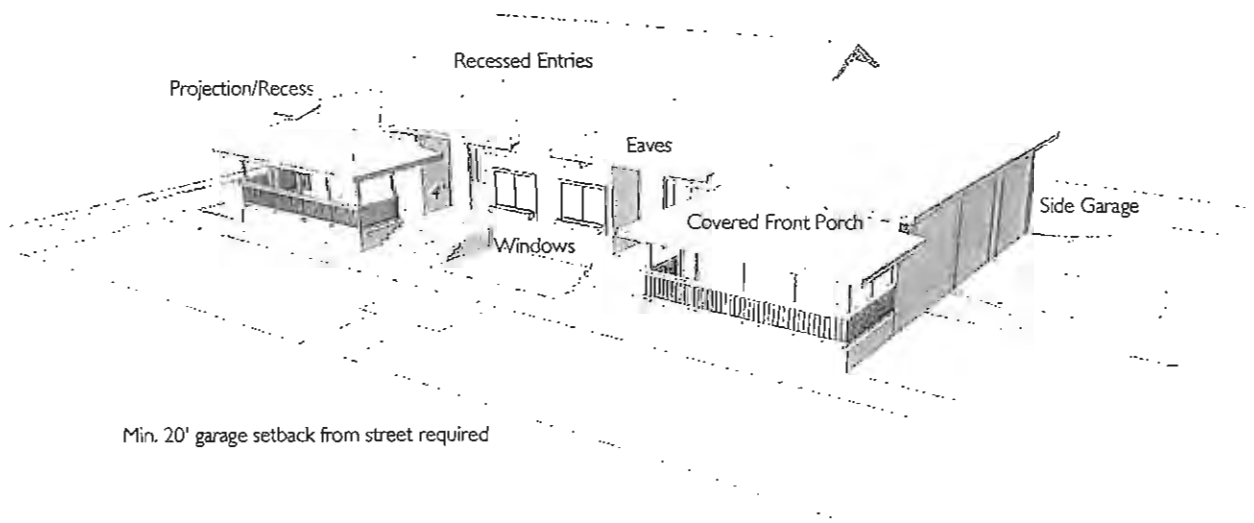
3.2.030.D.1 Multi-Family Detailed Design



3.2.030.D.1 Single-Family Detailed Design



3.2.030.D.1 Duplex Detailed Design



11-3.2.040 Non-Residential Buildings

- A. Purpose and Applicability.** The following requirements apply non-residential development, including individual buildings, shopping centers, office complexes, and other developments. Specifically, this section is intended to:
1. Create and maintain a built environment that is conducive to walking, reducing dependency on the automobile for short trips;
 2. Promote natural surveillance of public areas for crime prevention and safety;
 3. Improve Nyssa’s commercial areas, enhancing the community as an attractive place to work, shop, and conduct business;
 4. Build on the storefront character along Main Street by requiring storefront windows, pedestrian shelters, and furnishings;
 5. Encourage a diversity of building facades and rooflines that fall into a consistent rhythm; and
 6. Promote predictability in the development review process.
- B. Building Orientation.** The following standards apply to new buildings and building additions that are subject to Site Design Review.
1. Buildings subject to this Section shall conform to the applicable build-to line standard in Table 11-2.3.040. The standard is met when at least fifty (50) percent of the abutting street frontage has a building placed no farther from at least one street property line than the build-to line in Table 11-2.3.040. The City Manager or Planning Commission, as applicable, through Site Design Review, may waive the build-to line standard upon finding that one of the situations in subsections (a)-(g), below, exists:
 - a. A proposed building is adjacent to a single-family dwelling, and an increased setback promotes compatibility with the adjacent dwelling;
 - b. The standards of the roadway authority preclude development at the build-to line;
 - c. The applicant proposes extending an adjacent sidewalk or plaza for public use, or some other pedestrian amenity is proposed to be placed between the building and public right-of-way, pursuant with Section 11-3.2.050 and subject to Site Design Review approval;
 - d. The build-to line may be increased to provide a private open space (e.g., landscaped forecourt), pursuant with Section 11-2.3.070, between a residential use in a mixed-use development (e.g., live-work building with ground floor residence) and a front or street property line;
 - e. A significant tree or other environmental feature precludes strict adherence to the standard and will be retained and incorporated in the design of the project;
 - f. A public utility easement or similar restricting legal condition that is outside the applicant’s control makes conformance with the build-to line impracticable; in this case, the building shall instead be placed as close to the street as possible given the legal constraint, and a pedestrian amenities (e.g., plaza, courtyard, landscaping, outdoor seating area, etc.) shall be provided within the street setback in said location pursuant with Section 11-3.2.050;

11-3.2 – Building Orientation and Design | Non-Residential Buildings

- g. Where an existing building that was lawfully created but does not conform to the above standard is proposed for expansion, strict compliance with the build-to line is not required; however, where practicable, the building addition should move in the direction of compliance.
- 2. Except as provided in subsections 3.2.040.C(5)-(6), below, all buildings shall have at least one primary entrance (i.e., tenant entrance, lobby entrance, or breezeway/courtyard entrance) facing an abutting street (i.e., within 45 degrees of the street property line); or if the building entrance must be turned more than 45 degrees away from the street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk in conformance with Section 11-3.3.030.
- 3. Off-street parking, trash storage facilities, and ground-level utilities (e.g., utility vaults), and similar obstructions shall not be placed between building entrances and the street(s) to which they are oriented; to the extent practicable, such facilities shall be oriented internally to the block and accessed by alleys or driveways.
- 4. Off-street parking shall be oriented internally to the site to the extent practicable, and shall meet the Access and Circulation requirements of Chapter 11-3.3, the Landscape and Screening requirements of Chapter 11-3.4, and the Parking and Loading requirements of Chapter 11-3.5.
- 5. Where a development contains multiple buildings and there is insufficient street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to plaza, courtyard, or similar pedestrian space containing pedestrian amenities and meeting the requirements under Section 11-2.3.090, subject to Site Design Review approval. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway conforming to Section 11-3.3.030.

C. Primary Entrances and Windows. The following standards apply to new buildings and building additions that are subject to Site Design Review.

- 1. **All Elevations of Building.** Architectural designs shall address all elevations of a building; building forms, detailing, materials, textures, and color shall contribute to a unified design with architectural integrity. Materials used on the front façade must turn the building corners and include at least a portion of the side elevations, consistent with the building's overall composition and design integrity.
- 2. **Pedestrian Entrances.** Ground level entrances oriented to a street shall be at least partly transparent to for natural surveillance and shall contain pedestrian shelters (e.g., canopy or awning) for weather protection. This standard may be met, for example, by providing a recessed entry with a windowed door, a door with a transom window above the door, or sidelights beside the door. Where ATMs or other kiosks are proposed on any street-facing elevation, they shall be visible from the street for security and have a pedestrian shelter.
- 3. **Corner Entrances.** Buildings on corner lots are encouraged to have corner entrances. Where a corner entrance is not provided, the building plan should provide an architectural element or detailing (e.g., tower, beveled corner, art, special trim, etc.) that accentuates the corner location.
- 4. **Street Level Entrances.** All primary building entrances shall open to the sidewalk and shall conform to ADA requirements, as applicable. Primary entrances above or below grade may be allowed where

ADA accessibility is provided.

5. **Windows – General.** Except as approved for parking structures or accessory structures, the front/street-facing elevations of buildings shall provide display windows, windowed doors and, where applicable, transom windows to express a storefront character.
6. **Storefront Windows.** Storefront windows shall consist of framed picture or bay windows, which may be recessed. Framing shall consist of trim detailing such as piers or pilasters (sides), lintels or hoods (tops), and kick plates or bulkheads (base)—or similar detailing—consistent with a storefront character. The ground floor, street-facing elevation(s) of all buildings shall comprise at least sixty (60) percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base (or 30 inches above the sidewalk grade, whichever is less) and a plane seventy-two (72) inches above the sidewalk grade.
7. **Defined Upper Story(ies).** Building elevations shall contain detailing that visually defines street level building spaces (storefronts) from upper stories. The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials and/or fenestration. Upper floors may have less window area than ground floors, but shall follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices. Upper floor window orientation shall primarily be vertical, or have a width that is no greater than height. Paired or grouped windows that, together, are wider than they are tall, shall be visually divided to express the vertical orientation of individual windows.
8. **Buildings Not Adjacent to a Street.** Buildings that are not adjacent to a street, such as those that are setback behind another building and those that are oriented to a civic space (e.g., internal plaza or court), shall meet the sixty (60) percent transparency standard on all elevations abutting civic spaces(s) and on elevations containing a primary entrance.
9. **Side and Rear Elevation Windows.** All side and rear elevations, except for zero-lot line/common wall elevations, where windows are not required, shall provide not less than thirty (30) percent transparency;
10. **Window Trim.** At a minimum, windows shall contain trim, reveals, recesses, or similar detailing of not less than four (4) inches in width or depth as applicable. The use of decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features) is encouraged.
11. **Projecting Windows, Display Cases.** Windows and display cases shall not break the front plane of the building (e.g., projecting display boxes are discouraged). For durability and aesthetic reasons, display cases, when provided, shall be flush with the building façade (not affixed to the exterior) and integrated into the building design with trim or other detailing. Window flower boxes are allowed provided they do not encroach into the pedestrian through-zone.
12. **Window Exceptions.** The City decision body may approve an exception to the above standards where existing topography makes compliance impractical. Where an exception to the window transparency requirement is made for parking garages or similar structures, the building design must incorporate openings or other detailing that resembles the window patterns (rhythm and scale).

D. Articulation and Detailing. The following standards apply to new buildings and building additions that are subject to Site Design Review.

11-3.2 – Building Orientation and Design | Non-Residential Buildings

1. **Articulation.** All building elevations that orient to a street or civic space must have breaks in the wall plane (articulation) of not less than one break for every thirty (30) feet of building length or width, as follows:
 - a. A “break” for the purposes of this subsection is a change in wall plane of not less than twenty-four (24) inches in depth. Breaks may include but are not limited to an offset, recess, window reveal, pilaster, frieze, pediment, cornice, parapet, gable, dormer, eave, coursing, canopy, awning, column, building base, balcony, permanent awning or canopy, marquee, or similar architectural feature.
 - b. The City Manager or Planning Commission, as applicable, through Site Design Review may approve detailing that does not meet the break-in-wall-plane standard where it finds that proposed detailing is more consistent with the architecture of a historic/historically significant or historic-contributing building existing in the vicinity.
 - c. Changes in paint color and features that are not designed as permanent architectural elements, such as display cabinets, window boxes, retractable and similar mounted awnings or canopies, and other similar features, do not meet the break-in-wall-plane standard.
 - d. Building elevations that do not orient to a street or civic space need not comply with the break-in-wall-plane standard but should complement the overall building design.
2. **Change in Materials.** Elevations should incorporate changes in material that define a building’s base, middle and top, as applicable, and create visual interest and relief. Side and rear elevations that do not face a street, public parking area, pedestrian access way or plaza may utilize changes in texture and/or color of materials, provided that the design is consistent with the overall composition of the building.
3. **Horizontal Lines.** New buildings and exterior remodels shall generally follow the prominent horizontal lines existing on adjacent buildings at similar levels along the street frontage; and a clear visual division shall be maintained between the ground level floor and upper floors, for example, through the use of a belt course, transom, awning, canopy, or similar division. Examples of such horizontal lines include but are not limited to: the base below a series of storefront windows; an existing awning or canopy line, or belt course between building stories; and/or an existing cornice or parapet line. Where existing adjacent buildings do not meet the City’s current building design standards, a new building may establish new horizontal lines.

E. Pedestrian Shelters. Pedestrian shelters, including but not limited to building canopies and awnings, and covered benches, shall comply with applicable building codes, and shall be designed to be visually compatible with the architecture of the building to which they are attached. If mezzanine or transom windows exist, the shelter shall be below such windows where practical. Where applicable, pedestrian shelters shall be designed to accommodate pedestrian signage (e.g., blade signs) while maintaining required vertical clearance.

F. Mechanical Equipment

1. **Building Walls.** Where mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, are permitted on a building wall that abuts a public right-of-way or civic space, it shall be screened pursuant with Chapter 11-3.4. Standpipes, meters, vaults and similar equipment need not be screened but shall not be placed on a front elevation when other

11-3.2 – Building Orientation and Design | Non-Residential Buildings

practical alternatives exist; such equipment shall be placed on a side or rear elevation where practical. Equipment for micro-generation or small-scale renewable energy (e.g., mini-wind turbines, solar panels, and similar features) is subject to the Special Use requirements of Section 11-2.3.190.

2. **Rooftops.** Except as permitted for solar voltaic systems, rooftop mechanical units shall be setback and/or screened behind a parapet wall so that they are not visible from any public right-of-way or civic space. Where such placement and screening is not practicable, the City decision body may approve painting of mechanical units in lieu of screening; such painting may consist of muted, earth-tone colors that make the equipment visually subordinate to the building and adjacent buildings, if any.
3. **Ground-Mounted Mechanical Equipment.** Ground-mounted equipment, such as generators, air compressors, trash compactors, and similar equipment, shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. Hedges, trellises, and similar plantings may also be used as screens where there is adequate air circulation and sunlight, and irrigation is provided. The City may require additional setbacks and/or noise attenuating equipment for compatibility with adjacent uses.

G. Drive-Up and Drive-Through Facilities. Drive-up and drive-through facilities shall comply with the requirements of Section 11-3.2.060.

I. Mixed-Use Building Height Bonus. Where Section 11-2.2.040 provides for a building height bonus for mixed-use development, the City decision body shall approve, approve with conditions, or deny a proposed height bonus based on finding all of the following criteria are met:

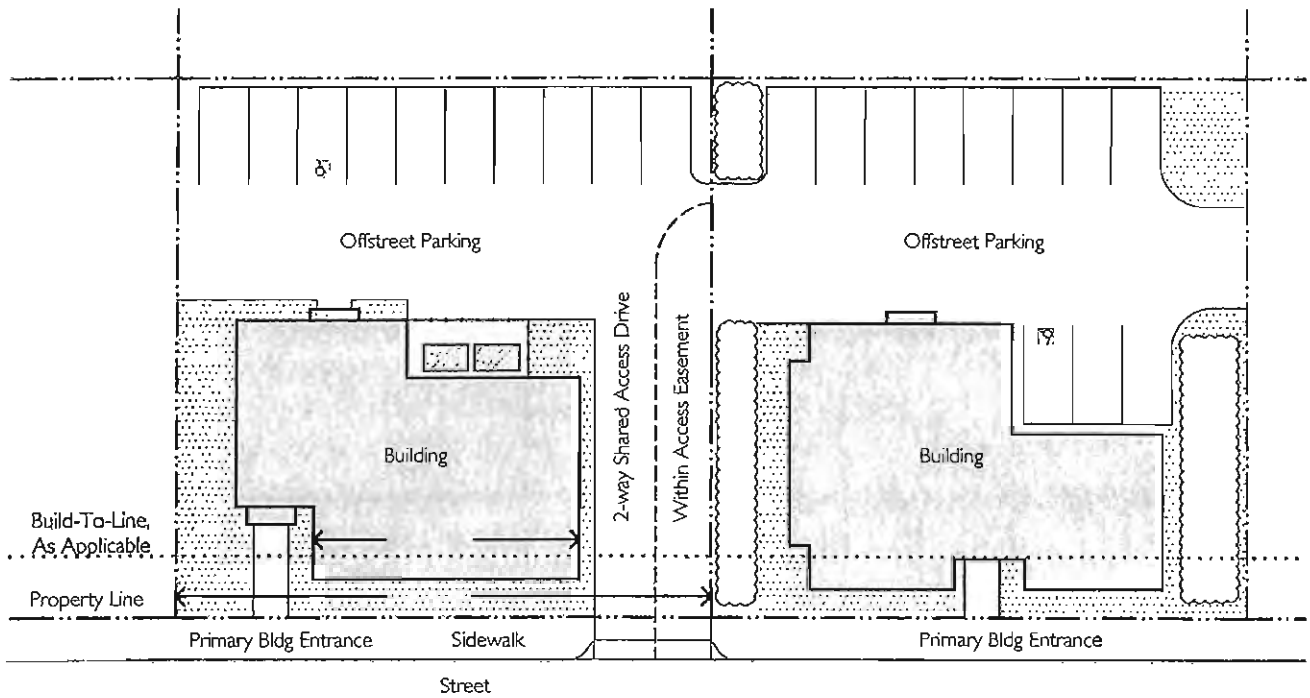
1. The proposed height increase is for sole purpose of allowing a residential use above a permitted commercial, civic, or institutional use; or is required to accommodate structured parking;
2. The proposed building complies with upper story step-back requirements of subsection 11-3.2.040.J; and
3. The proposed increase in height is compatible with adjacent uses and structures, or can be made compatible through reasonable conditions of approval. For the purposes of this subsection, a finding of compatibility means that the proposed height increase does not create a fire hazard; does not conflict with a locally or federally designated historic landmark or district, or with a building found to be eligible for the National Register of Historic Places; and does not create excessive glare, shade, noise, privacy concerns for existing adjacent residential uses.

11-3.2 – Building Orientation and Design | Non-Residential Buildings

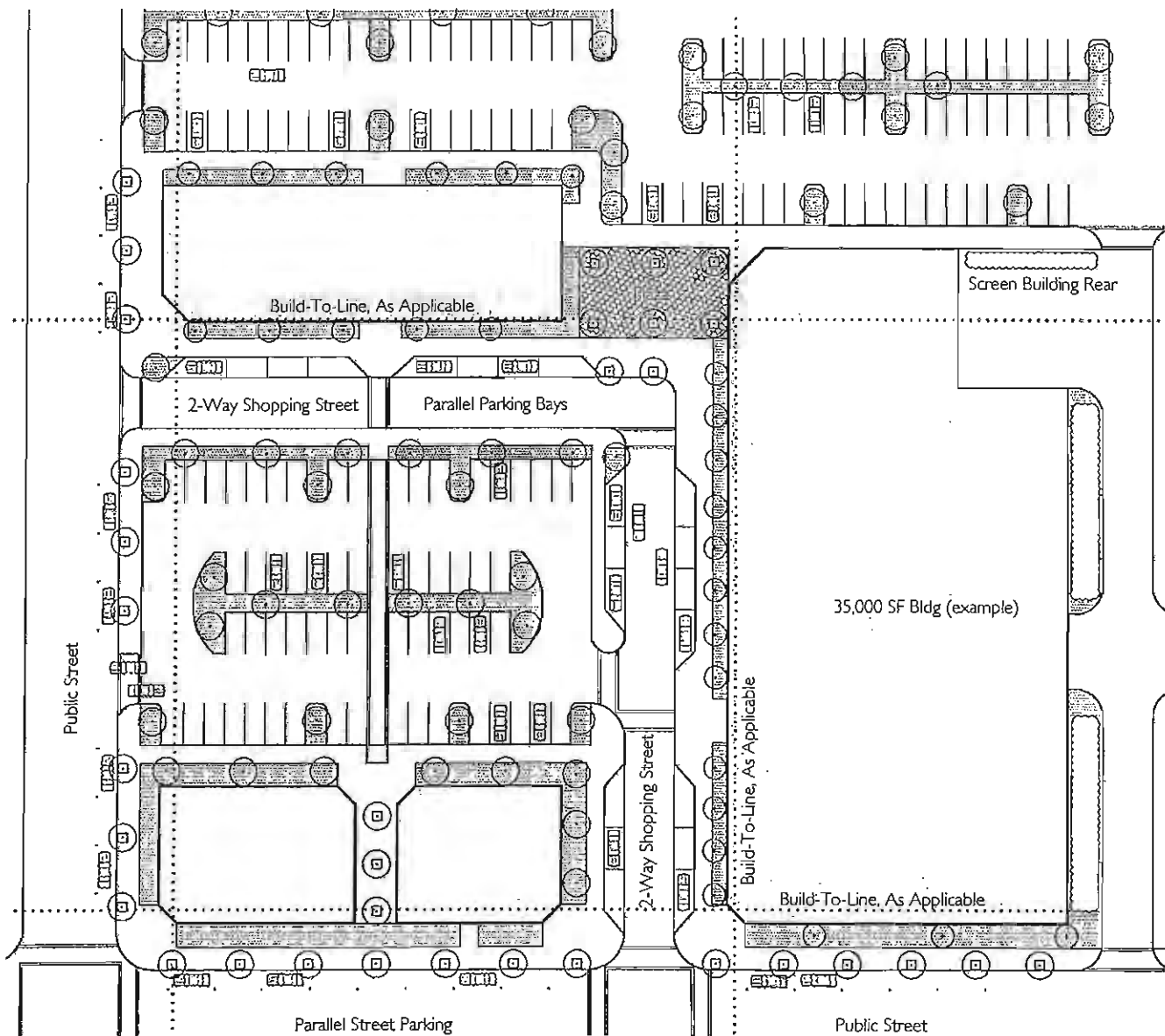
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3.2 – Building Orientation and Design | Non-Residential Buildings

3.2.040.B Building Orientation

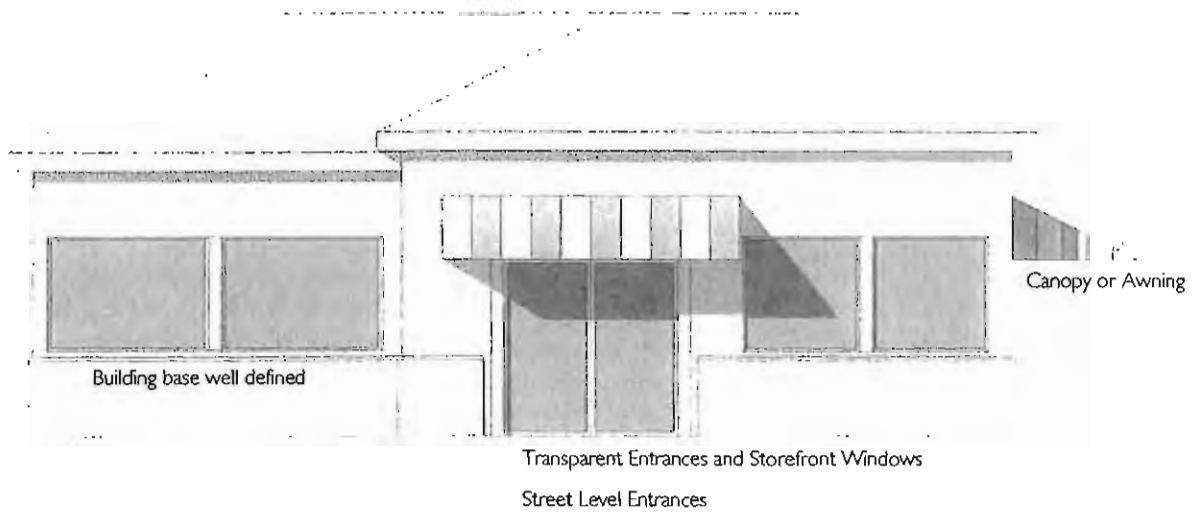


3.2.040.C Large-Format Developments

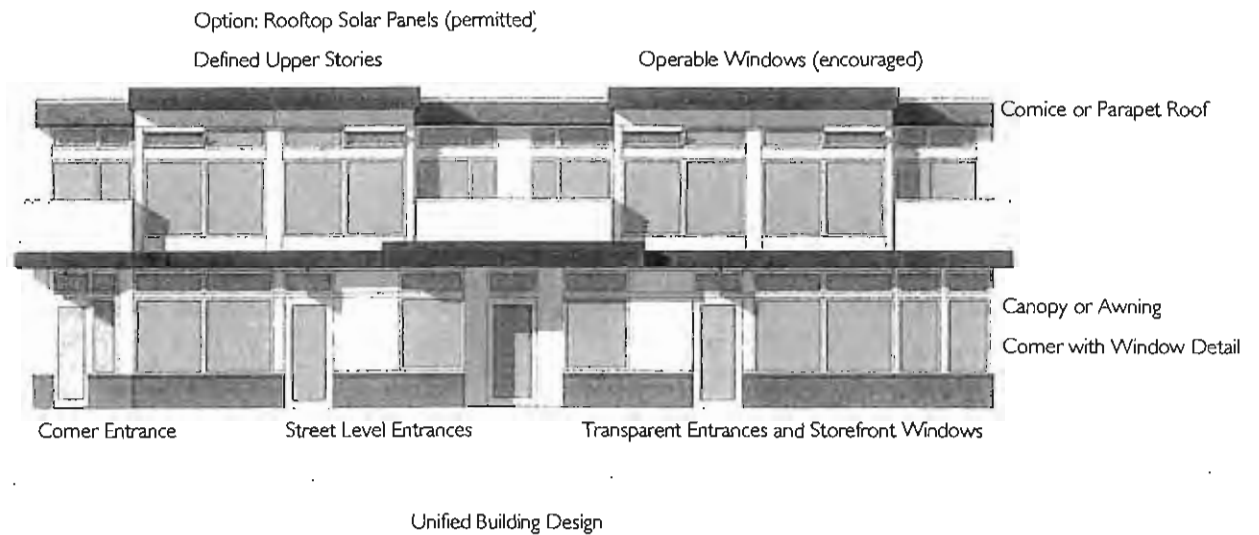


3.2 – Building Orientation and Design | Non-Residential Buildings

3.2.040.D Primary Entrances and Windows, Small Commercial



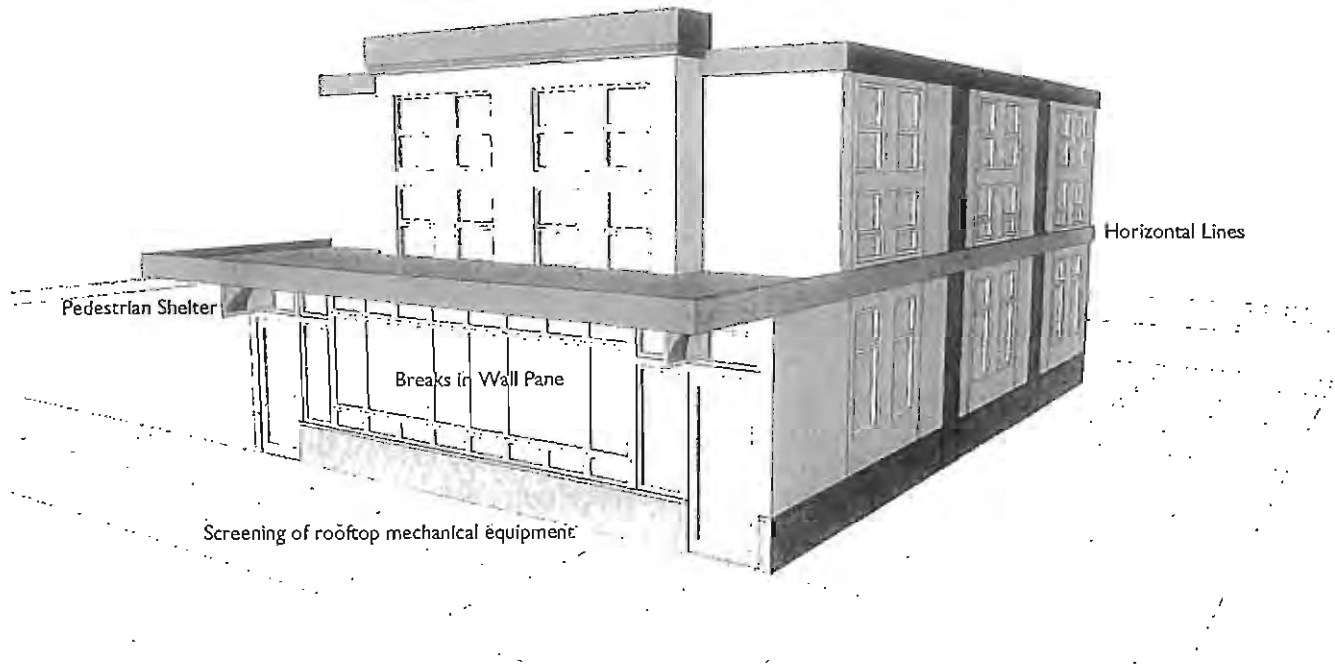
3.2.040.D Primary Entrances and Windows, Large Commercial



3.2 – Building Orientation and Design | Non-Residential Buildings

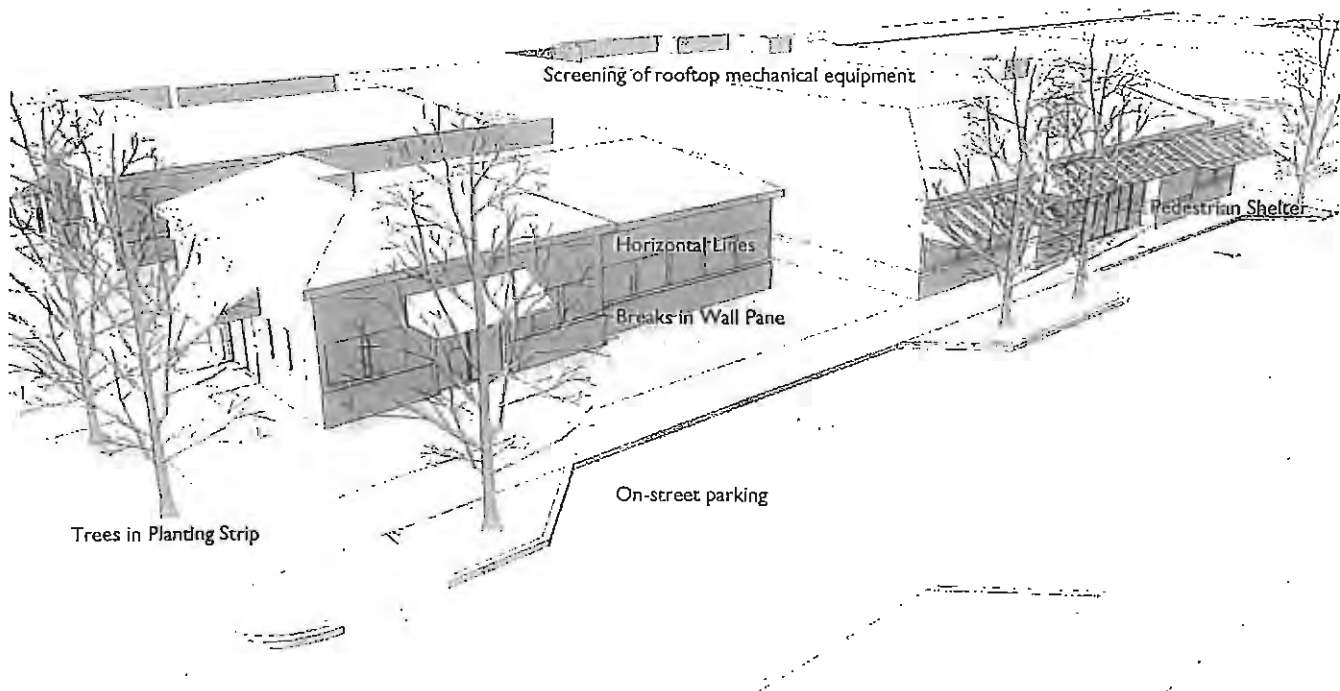
3.2.040.E Articulation and Detailing, Small-Scale Commercial

3.2.040.F Pedestrian Shelters



3.2.040.E Articulation and Detailing, Large-Scale Commercial

3.2.040.F Pedestrian Shelters



11-3.2.050 Civic Space and Pedestrian Amenities

A. Purpose. This section provides standards for civic spaces where such areas are required or provided voluntarily. Civic spaces provide for pedestrian resting areas, and may include protection from the elements (e.g., summer shade, shelter from rain). Civic spaces also offer opportunities for socialization in the most densely developed parts of the city. The code allows developments on properties abutting Main Street to meet minimum landscape area standards of Chapter 11-3.4, in part, by providing civic space adjacent to street frontages or in courtyards or plazas between buildings, instead of with planted areas elsewhere on a lot as is typically done for residential developments.

B. Applicability. All new buildings developed on properties abutting Main Street shall provide pedestrian improvements as required by this section.

C. Standards.

1. Pedestrian Improvements in Civic Spaces. Except as provided by subsections 3.2.050.C(2), below, developments that are subject to this section shall provide pedestrian amenities, pursuant with the following standards:

- a. Pedestrian amenities shall be provided in an amount equal to or greater than (0.25%) of the estimated construction cost of the proposed building(s). A licensed architect, landscape architect, or other qualified professional, shall prepare cost estimates for civic space improvements, which shall be subject to review and approval by the City Manager.
- b. Pedestrian amenities may include, but are not limited to, improved plaza surfaces (with scored concrete or decorative pavers, outdoor seating areas adjacent building entrances, landscaped forecourts, street furnishings (e.g., benches, public art, pedestrian-scale lighting, water fountains, trash receptacles, pedestrian shelters/shade structures), way-finding signs, and similar amenities, as approved by the City Manager or Planning Commission, as applicable, through Site Design Review.
- c. Where a pedestrian shelter (e.g., canopy or awning) is used it shall extend not less than four (4) feet over a sidewalk, walkway, or other area that is actively used by pedestrians.
- d. The City may accept pedestrian amenities proposed within a public right-of-way (e.g., street corner or mid-block pedestrian access way) and grant the developer credit toward fulfilling the above improvement standard.
- e. The developer's contribution toward the cost of public parking facility may be credited toward fulfilling the above improvement standard.

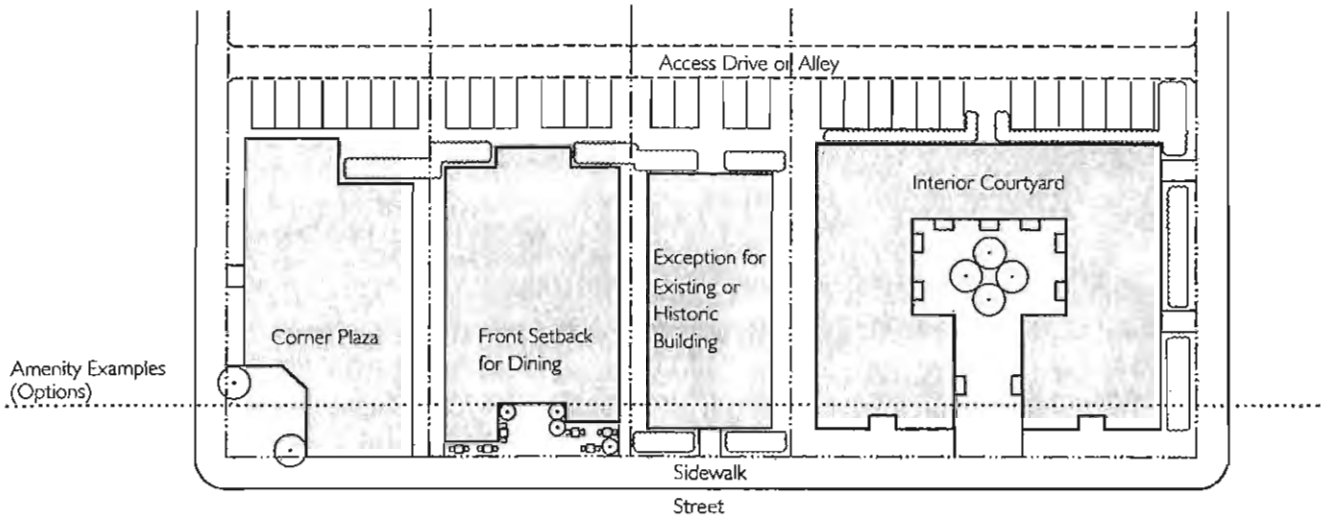
2. Exception for Minor Projects: Building additions and new construction that do not require Site Design Review (Chapter 11-4.2) and exterior remodels that do not meet the definition of a Major Remodel (Chapter 11-5.1) are not required to provide pedestrian amenities. Additionally, the standards of this section do not apply to major remodels of buildings designated locally or by the State or Federal government as historically significant.

11-3.2 – Building Orientation and Design | Civic Space and Pedestrian Amenities

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3.2 – Building Orientation and Design | Civic Space and Pedestrian Amenities

3.2.050.C Standards

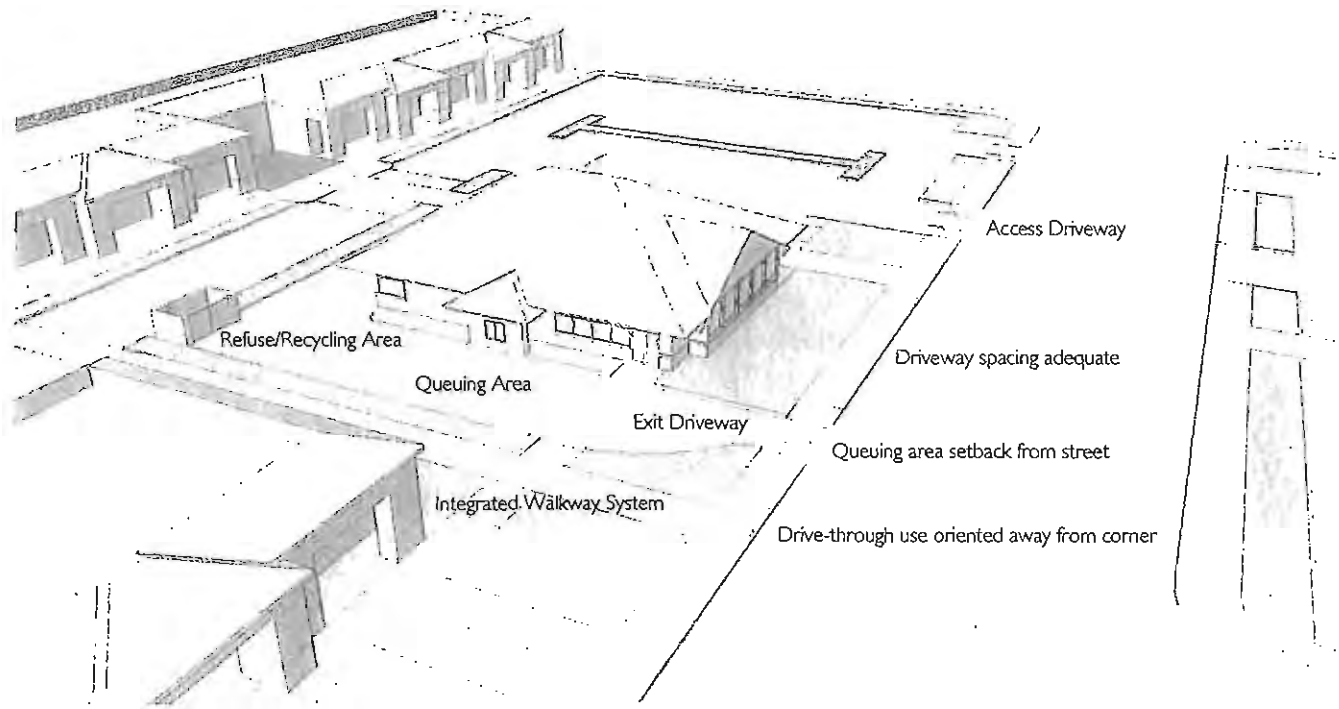


11-3.2.060 Drive-up and Drive-through Uses

- A. Purpose.** Where drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, provide for adequate vehicle queuing space, prevent automobile turning movement conflicts, and provide for pedestrian comfort and safety.
- B. Standards.** Drive-up/drive-through facilities (i.e., driveway queuing area, customer service windows, teller machines, kiosks, drop-boxes, or similar facilities) shall meet all of the following standards:
1. The drive-up/drive-through facility shall orient to and receive access from a driveway that is internal to the development and not a street, as generally illustrated;
 2. The drive-up/drive-through facility shall not be oriented to street corner;
 3. The drive-up/drive-through facility shall not be located within twenty (20) feet of a street right-of-way. Walk-up only teller machines or kiosks, where permitted, shall not be oriented to a street corner;
 4. Drive-up/in queuing areas shall be designed so that vehicles will not obstruct any street, fire lane, walkway, bike lane, or sidewalk.; and
 5. In the Commercial (C) district, no new drive-up/drive-through facility is allowed within 400 linear feet of another drive-up/drive-through facility, where the existing drive-up/drive-through facility lawfully existed as of the date of an application for a new drive-up/drive-through facility.

3.2 – Building Orientation and Design | Drive-up and Drive-through Uses and Facilities

3.2.060.B Standards



3.3 – Access and Circulation | Purpose

Chapter 11-3.3 - Access and Circulation

Sections:

11-3.3.010	Purpose
11-3.3.020	Applicability
11-3.3.030	Vehicular Access and Circulation
11-3.3.040	Pedestrian Access and Circulation

11-3.3.010 Purpose

Chapter 11-3.3 contains standards for vehicular and pedestrian access, circulation, and connectivity. The standards promote safe, reasonably direct, and convenient options for walking and bicycling, while accommodating vehicle access to individual properties, as needed./and access to transit.

11-3.3.020 Applicability

Chapter 11-3.3 applies to new development and changes in land use necessitating a new or modified street access or highway approach. Except where the standards of a roadway authority other than the City supersede City standards, Chapter 11-3.3 applies all connections to a street or highway, and to driveways and walkways. The City Manager, on the advice of the City Engineer or Public Works designee, may grant exceptions to Chapter 11-3.2, where an exception is justified for public safety. For street improvement requirements, refer to Section 11-3.6.020.

11-3.3.030 Vehicular Access and Circulation

- A. Purpose and Intent.** Section 11-3.3.030 implements the City of Nyssa Transportation System Plan. It is intended to promote safe vehicle access and egress to properties, while maintaining traffic operations in conformance with adopted standards. “Safety,” for the purposes of this Chapter, extends to all modes of transportation.
- B. Permit Required.** Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires an approach permit approved by the applicable roadway authority. The City Engineer or Public Works Designee reviews permit requests for connections to City streets in conformance with the City’s Public Works Design Standards.
- C. Traffic Study Requirements.** The City in reviewing a development proposal or other action requiring an approach permit may require a traffic impact analysis, pursuant with Section 11-3.6.020, to determine compliance with this code.
- D. Approach and Driveway Development Standards.** Approaches and driveways shall conform to all of the following development standards:
1. The number of approaches on higher classification streets (e.g., collector and arterial streets) shall be minimized; where practicable, access shall be taken first from a lower classification street;
 2. Approaches shall conform to the spacing standards of subsections ‘E’ and ‘F’, below, and shall conform to minimum sight distance and channelization standards of the roadway authority;
 3. Driveways shall be paved and meet applicable construction standards. Where permeable paving surfaces are allowed or required, such surfaces shall conform to applicable Public Works Design Standards;
 4. The City may limit the number or location of connections to a street, or limit directional travel at an approach to one-way, right-turn only, or other restrictions, where the roadway authority requires mitigation to alleviate safety or traffic operations concerns;
 5. Where the spacing standards of the roadway authority limit the number or location of connections to a street or highway, the City may require a driveway extend to one or more edges of a parcel and be designed to allow for future extension and inter-parcel circulation as adjacent properties develop. The City may also require the owner(s) of the subject site to record an access easement for future joint use of the approach and driveway as the adjacent property(ies) develop(s);
 6. Where applicable codes require emergency vehicle access, approaches and driveways shall be designed and constructed to accommodate emergency vehicle apparatus and shall conform to applicable fire protection requirements. The City may restrict parking, require signage, or require other public safety improvements pursuant to the recommendations of an emergency service provider;
 7. As applicable, approaches and driveways shall be designed and constructed to accommodate truck/trailer-turning movements;
 8. Except where the City decision body and roadway authority, as applicable, permit an open access with perpendicular or angled parking (See Section 11-3.3.030), driveways shall accommodate all projected

11-3.3 – Access and Circulation | Vehicular Access and Circulation

vehicular traffic on-site without vehicles stacking or backing up onto a street.

9. Driveways shall be designed so that vehicle areas, including but not limited to drive-up and drive-through facilities and vehicle storage and service areas, do not obstruct any public right-of-way;
10. Approaches and driveways shall not be wider than necessary to safely accommodate projected peak hour trips and turning movements, and shall be designed to minimize crossing distances for pedestrians.
11. As it deems necessary for pedestrian safety in areas with a history of speeding or accidents, the City, in consultation with the roadway authority, as applicable, may require traffic-calming features be installed on or in the vicinity of a site as a condition of development approval. Examples of traffic-calming features include but are not limited to raised crosswalks (speed tables), speed humps, textured driveway surfaces (e.g., pavers or similar devices), curb extensions, signage or traffic control devices, and other features,
12. Construction of approaches along acceleration or deceleration lanes, and along tapered (reduced width) portions of a roadway, shall be avoided; except where no reasonable alternative exists and the approach does not create safety or traffic operations concern;
13. Approaches and driveways shall be located and designed to allow for safe maneuvering in and around loading areas, while avoiding conflicts with pedestrians, parking, landscaping, and buildings;
14. Where sidewalks or walkways occur adjacent to a roadway, driveway aprons shall be installed between the driveway and roadway edge in conformance with the design standards of the applicable roadway authority. The roadway authority may require the driveway apron be installed outside the required sidewalk or walkway surface, consistent with Americans With Disabilities Act requirements, and to manage surface water runoff and protect the roadway surface;
15. Where an accessible route is required pursuant with the Americans with Disabilities Act, approaches and driveways shall meet accessibility requirements where they coincide with an accessible route;
16. The City may require changes to the proposed configuration and design of an approach, including the number of drive aisles or lanes, surfacing, traffic-calming features, allowable turning movements, and other changes or mitigation, to ensure traffic safety and operations;
17. Where a new approach onto a state highway or a change of use adjacent to a state highway requires ODOT approval, the applicant is responsible for obtaining ODOT approval. The City may approve a development conditionally, requiring the applicant first obtain required ODOT permit(s) before commencing development;
18. Where an approach or driveway crosses a drainage ditch, canal, railroad, or other feature that is under the jurisdiction of another agency, the applicant is responsible for obtaining all required approvals and permits from that agency prior to commencing development.
19. Where a proposed driveway crosses a culvert or drainage ditch, the City may require the developer to install a culvert extending under and beyond the edges of the driveway on both sides of it, pursuant to the design standards of the applicable roadway authority and/or drainage district.
20. Except as otherwise required by the applicable roadway authority or waived by the City Manager, temporary driveways providing access to a construction site or staging area shall be paved or graveled to prevent tracking of mud onto adjacent paved streets.

- E. Approach Separation from Street Intersections.** Except as provided by Section 11-3.3.030.H, the following minimum distances shall be maintained between approaches and street intersections, where distance is measured from the edge of an approach surface to the edge of the roadway at its ultimate designated width:
1. On an arterial street: One hundred (100) feet, except as required by ODOT, pursuant to Oregon Administrative Rule (OAR) 734-051, for state highways;
 2. On a collector street: fifty (50) feet;
 3. On a local street: twenty (20) feet.
- F. Approach Spacing.** Except as provided by Section 11-3.3.030.H or as required to maintain street operations and safety, the following minimum distances shall be maintained between approaches, where distance is measured from the edge of one approach to the edge of another:
1. On an arterial street: 150-360 feet, based on speed limit or posted speed, as determined by a qualified traffic engineer, except as otherwise required by ODOT for a state highway, pursuant with Oregon Administrative Rules (OAR) 734-051;
 2. On a collector street: fifty (50) feet, except where greater separation is required for traffic operations or safety;
 3. On a local street: twenty (20) feet, or the City may approve closer spacing where necessary to provide for on-street parking (e.g., between paired driveway approaches).
- G. Vision Clearance.** No visual obstruction shall be placed in a “vision clearance area,” as illustrated on page 3-35. The minimum vision clearance area may be modified by the City Engineer or Public Works Designee upon finding that more or less sight distance is required (i.e., due to traffic speeds, roadway alignment, etc.). Placement of light poles, utility poles, and tree trunks should be avoided within vision clearance areas.
- H. Modifications to Standards.** The City Engineer or Public Works Designee may modify the spacing standards of subsections ‘E’ and ‘F’, above, where an existing connection to a City street does not meet City standards and the proposed development moves in the direction of code compliance. The City Engineer or Public Works Designee may also approve a modification to the spacing standards on City streets where mitigation measures, such as consolidated access (removal of one access), joint use driveways (more than one property uses same access), directional limitations (e.g., one-way), turning restrictions (e.g., right in/out only), or other mitigation alleviate all traffic operations and safety concerns.
- I. Joint Use Access Easement and Maintenance Agreement.** Where the City Engineer or Public Works Designee approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of/cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the City Manager for city records, but the city is not responsible for maintaining the driveway or resolving any dispute between property owners.

- J. Maximum Driveway Length.** The maximum length of a driveway, and/or the maximum number of dwelling units or structures that may be served by a single access point, may be limited based on applicable building and fire code requirements; but in no case shall a private driveway be used to avoid compliance with the City's public improvement requirements.

3.3 – Vehicular Access and Circulation | Approach and Driveway Development Standards

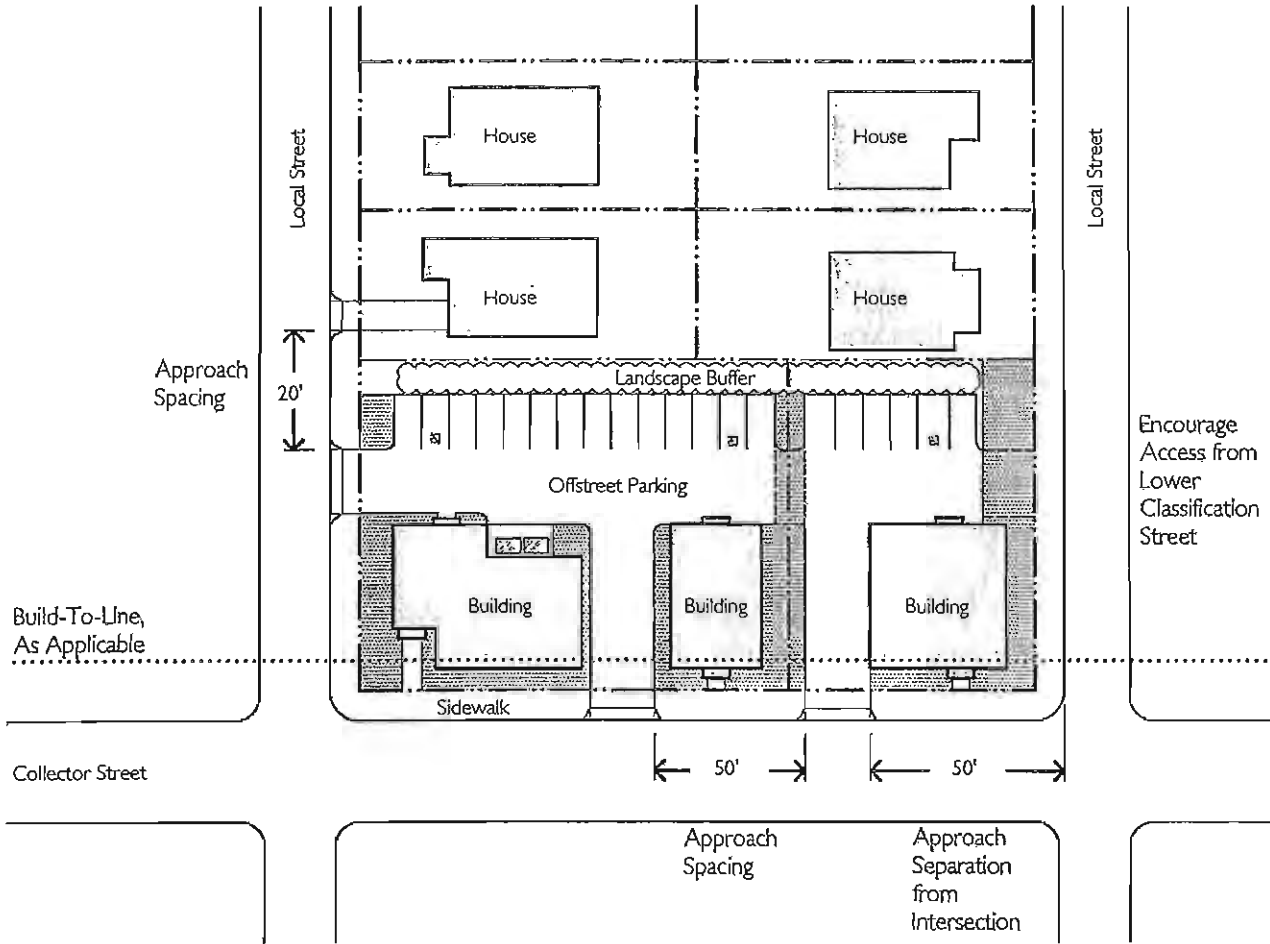
3.3.030.D Standards



Top: Decorative residential driveway apron with set pavers
Bottom: Commercial driveway apron with sidewalk

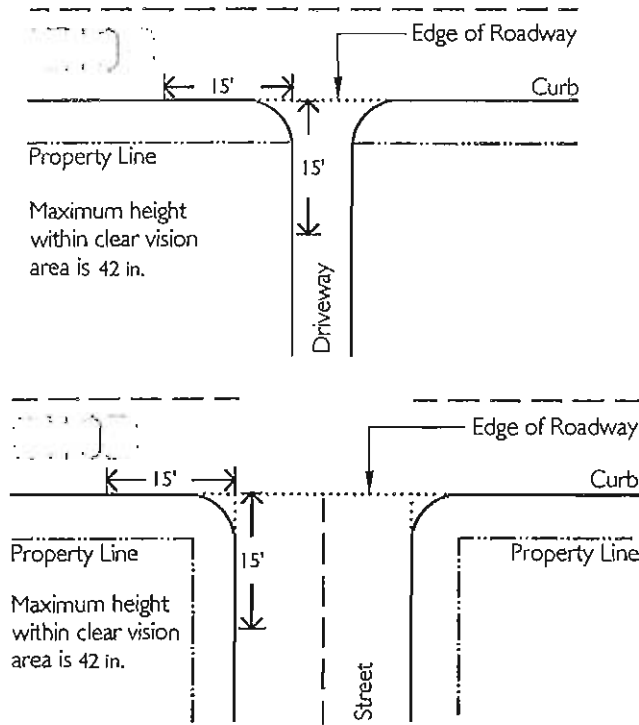
3.3 – Access and Circulation | Vehicular Access and Circulation

3.3.030.E Approach Separation from Street Intersections



3.3 – Access and Circulation | Vehicular Access and Circulation

3.3.030.G Vision Clearance



11-3.3 – Access and Circulation | Pedestrian Access and Circulation

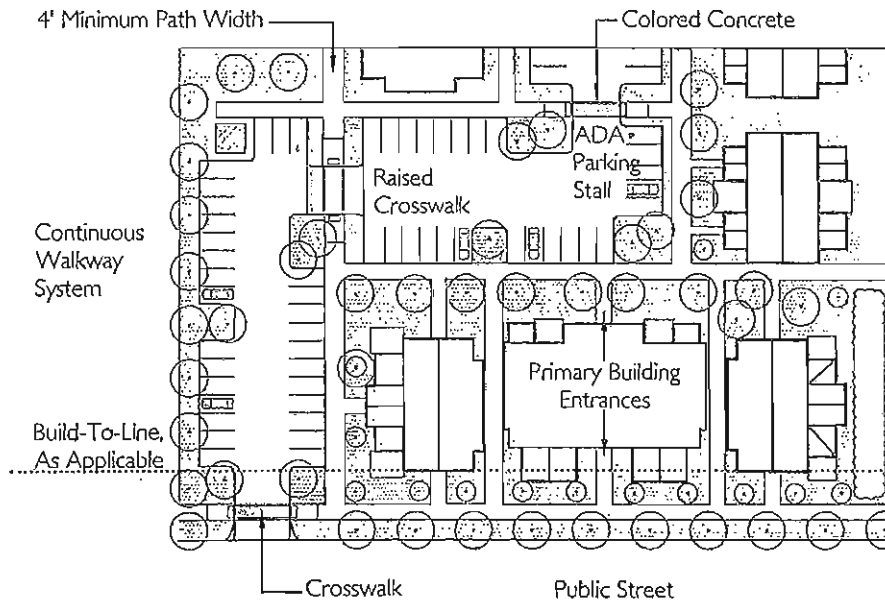
11-3.3.040 Pedestrian Access and Circulation

A. Purpose and Intent. Section 11-3.3.040 implements the City of Nyssa Transportation System. It is intended to provide for safe, reasonably direct, and convenient pedestrian access and circulation.

B. Standards. Developments shall meet the following standards for pedestrian access and circulation:

1. **Continuous Walkway System.** A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable.
2. **Safe, Direct, and Convenient.** Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas/playgrounds, and public rights-of-way based on all of the following criteria:
 - a. The walkway is reasonably direct, such that it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of-direction travel;
 - b. The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The City decision-making body may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.
 - c. The walkway network connects to all primary building entrances, consistent with the building design standards of Chapter 11-3.2 and, where required, Americans With Disabilities Act requirements.
3. **Vehicle/Walkway Separation.** Except as required for crosswalks, per subsection 11-4, below, where a walkway abuts a driveway or street it shall be raised six (6) inches and curbed along the edge of the driveway/street. Alternatively, the City decision-making body may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle-maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.
4. **Crosswalks.** Where a walkway crosses a parking area or driveway (“crosswalk”), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrast). The crosswalk may be part of a speed table to improve driver-visibility of pedestrians. Painted or thermo-plastic striping and similar types of non-permanent applications are discouraged, but may be approved for lesser used crosswalks not exceeding 24 feet in length.
5. **Walkway Width and Surface.** Walkways, including access ways required for subdivisions pursuant with Chapter 11-4.3, shall be constructed of concrete, asphalt, brick/masonry pavers, or other durable surface, as approved by the City Engineer or Public Works Designee and shall not be less than six (6) feet wide in commercial zones and not less than five (5) feet wide in residential and industrial zones. Multi-use paths (i.e., designed for shared use by bicyclists and pedestrians) shall be subject to review and approval of the City Engineer or Public Works Designee and shall conform to the transportation standards of Section 11-3.6.020.

3.3.040.B Standards



Chapter 11-3.4 - Landscaping, Fences and Walls, Outdoor Lighting

Sections:

11-3.4.010	Purpose
11-3.4.020	Applicability
11-3.4.030	Landscaping and Screening
11-3.4.040	Fences and Walls
11-3.4.050	Outdoor Lighting

11-3.4.010 Purpose

Chapter 11-3.4 contains standards for landscaping and screening, fences, accessory walls, and outdoor lighting. The regulations are intended protect public health, safety and welfare by reducing development impacts, such as glare, noise, and visual impacts, on adjacent uses; minimizing erosion; slowing the rate of surface water runoff, thereby reducing infrastructure costs; buffering pedestrians from vehicle maneuvering areas; cooling buildings and parking lots in summer months with shade; and enhancing the city's appearance.

11-3.4.020 Applicability

- A.** Section 11-3.4.030 establishes design standards for landscaping and screening. Projects requiring Site Design Review or Land Division approval shall meet the landscape standards of the applicable zone, including the standards in Table 11-2.2.040 and any Special Use requirements under Chapter 11-2.4, and the requirements of Section 11-3.4.030. Property owners are required to maintain landscaping and screening pursuant with subsection 11-3.4.030.G.
- B.** Section 11-3.4.040 establishes design standards for when a fence or a wall not attached to a building is to be erected, extended, or otherwise altered; it also applies to situations where this code requires screening or buffering (e.g., outdoor/unenclosed storage uses). The standards of Section 11-3.4.040 supplement the development standards in Table 11-2.2.040 and any applicable Special Use requirements under Chapter 11-2.4.
- C.** Section 11-3.4.050, Outdoor Lighting, applies to all new outdoor lighting, i.e., lighting that is installed after July 12, 2013.

11-3.4.030 Landscaping and Screening

- A. General Landscape Standard.** All portions of a lot not otherwise developed with buildings, accessory structures, vehicle maneuvering areas, or parking shall be landscaped.
- B. Minimum Landscape Area.** All lots shall conform to the minimum landscape area standards of the applicable zoning district, as contained in Table 11-2.2.040. The city decision body, consistent with the purposes in Section 11-3.4.010, may allow credit toward the minimum landscape area for existing vegetation that is retained in the development.
- C. Plant Selection.** A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions, among other factors. When new vegetation is planted, soils shall be amended and irrigation shall be provided, as necessary, to allow for healthy plant growth. The selection of plants shall be based on all of the following standards and guidelines:
1. Use plants that are appropriate to the local climate, exposure, and water availability. The presence of utilities and drainage conditions shall also be considered. The City may rely on university extension service bulletins and other expert sources in evaluating landscape plans.
 2. Plant species that do not require irrigation once established (naturalized) are preferred over species that require irrigation.
 3. Trees shall be not less than two-inch (2") caliper for street trees one and one-half-inch (1.5") caliper for other trees at the time of planting. Trees to be planted under or near power lines shall be selected so as to not conflict with power lines at maturity.
 4. Shrubs shall be planted from five (5) gallon containers, minimum, where they are for required screens or buffers, and two (2) gallon containers minimum elsewhere.
 5. Shrubs shall be spaced in order to provide the intended screen or canopy cover within two (2) years of planting.
 6. All landscaped area, whether required or not, that is not planted with trees and shrubs or covered with allowable non-plant material, shall have ground cover plants that are sized and spaced to achieve plant coverage of not less than fifty (50) percent at maturity. The City decision body may reduce this standard by fifty percent (50%) where a project proposal includes preserving a large, mature tree that contributes positively to the landscape design.
 7. Bark dust, chips, aggregate, or other non-plant ground covers may be used, but shall cover not more than fifty (50) percent of any landscape area. Non-plant ground covers are not a substitute for required ground cover plants.
 8. Where storm water retention/detention or water quality treatment facilities are proposed, they shall be planted with water-tolerant species.
 9. Existing mature trees that can thrive in a developed area and that do not conflict with other provisions of this code shall be retained where specimens are in good health, have desirable aesthetic

11-3.4 – Landscaping, Fences and Walls, Outdoor Lighting | Landscaping and Screening

characteristics, and do not present a hazard;

10. Landscape plans shall avoid conflicts between plants and buildings, streets, walkways, utilities, and other features of the built environment;
11. Evergreen plants shall be used where a sight-obscuring landscape screen is required;
12. Deciduous trees should be used where summer shade and winter sunlight is desirable;
13. Landscape plans should provide focal points within a development, for example, by preserving large or unique trees or groves or by using flowering plants or trees with fall color;
14. Landscape plans should use a combination of plants for seasonal variation in color and yearlong interest;
15. Where plants are used to screen outdoor storage or mechanical equipment, the selected plants shall have growth characteristics that are compatible with such features;
16. Landscape plans shall provide for both temporary and permanent erosion control measures, which shall include plantings, where cuts or fills, including berms, swales, storm water detention facilities, and similar grading, is proposed.
17. When new vegetation is planted, soils shall be amended and irrigation provided, as necessary, until the plants are naturalized and able to grow on their own.

D. Commercial (C) Zone Streetscape Standard. Developers of projects within the C zone can meet the landscape area requirement of subsection 11-3.4.030.B by installing street trees in front of their project where none currently exist or by providing landscape planters, subject to review and approval through Site Design Review. Credit toward meeting minimum landscape area standards may be granted at a ratio of 1:1, where one (1) square foot of planted area (e.g., tree well or planter surface area) receives one (1) square foot of credit. The City decision-making body may also grant landscape area credit by the same ratio where the developer widens the sidewalk (e.g., for cafe seating area) adjacent to a building entrance or creates a plaza with pedestrian amenities pursuant to Section 11-3.2.050.

E. Parking Lot Landscaping. Where a new parking lot or alteration to an existing parking lot is subject to Site Design Review, all of the following standards shall be met, except that the City decision-making body may adjust one or more of the standards where existing development patterns or other physical site constraints prevent full conformance:

1. A minimum of ten (10) percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of canopy trees distributed throughout the parking area; or, for smaller parking lots, trees shall be planted at the parking lot perimeter. A combination of deciduous and evergreen trees, shrubs, and ground cover plants is required. For parking lots of twenty (20) or more parking spaces, trees shall be retained and/or planted to create a twenty (20) percent or greater canopy cover over the parking lot within five (5) years of planting. At a minimum, one (1) tree per twelve (12) parking spaces on average shall be planted.
2. Trees shall be retained and/or planted in landscape islands, with not less than one tree for every twelve (12) parking spaces. Landscape islands shall have an area of not less than forty-eight (48) square feet and

11-3.4 – Landscaping, Fences and Walls, Outdoor Lighting | Landscaping and Screening

no dimension of less than six (6) feet, to ensure adequate soil, water, and space for healthy plant growth;

3. All required parking lot landscape areas not otherwise planted with trees must contain a combination of shrubs and groundcover plants; and
4. Wheel stops, curbs, bollards or other physical barriers are required along the edges of all vehicle-maneuvering areas to protect landscaping from being damaged by vehicles. Trees shall be planted not less than two (2) feet from any such barrier.
5. Trees planted in tree wells within sidewalks or other paved areas shall be installed with root barriers, consistent with applicable nursery standards.

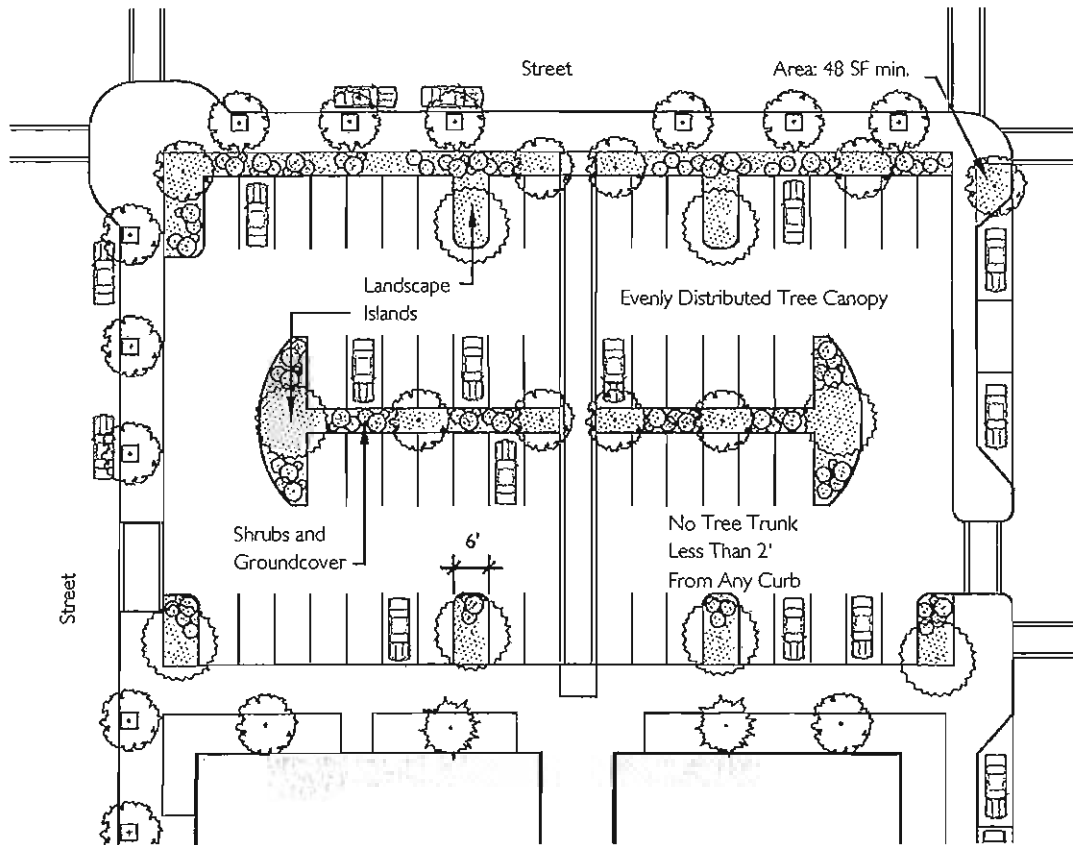
F. Screening Requirements. Screening is required for outdoor storage areas, unenclosed uses, and parking lots, and may be required in other situations as determined by the City decision-making body. Landscaping shall be provided pursuant with the standards of subsections 1-3, below:

1. **Outdoor Storage and Unenclosed Uses.** All areas of a site containing or proposed to contain outdoor storage of goods, materials, equipment, and vehicles (other than required parking lots and service and delivery areas, per Site Design Review), and areas containing junk, salvage materials, or similar contents, shall be screened from view from adjacent rights-of-way and residential uses by a sight-obscuring fence, wall, landscape screen, or combination of screening methods. See also Section 11-3.4.040 for related fence and wall standards.
2. **Parking Lots.** The edges of parking lots shall be screened to minimize vehicle headlights shining into adjacent rights-of-way and residential yards. Parking lots abutting sidewalk or walkway shall be screened using a low-growing hedge or low garden wall to a height of three to four (3-4) feet.
3. **Other Uses Where Requiring Screening.** The City decision-making body may require screening in other situations as authorized by this code, such as for outdoor storage areas, blank walls, and special uses, pursuant to Chapter 11-2.4.

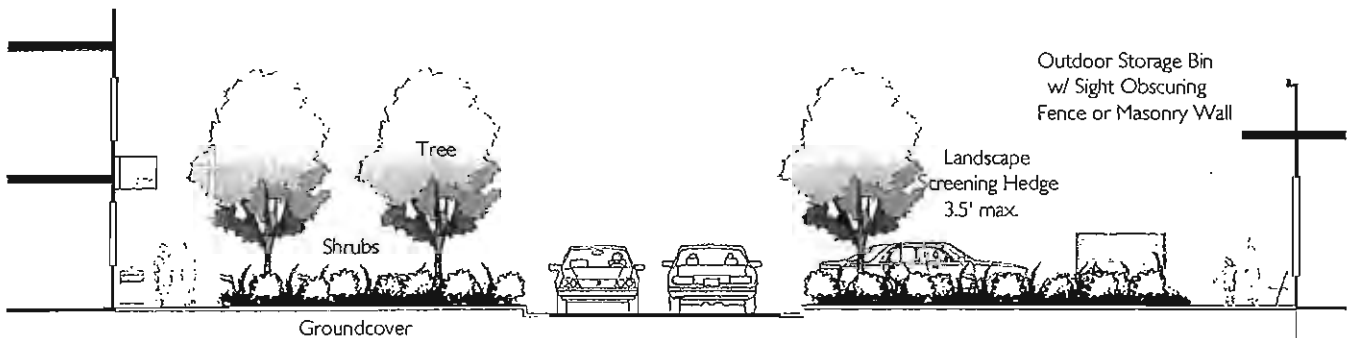
G. Maintenance. All landscaping shall be maintained in good condition, or otherwise replaced by the property owner.

3.4 – Landscaping, Fences and Walls | Landscaping and Screening

3.4.030.E Parking Lot Landscaping



3.4.030.F Screening Requirements



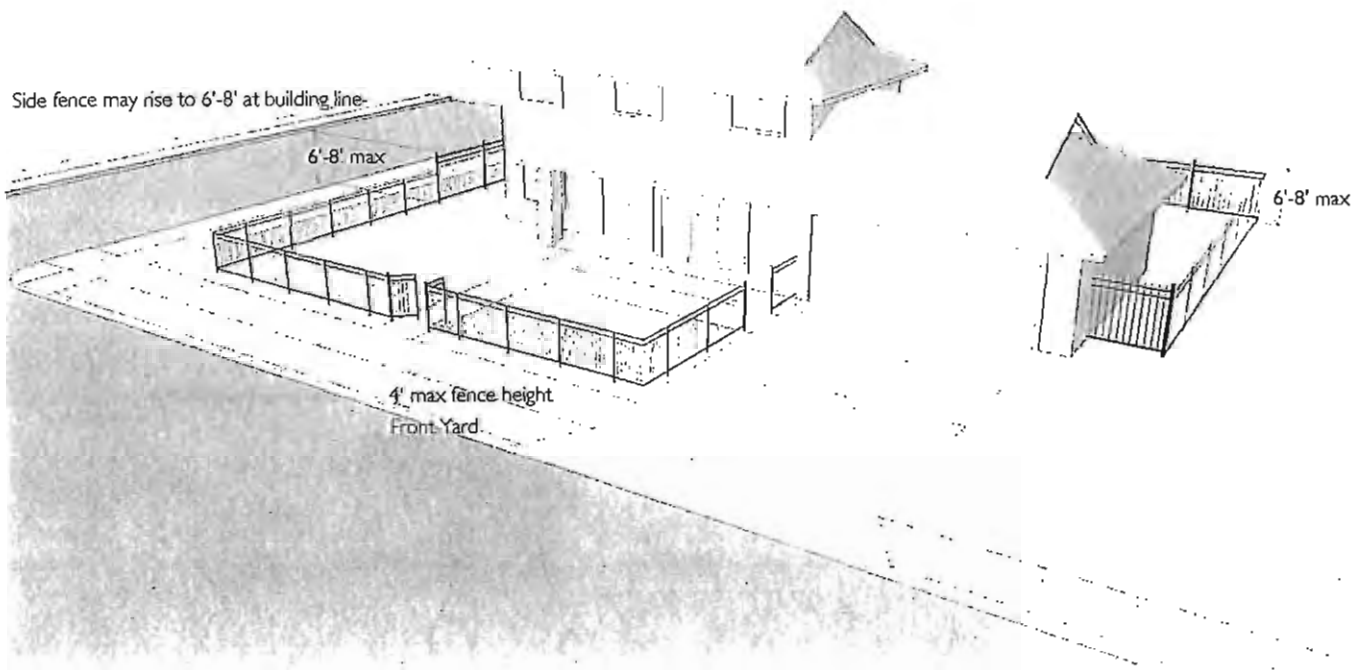
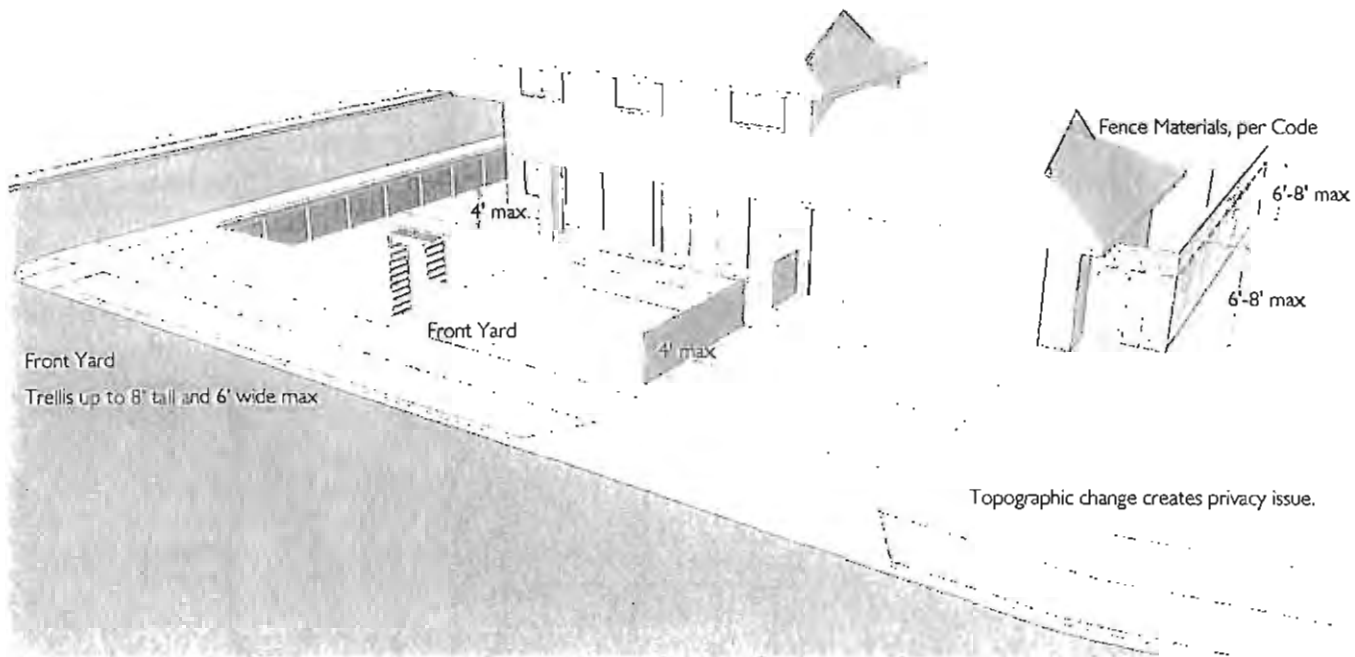
11-3.4.040 Fences and Walls

- A. Purpose.** This section provides general development standards for fences, and walls that are not part of a building, such as screening walls and retaining walls.
- B. Applicability.** Section 11-3.4.040 applies to all fences and walls that are not part of a building, including modifications to existing fences and walls. The standards do not apply to retaining walls where the height of the exposed portion of the wall (i.e., above the highest finished grade) is less than four (4) feet. Other provisions of this code, or the requirements of the roadway authority, may further limit allowable height, location, and/or design location of a fence or wall.
- C. Height.** Fences and walls subject to this section shall conform to the height standards in Table 11-2.3.040. Additionally, all fences and walls shall comply with the vision clearance standards of Section 11-3.3.020.
- D. Materials.**
1. Permitted fence and wall materials include weather-treated wood; untreated cedar and redwood; metal (e.g., chain link, wrought iron, and similar fences); bricks, stone, masonry block, formed-in-place concrete, or similar masonry; vinyl and composite (e.g., recycled) materials designed for use as fencing; and similar materials as determined by the City Manager. In addition, evergreen hedges are considered screening walls for the purpose of this Chapter, subject to Site Design Review approval.
 2. Prohibited fence and wall materials include straw bales, tarps, barbed or razor wire (except in Industrial zone); scrap lumber, untreated wood (except cedar or redwood), corrugated metal, sheet metal, scrap materials; dead, diseased, or dying plants; and materials similar to those listed herein.
- E. Permitting.** Zoning Checklist review (Type I review) is required prior to installing any permanent fence or wall to ensure compliance with City standards. The property owner should obtain a property boundary survey where property boundaries are not otherwise identified. Where a development is subject to land use approval through a Type II or Type III procedure, the City may require installation of walls and/or fences as a condition of approval for development, as provided by other Code sections. A building permit may be required for some fences and walls, pursuant with applicable building codes.
- F. Maintenance.** Fences and walls shall be maintained in good condition, or otherwise replaced by the property owner.

3.4 – Landscaping, Fences and Walls | Fences and Walls

3.4.040.C Height, Single-Family Residential

3.4.040.D Materials



11-3.4.050 Outdoor Lighting

A. Purpose. This section contains regulations requiring adequate levels of outdoor lighting while minimizing negative impacts of light spillover onto adjacent properties and unnecessary illumination of the night sky, or light pollution.

B. Applicability. All outdoor lighting shall comply with the standards of this section.

C. Standards.

1. Light poles, except as required by a roadway authority or public safety agency, shall not exceed a height of twenty (20) feet; pedestrian-scale lighting, such as the acorn-style lighting on Main Street, is the preferred method illuminating walkways. The above height limitation does not apply to flag poles, utility poles, and streetlights
2. Where a light standard is placed over a sidewalk or walkway, a minimum vertical clearance of eight (8) feet shall be maintained.
3. Outdoor lighting levels shall be subject to review and approval through Site Design Review. As a guideline, lighting levels shall be no greater than necessary to provide for pedestrian safety, property/business identification, and crime prevention. See also, the City of Nyssa Sign Code.
4. Except as provided for up-lighting of flags and permitted building-mounted signs, all outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties.
5. Lighting shall be installed where it will not obstruct public ways, driveways, or walkways.
6. Walkway lighting shall have a minimum average illumination of not less than 0.2 foot-candles.
7. Active building entrances shall have a minimum average illumination of not less than 2.0 foot-candles.
8. Surfaces of signs shall have an illumination level of not more than 2.0 foot-candles
9. Parking lots and outdoor services areas, including quick vehicle service areas, shall have a minimum illumination of not less than 0.2 foot-candles, and average illumination of approximately 0.8 foot-candles, and a uniformity ratio (maximum-to-minimum ratio) of not more than 20:1.
10. Where illumination grid lighting plans cannot be reviewed or if fixtures do not provide photometrics and bulbs are under 2,000 lumens, use the following guidelines: (a) Poles should be no greater in height than four times the distance to the property line, and maximum lumen levels should be based on fixture height.
11. Where a light standard is placed within a walkway, an unobstructed pedestrian through zone not less than 48 inches wide shall be maintained.
12. Lighting subject to this Section shall consist of materials approved for outdoor use and shall be installed according to the manufacturer's specifications.

11-3.4 – Landscaping, Fences and Walls, Outdoor Lighting | Outdoor Lighting

- D. Permitting.** Where a proposed development is subject to Type II or Type III review, the City decision-making body may require specific lighting levels or limit lighting as a condition of approval to protect the public health, safety and welfare.
- E. Maintenance.** Outdoor lighting shall be maintained in good condition, or otherwise replaced by the property owner.

Chapter 11-3.5 - Parking and Loading

Sections:

- 11-3.5.010 Purpose
- 11-3.5.020 Applicability General Regulations
- 11-3.5.030 Automobile Parking
- 11-3.5.040 Bicycle Parking
- 11-3.5.050 Loading Areas

11-3.5.010 Purpose

Chapter 11-3.5 contains requirements for automobile and bicycle parking. The code is intended to be flexible in requiring adequate parking, rather than a minimum number of parking spaces, for each use. It provides standards for the location, size, and design of parking areas to ensure such areas can be accessed safely and efficiently. The code also encourages non-motorized transportation by requiring bicycle parking for some uses.

11-3.5 – Parking and Loading | Automobile Parking

11-3.5.020 Applicability and General Regulations

- A. Where the Regulations Apply.** The regulations of this chapter apply to all parking areas in all zones, at all times, whether parking is required by this code or put in for the convenience of property owners or users.
- B. Occupancy.** All required parking areas must be developed in accordance with the requirements of this code prior to occupancy of any structure on the subject site. Where landscaping, screening or other improvements are required pursuant with this code, all such improvements must be installed and approved by the City Manager prior to occupancy.
- C. Calculations of Amounts of Required and Allowed Parking.**
1. When computing parking spaces based on floor area, parking structures and non-leasable floor spaces, such as storage closets, mechanical equipment rooms, and similar spaces, are not counted.
 2. The number of parking spaces is computed based on the primary uses on the site except as stated in Paragraph C(3) below. When there are two or more separate primary uses on a site, the minimum and maximum parking for the site is the sum of the required or allowed parking for the individual primary uses. For shared parking, see Section 11-3.5.030.D below.
 3. When more than twenty (20) percent of the floor area on a site is in an accessory use, the required or allowed parking is calculated separately for the accessory use. An example would be a 10,000 square foot building with a 7,000 square foot warehouse and a 3,000 square foot accessory retail area. The minimum and maximum parking would be computed separately for the retail and warehouse uses.
 4. Required parking spaces periodically used for the storage of equipment or goods may be counted toward meeting minimum parking standards, provided that such storage is an allowed use under Section 11-2.2.030, and is permitted as a Temporary Use under Section 11-2.3.150.
- D. Use of Required Parking Spaces.** Except as otherwise provided by this Section, required parking spaces must be available for the use of residents, customers, or employees of the use. Fees may be charged for the use of required parking spaces. Required parking spaces may not be assigned in any way to a use on another site, except for shared parking pursuant with Section 11-3.5.030.D.
- E. Proximity of Parking to Use.** Required parking spaces for residential uses must be located on the site of the use or on a parcel or tract owned in common by all the owners of the properties that will use the parking area. Required parking spaces for nonresidential uses must be located on the site of the use or in a parking area that has its closest pedestrian access point within 400 feet of the site.
- F. Improvement of Parking Areas.** Motorized vehicle parking is allowed only on streets with an improved shoulder of sufficient width; within garages, carports, and other approved structures; and on driveways or parking lots that have been developed in conformance with this code. For applicable design standards, see Chapter 11-3.2 Building Orientation and Design, Chapter 11-3.3 Access and Circulation, Chapter 11-3.4 Landscaping and Screening, and Chapter 11-3.6 Public Facilities.

11-3.5.030 Automobile Parking

A. Minimum Number of Off-Street Automobile Parking Spaces. Except as provided by subsection 11-3.5.030.A, or as required for Americans With Disabilities Act compliance under by subsection 11-3.5.030.G, off-street parking shall be provided pursuant with one of the following three standards:

1. The standards in Table 11-3.5.030.A; or
2. Where the City Manager determines that a use is not specifically listed in Table 11-3.5.030.A but is similar to a listed use, the parking standard for the similar use shall apply.

Table 11-3.5.030.A – Automobile Parking Spaces by Use	
Use Categories (Chapter 11-5 contains examples of uses and definitions.)	Minimum Parking per Land Use (Fractions are rounded down to the closest whole number.)
Residential Categories	
Household Living	
Single Family Dwelling, including manufactured homes on lots	1 space per dwelling
Duplex	2 spaces per duplex (1 spaces per dwelling unit)
Accessory Dwelling (second dwelling on a single-family lot)	2 spaces total for primary dwelling and accessory dwelling
Multifamily	1 space per dwelling unit
Group Living, such as nursing or convalescent homes, rest homes, assisted living, congregate care, and similar special needs housing	0.5 space per 4 bedrooms

11-3.5 – Parking and Loading | Automobile Parking

Table 11-3.5.030.A – Automobile Parking Spaces by Use	
Use Categories (Chapter 11-5 contains examples of uses and definitions.)	Minimum Parking per Land Use (Fractions are rounded down to the closest whole number.)
Commercial Categories	
Commercial Outdoor Recreation	per Conditional Use Permit review (Chapter 11-4.4)
Bed and Breakfast Inn	2 spaces per use, plus one space for each bedroom offered as lodging
Educational Services, not a school (e.g., tutoring or similar services)	1 space per 300 sq. ft. floor area
Entertainment, Major Event	per Conditional Use Permit review (Chapter 11-4.4)
Hotels, Motels, and similar uses	0.75 space per guest room. See also, parking requirements for associated uses, such as restaurants, entertainment uses, drinking establishments, assembly facilities.
Mortuary/Funeral Home	1 space per 300 floor space
Offices	General Office: 1 space per 500 sq. ft. floor area Medical/Dental Office: 1 space per 500 sq. ft. floor area
Outdoor Recreation, Commercial	per Conditional Use Permit review (Chapter 11-4.4)
Surface Parking Lot, when not accessory to a permitted use	per Conditional Use Permit review (Chapter 11-4.4)
Quick Vehicle Servicing, and Repairs	2 spaces, excluding vehicle service/queuing area, or per Conditional Use Permit review (Chapter 11-4.4)
Retail Sales and Commercial Service	<u>Bank</u> : 1 space per 300 sq. ft. floor area
	<u>Retail</u> : 1 space per 400 sq. ft. floor area, except 1 space per 1,000 sq. ft. for bulk retail (e.g., nurseries, lumber and construction materials, furniture, appliances, and similar sales), except auto sales parking based on showroom area only
	<u>Restaurants and Bars</u> : 1 space per 200 sq. ft. floor area
	<u>Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys)</u> : 1 space per 300 sq. ft.
	<u>Theaters and Cinemas</u> : 1 per 6 seats
Self-Service Storage	2 spaces, plus adequate space for loading/unloading
Industrial Categories	
Industrial Service	1 space per 1,000 sq. ft. of floor area
Manufacturing and Production	1 space per 1,000 sq. ft. of floor area; or as required by Conditional Use Permit review (Chapter 11-4.4)
Warehouse and Freight Movement	0.5 space per 1,000 sq. ft. of floor area; or as required by Conditional Use Permit review (Chapter 11-4.4)
Waste-Related	per Conditional Use Permit review (Chapter 11-4.4)
Wholesale Sales, e.g., Building Materials, Heavy Equipment, Agricultural Supplies or Products, and Similar Wholesale Goods	1 space per 1,000 sq. ft.

11-3.5 – Parking and Loading | Automobile Parking

Table 11-3.5.030.A – Automobile Parking Spaces by Use	
Use Categories (Chapter 11-5 contains examples of uses and definitions.)	Minimum Parking per Land Use (Fractions are rounded down to the closest whole number.)
Institutional Categories	
Basic Utilities	Parking based on applicant's projected parking demand, subject to City approval
Community Service, including Government Offices and Services	Parking based on applicant's projected parking demand, subject to City approval, except as specifically required elsewhere in this table for individual uses (See public assembly, office, retail, housing, etc.)
Daycare	Family Daycare: 1 space, plus required parking for dwelling
	Daycare Center: 1 space per 400 sq. ft. of floor area
Medical Center/Hospital, Regional	1 space per 300 sq. ft. floor area
Parks and Open Space	Parking based on projected parking demand for planned uses
Public Assembly	1 space per 75 sq. ft. of public assembly area; or as required by Conditional Use Permit (Chapter 11-4.4)
Religious Institutions and Houses of Worship	1 space per 75 sq. ft. of main assembly area; or as required by Conditional Use Permit (Chapter 11-4.4)
Schools	Pre-School through Middle-School: 1 space per classroom
	High Schools: 7 spaces per classroom
	Colleges: 1 space per 400 sq. ft. of floor area exclusive of dormitories, plus 1 space per 2 dorm rooms
Other Categories	
Accessory Uses	Parking standards for accessory uses are the same as for primary uses, but are pro rated based on the percentage of estimated overall parking demand, subject to City review and approval.
Agriculture	None, except as required for accessory uses
Radio Frequency Transmission Facilities	None, except as required by Conditional Use Permit (Chapter 11-4.4)
Temporary Uses	Parking standards for temporary uses are the same as for primary uses, except that the City decision-making body may reduce or waive certain development and designs standards for temporary uses.
Transportation Facilities (operation, maintenance, preservation, and construction)	None, except for park-and-ride facilities; and where temporary parking is required for construction staging areas

11-3.5 – Parking and Loading | Automobile Parking

B. Exceptions and Reductions to Off-Street Parking.

1. There is no minimum number of required automobile parking spaces for uses within the Commercial zone for properties fronting Main Street.
2. The applicant may propose a parking standard that is different than the standard under subsections 11-3.5.030.A for review and action by the City Manager through a Type II procedure. The applicant's proposal shall consist of a written request, and a parking analysis prepared by a qualified professional. The parking analysis, at a minimum, shall assess the average parking demand and available supply for existing and proposed uses on the subject site; opportunities for shared parking with other uses in the vicinity; existing public parking in the vicinity; transportation options existing or planned near the site, such as frequent bus service, carpools, or private shuttles; and other relevant factors.
3. The number of required off-street parking spaces may be reduced through the provision of shared parking, pursuant with Section 11-3.5.030.D.
4. The City Manager through a Type I procedure may reduce the off-street parking standards of Table 11-3.5.030.A by one (1) parking space for every two (2) on-street parking spaces located adjacent to the subject site, provided the parking spaces meet the dimensional standards of Section 11-3.5.030.E.

C. Maximum Number of Off-Street Automobile Parking Spaces. The maximum number of off-street automobile parking spaces allowed per site equals the minimum number of required spaces, pursuant with Table 11-3.5.030, times a factor of:

1. 1.2 spaces for uses fronting a street with adjacent on-street parking spaces; or
2. 1.5 spaces, for uses fronting no street with adjacent on-street parking; or
3. A factor determined pursuant with subsection 11-3.5.030.B(2) Parking Analysis Option.

D. Shared parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlap (e.g., uses primarily of a daytime versus nighttime nature; weekday uses versus weekend uses), and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument establishing the joint use. Shared parking requests shall be subject to review and approval through Site Plan Review.

E. Parking Stall Design and Minimum Dimensions. Where a new off-street parking area is proposed, or an existing off-street parking area is proposed for expansion, the entire parking area shall be improved in conformance with this code. At a minimum the parking spaces and drive aisles shall be paved with asphalt, concrete, or other City-approved materials, provided the Americans With Disabilities Act requirements are met, and shall conform to the minimum dimensions in Table 11-3.5.030.E and the figures below. All off-street parking areas shall contain wheel stops, perimeter curbing, bollards, or other edging as required to prevent vehicles from damaging buildings or encroaching into walkways, landscapes, or the public right-of-way. Parking areas shall also provide for surface water management, pursuant with Section 11-3.6.050.

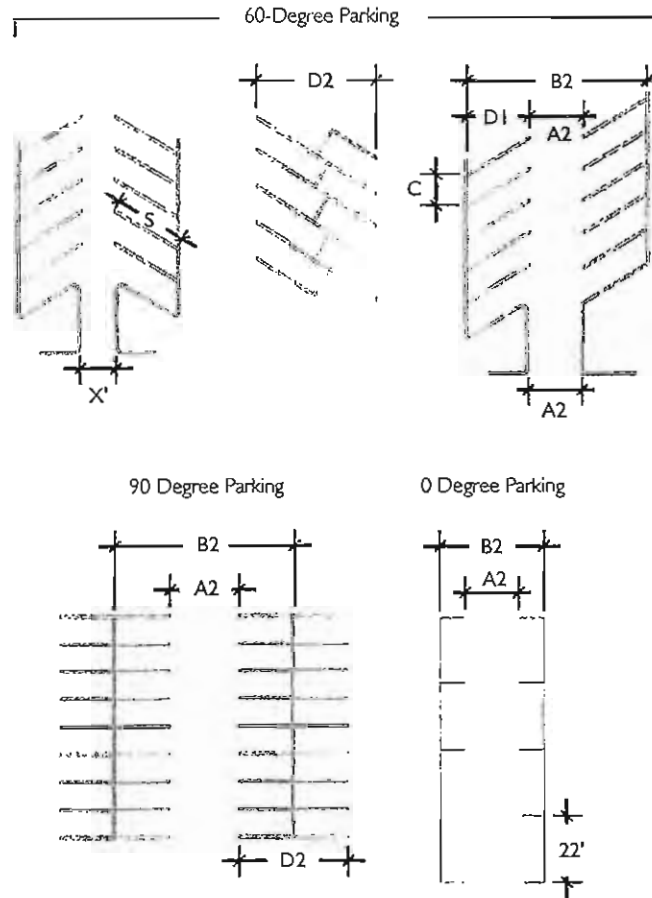
Table 11-3.5.030.E - Parking Area Minimum Dimensions*

Standard	PARKING ANGLE < °	CURB LENGTH	STALL DEPTH		AISLE WIDTH		BAY WIDTH		STRIPE LENGTH
			SINGLE D1	DOUBLE D2	ONE WAY A1	TWO WAY A2	ONE WAY B1	TWO WAY B2	
S	90°	8'-6"	18'	36'	23'	23'	59'	59'	18'
	60°	10'	20'	40'	17'	18'	57'	58'	23'
	45°	12'	18'-6"	37'	13'	18'	50'	55'	26'-6"
	30°	17'	16'-6"	33'	12'	18'	45'	51'	32'-8"
	0°	22'	8'-6"	17'	12'	18'	29'	35'	8'-6"

*See also, Chapter 11-3.2 Building Orientation and Design for parking location requirements for some types of development; Chapter 11-3.3 Access and Circulation for driveway standards; and Chapter 11-3.4 for requirements related to Landscaping, Screening, Fences, Walls, and Outdoor Lighting.

3.5 – Parking and Loading | Automobile Parking

3.5.030.E Parking Stall Design and Minimum Dimensions



- F. Modifications to Parking Area and Dimensions.** The dimensions in subsection 11-3.5.030.E are minimum standards. The City Manager or Planning Commission, as applicable, through Site Design Review may modify the standard parking area or dimensions on evidence that a particular use will require more or less maneuvering area. For example, the City may modify the minimum parking stall dimensions where an attendant will be present to move vehicles, as with valet parking. In such cases, a form of guarantee must be filed with the City ensuring that an attendant will always be present when the lot is in operation.
- G. Americans With Disabilities Act.** Parking shall be provided consistent with the requirements of the Americans With Disabilities Act, including but not limited to the minimum number of spaces for automobiles, van-accessible spaces, location of spaces relative to building entrances, accessible routes between parking areas and building entrances, identification signs, lighting, and other design and construction requirements.
- H. Electric Charging Stations.** Charging stations for electric vehicles are allowed as an accessory use to parking areas developed in conformance with this code, provided the charging station complies with applicable building codes and any applicable State or Federal requirements. Charging stations are considered accessory to a permitted use and are not considered a quick vehicle service use where such parking comprises less than twenty percent (20%) of all on-site parking.

11-3.5 – Parking and Loading | Bicycle Parking

11-3.5.040 Bicycle Parking

A. Standards and Applicability. Except for single-family and two-family (duplex) housing, home occupations, agriculture, and livestock uses, bicycle parking spaces shall be provided with new development and where a change of use requires additional automobile parking spaces, based on the minimum standards in Table 11-3.5.040.A. Where an applicant requests a reduction to a minimum parking standard pursuant to subsection 11-3.5.030.B, the City Manager may modify the bicycle parking standards in Table 11-3.5.040.A.

Table 11-3.5.040.A Minimum Required Bicycle Parking Spaces	
Use	Minimum Number of Spaces
Multifamily Residential (not required for parcels with fewer than 4 dwelling units)	2 bike spaces per 4 dwelling units, at least half of which shall be long-term (covered) parking spaces
Commercial	2 bike spaces per primary use or 1 per 5 vehicle spaces, whichever is greater
Industrial	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater
Community Service	2 bike spaces, or as required pursuant to chapter 11-4.4 Conditional Use Permits
Parks (active recreation areas only)	4 bike spaces
Schools (all types)	2 bike spaces per classroom, at least half of which shall be long-term (covered) parking spaces
Institutional Uses and Places of Worship	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater, or as required pursuant to chapter 11-4.4 Conditional Use Permits
Other Uses	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater, or as required pursuant to chapter 11-4.4 Conditional Use Permits

*An equal number of long-term (covered) bicycle parking spaces shall be provided.

B. Design

1. Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space, or fifty (50) feet, whichever is less.
2. Long-term covered bicycle parking should be incorporated whenever possible into building design, for example, in a storage room or under an eave or other sheltering roof.
3. Bicycle parking shall consist of staple-design steel racks or other City-approved racks, lockers, or storage lids providing a safe and secure means of storing a bicycle.
4. Bicycle parking should be in a location that is illuminated at night and visible from a street sidewalk or a building entrance, to promote security, and not in an area where it would conflict with pedestrians or automobiles.
5. Areas designated for bicycle parking shall be reserved for bicycle parking only, i.e., not other storage.

C. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians or vehicles, and shall be located so as to not conflict with the vision clearance standards of Section 11-3.3.020.

3.5.040.B Design



Above: Staple style metal bicycle racks

3.5 – Parking and Loading | Bicycle Parking

3.5.040.B Design



Above: Bicycle racks as artwork

11-3.5.050 Loading Areas

- A. Purpose.** The purpose of Section 11-3.5.050 is to provide adequate loading areas for commercial and industrial uses that do not interfere with the operation of adjacent streets.
- B. Applicability.** Section 11-3.5.050 applies to uses that are expected to have service or delivery truck visits. It applies only to uses visited by trucks with a 40-foot or longer wheelbase, at a frequency of one or vehicles per week. The City Manager or Planning Commission, as applicable, shall determine through Site Design Review the number, size and location of required loading areas, if any.
- C. Standard.** Where an off-street loading space is required, it shall be large enough to accommodate the largest vehicle that is expected to serve the use without obstructing vehicles or pedestrian traffic on adjacent streets and driveways. The City decision-making body may restrict the use of other public rights-of-way, so applicants are advised to provide complete and accurate information about the potential need for loading spaces.
- D. Placement, Setbacks, and Landscaping.** Loading areas shall conform to the Building Orientation and Design standards of Chapter 11-3.2, the Access and Circulation standards of Chapter 11-3.3, and the Landscaping and Screening standards of Chapter 11-3.4. Where parking areas are prohibited between a building and the street, loading areas are also prohibited.
- E. Exceptions.** The City Manager or Planning Commission, as applicable, through Site Design Review, may approve a loading area adjacent to or within a street right-of-way where it finds that loading and unloading operations are short in duration (i.e., less than one hour), infrequent, do not obstruct traffic during peak traffic hours, do not interfere with emergency response services, and are acceptable to the applicable roadway authority.

11-3.6 – Public Facilities | Purpose and Applicability

Chapter 11-3.6 - Public Facilities

Sections:

11-3.6.010	Purpose and Applicability
11-3.6.020	Transportation Standards
11-3.6.030	Public Use Areas
11-3.6.040	Sanitary Sewer and Water Service Improvements
11-3.6.050	Storm Drainage/Surface Water Management Facilities
11-3.6.060	Utilities
[11-3.6.070	<i>Pressure Irrigation]</i>
11-3.6.080	Easements
11-3.6.090	Construction Plan Approval
11-3.6.100	Facility Installation
11-3.6.110	Performance Guarantee and Warranty

11-3.6.010 Purpose and Applicability

- A. Purpose.** The standards of Chapter 11-3.6 implement the public facility policies of the City of Nyssa Comprehensive Plan and adopted City master plans.
- B. Applicability.** Chapter 11-3.6 applies to all new development, including projects subject to Land Division (Subdivision or Partition) approval and developments subject to Site Design Review where public facility improvements are required. All public facility improvements within the City shall occur in accordance with the standards and procedures of this Chapter. When a question arises as to the intent or application of any standard, the City decision-making body shall interpret the Code pursuant with Chapter 11-1.5.
- C. Public Works Design Standards.** All public facility improvements, including but not limited to sanitary sewer, water, and transportation, surface water/storm drainage, and parks projects, whether required as a condition of development or provided voluntarily, shall conform to the Idaho Standards for Public Works Construction (ISPWC), also referenced herein as “Public Works Design Standards.” Where a conflict occurs between this code and the ISPWC, the provisions of this code shall govern.
- D. Public Improvement Requirement.** No building permit may be issued until all required public facility improvements are in place and approved by the City Engineer or Public Works Designee, or otherwise bonded, in conformance with the provisions of this code and the Manual. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements directly related to and are roughly proportional to the impact of development.

11-3.6.020 Transportation Standards

A. General Requirements.

1. General Requirements. Except as provided by subsection 11-5, below, existing substandard streets and planned streets within or abutting a proposed development shall be improved in accordance with the standards of Chapter 11-3.6 as a condition of development approval. All street improvements, including the extension or widening of existing streets and public access ways, shall conform to Section 11-3.6.020, and shall be constructed consistent with the Public Works Design Standards Manual.
2. Dedication of Public Right-of-Way. All new streets shall be contained within a public right-of-way; public access ways (e.g., pedestrian ways) may be contained within a right-of-way or a public access easement, subject to review and approval of the City decision-making body. Proposed streets are subject to City review and approval through the subdivision process (Chapter 11-4.3).
3. Traffic Impact Analyses. The following provisions establish when a Traffic Impact Analysis must be submitted with a development application, in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities. The code also establishes the required contents of a Traffic Impact Analysis and who is qualified to prepare the analysis. The another purpose of this subsection is to coordinate the review of land use applications with roadway authorities and to implement the State Transportation Planning Rule, which requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities.
 - a. When a Traffic Impact Analysis is Required. The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:
 - (1) A change in zoning or a plan amendment designation;
 - (2) The road authority indicates in writing that the proposal may have operational or safety concerns along its facility(ies);
 - (3) An increase in site traffic volume generation by three hundred (300) Average Daily Trips (ADT) or more;
 - (4) An increase in peak hour volume of a particular movement to and from a street or highway by twenty (20) percent or more; or
 - (5) An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by ten (10) vehicles or more per day;
 - (6) The location of an existing or proposed approach or access connection does not meet minimum spacing or sight distance requirements or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;
 - (7) A change in internal traffic patterns may cause safety concerns; or
 - (8) A TIA is required by ODOT pursuant with OAR 734-051.

11-3.6 – Public Facilities | Transportation Standards

- b. **Traffic Impact Analysis Preparation.** A professional engineer registered in the State of Oregon, in accordance with the requirements of the road authority, shall prepare the Traffic Impact Analysis.
4. **Waiver or Deferral of Street Improvements.** The City of Nyssa may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and/or landscaping, as applicable, where the standard improvement would conflict with an adopted capital improvement plan, the City does not have funding for its share of the project (i.e., where the improvement would be part of a planned capital improvement project), or the improvement would create a safety hazard. Where the City of Nyssa agrees to defer a street improvement, it shall do so only where the property owner agrees not to remonstrate against the formation of a local improvement district in the future.

B. Street Location, Alignment, Extension, and Grades.

1. All new streets, to the extent practicable, shall connect to the existing street network and allow for the continuation of the planned street network.
2. Specific street locations and alignments shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.
3. Grades of streets shall conform as closely as practicable to the original (pre-development) topography to minimize grading.
4. New streets and street extensions exceeding a grade of fifteen (15) percent over a distance more than two hundred (200) feet, to the extent practicable, shall be avoided. Where such grades are unavoidable, the City decision-making body may approve an exception to the 200-foot standard and require mitigation, such as a secondary access to/egress from the subdivision, installation of fire protection sprinkler systems in dwellings, and/or other mitigation to protect public health and safety.
5. Where the locations of planned streets are shown on a local street network plan, the development shall implement the street(s) shown on the plan.
6. Where required local street connections are not shown on an adopted City street plan, or the adopted street plan does not designate future streets with sufficient specificity, the development shall provide for the reasonable continuation and connection of existing streets to adjacent developable properties, conforming to the standards of this code.
7. Existing street-ends that abut a proposed development site shall be extended with the development, unless prevented by environmental or topographical constraints, existing development patterns, or compliance with other standards in this code; in such situations, the applicant must provide evidence that the environmental or topographic constraint precludes reasonable street connection.
8. Proposed streets and any street extensions required pursuant with this Section shall be located, designed and constructed to allow continuity in street alignments and to facilitate future development of vacant or redevelopable lands.

- C. Rights-of-Way and Street Section Widths.** The standards contained in Table 11-3.6.020(C) are intended to provide for streets of suitable location, width, and design to accommodate expected vehicle,

11-3.6 – Public Facilities | Transportation Standards

pedestrian and bicycle traffic; to afford satisfactory access to law enforcement, fire protection, sanitation, and road maintenance equipment; and to provide a convenient and accessible network of streets, avoiding undue hardships to adjoining properties. Where a range of street width or improvement options is indicated, the City decision-making body shall determine requirement based on the advice of a qualified professional and all of the following factors:

1. Street classification, and requirements of the roadway authority if different than the City;
2. Existing and projected street operations relative to applicable standards;
3. Safety of motorists, pedestrians, bicyclists, including consideration of accident history;
4. Convenience and comfort for pedestrians and bicyclists;
5. Provision of on-street parking;
6. Placement of utilities;
7. Street lighting;
8. Slope stability and erosion control (minimize cuts and fills);
9. Surface water management/storm drainage requirements;
10. Emergency vehicles/apparatus and emergency access/egress, including evacuation needs;
11. Transitions between varying street widths (i.e., existing streets and new streets); and
12. Other factors related to public health, safety, and welfare.

11-3.6 – Public Facilities | Transportation Standards

Table 11-3.6.020(1) – Street Design and Construction Standards*

Street Standards			Construction Standards**				Overlay Material	Curb Face	Gutter
Street Classification	ROW Width	Surface Width	Depth	Aggregate Size	Depth	Aggregate Size			
Arterial ***		44'-52'	8"	1 1/2" - 3"	2"	3/4"-1 1/2"	1" pavement	6"	18"
Collector	60'	36'	8"	1 1/2" - 3"	2"	3/4"-1 1/2"	1" pavement	6"	18"
Local	50'	28'	6"	1 1/2" - 3"	2"	3/4"-1 1/2"	1" pavement	6"	18"
Alley	20'	18'	6"	1 1/2" - 3"	1 1/2"	3/4"-1 1/2"	3/4" oil mat & 3/4" surface	6"	18"

*The expense of opening new streets shall be the sole responsibility of the developer; however, the developer may contract with the City to rough-in right-of-way for any street and to construct all or part thereof under such terms as the City Council may from time to time prescribe.

**See also, Idaho Standards for Public Works Construction (ISPWC). Where conflicts occur between City standards and ISPWC, City standards apply.

*** City standards are advisory on ODOT managed roadways.

Table 11-3.6.020(2) – Bicycle, Pedestrian, and On-Street Parking Standards*

Street Classification	Planting Strip Minimum	Sidewalk Width Minimum	Bicycle Facilities Minimum	On-Street Parking Minimum
Arterial*	5'	6'	6' shoulder bikeways	none
Arterial - Main Street*	0' (street trees in sidewalk tree wells)	6' walkways 4' furnishing zone 2' bldg zone	6' shoulder bikeways	8' lanes
Collector	5'	5'	Shared roadway	8' lane on one side
Local	5'	5'	Shared roadway	8' lanes
Multi-Use Trail (no autos)	Optional (edging)	10' – 12' trail with 2' shoulders, and 8' minimum vertical clearance		None
Marginal Access	5'	None	None	None
Alleys	0'	None	None	None

*Unless otherwise specified, all standards apply to two sides of street.

D. Transportation Connectivity and Future Street Plans. The following standards apply to the creation of new streets:

1. **Intersections.** Streets shall be located and designed to intersect as nearly as possible to a right angle. Street intersections shall have a minimum intersection angle of seventy-five (75) degrees. All legs of an intersection shall meet the above standard for at least one hundred (100) feet back from the point of intersection. No more than two (2) streets shall intersect, i.e., creating a 4-legged intersection, at any one point. Street jogs and intersection offsets of less than 125 feet are not permitted. Intersections shall be designed to facilitate storm water runoff into City approved storm water facilities.
2. **Access Ways.** The City decision-making body in approving a land use application with conditions may require a developer to provide an access way where the creation of a cul-de-sac or dead-end street is unavoidable and the access way connects the end of the street to another street, a park, or a public access way. Where an access way is required, it shall be not less ten (10) feet wide and shall contain a minimum six (6) foot wide paved surface or other all-weather surface approved by the City Engineer or Public Works Designee. Access ways shall be contained within a public right-of-way or public access easement, as required by the City.
3. **Connectivity to Abutting Lands and Temporary Street Ends.** The street system of a proposed subdivision shall be designed to connect to existing, proposed, and planned streets adjacent to the subdivision. Wherever a proposed development abuts unplatted land or a future development phase of an existing development, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. Street ends shall contain turnarounds constructed to Uniform Fire Code standards, as the City deems applicable, and shall be designed to facilitate future extension in terms of grading, width, and temporary barricades.
4. **Street Connectivity and Formation of Blocks.** In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions and site developments shall be served by an interconnected street network, pursuant with the standards in subsections (a) through (d) below (distances are measured from the edge of street rights-of-way). Where a street connection cannot be made due to physical site constraints, approach spacing/access management requirements, or similar restrictions, where practicable, a pedestrian access way connection shall be provided pursuant with Chapter 11-3.3.
 - a. Residential zones: Minimum of two hundred (200) foot block length and maximum of six hundred (600) foot length; maximum block perimeter of 1,400 feet;
 - b. Commercial zone: Minimum of two hundred (200) foot block length and maximum of four hundred (400) foot length; maximum block perimeter of 1,400 feet;
 - c. Industrial and other zones: Not applicable;
5. A cul-de-sac street shall only be used where the City Manager or Planning Commission, as applicable, determines that environmental or topographical constraints, existing development patterns, or compliance with other applicable City requirements preclude a street extension. Where the City determines that a cul-de-sac is allowed, all of the following standards shall be met:
 - a. The cul-de-sac shall not exceed a length of four (400) feet, except where the City Manager or Planning Commission, as applicable, determines that topographic or other physical constraints of the

11-3.6 – Public Facilities | Transportation Standards

site require a longer cul-de-sac; the length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac;

- b. The cul-de-sac shall terminate with a circular or hammer-head turnaround meeting the Uniform Fire Code and the standards of Table 11-3.6.020.C; and
- c. The cul-de-sac shall provide, or not preclude the opportunity to later install, a pedestrian and bicycle access way between it and adjacent developable lands. Such access ways shall conform to Section 11-3.3.020.D(3).

6. Future Street Plan. Where a subdivision is proposed adjacent to other developable land, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other divisible parcels within six hundred (600) feet surrounding and adjacent to the proposed subdivision. The street plan is not binding but is intended to show the feasibility of extending streets in the future pursuant to City standards. The plan must demonstrate, pursuant with City standards, that the proposed development does not preclude future street connections to adjacent development land.

7. Partial Street Improvements. Partial street improvements are not permitted, except as provided by Chapter 11-4.3.

8. Private Streets and Gated Subdivisions. Except where approved as part of a Master Planned Development pursuant with Chapter 11-4.8, private streets and gated drives serving more than 2 dwellings (i.e., where a gate limits access to a development from a public street), are prohibited.

E. Engineering Design Standards. Street design and construction shall conform to the standards of the applicable roadway authority; for City streets that is the Idaho Standards for Public Works Construction (ISPWC). Where a conflict occurs between this code and the ISPWC, the provisions of this code govern.

F. Fire Code Standards. Where Fire Code standards conflict with City standards, the City shall consult with the Fire Marshall in determining appropriate requirements; the City shall have the final determination regarding applicable standards.

G. Substandard Existing Right-of-Way. Where an existing right-of-way adjacent to a proposed development is less than the standard width, the Planning Commission may require the dedication of additional rights-of-way at the time of Subdivision, Partition, or Site Plan Review, pursuant with the standards in Table 11-3.6.020.C.

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

- I. Sidewalks, Planter Strips, and Bicycle Lanes.** Except where the City decision-making body grants a deferral of public improvements, pursuant with Chapter 11-4.2 or Chapter 11-4.3, sidewalks, planter strips, and bicycle lanes shall be installed concurrent with development and/or widening of new streets, pursuant with the requirements of this Chapter. Maintenance of sidewalks and planter strips in the right-of-way is the continuing obligation of the adjacent property owner.
- J. Streets Adjacent to Railroad Right-of-Way.** When a transportation improvement is proposed within 300 feet of a railroad crossing, or a modification is proposed to an existing railroad crossing, the Oregon Department of Transportation and the rail service provider shall be notified and given an opportunity to comment, in conformance with the provisions of Article 11-4. Private crossing improvements are subject to review and licensing by the rail service provider.
- K. Street Names.** No new street name shall be used which will duplicate or be confused with the names of existing streets in the City of Nyssa or vicinity.
- L. Survey Monuments.** Upon completion of a street improvement and prior to acceptance by the City, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments have been reestablished and protected.
- M. Street Signs.** The city, county, or state with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.
- N. Streetlight Standards.** Streetlights shall be relocated or new lights installed, as applicable, with street improvement projects. Streetlights shall conform to City standards, or the requirements of the roadway authority, if different than the City.
- O. Mail Boxes.** Mailboxes shall conform to the requirements of the United States Postal Service.
- P. Street Cross-Sections.** The final lift of asphalt or concrete pavement shall be placed on all new constructed public roadways prior to final City acceptance of the roadway unless otherwise approved by the City Engineer or Public Works Designee.

3.6 – Public Facilities | Public Use Areas

11-3.6.030 Public Use Areas

A. Dedication of Public Use Areas.

1. Where a proposed park, playground, or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of this area on the final plat for the subdivision, provided that the impact of the development on the City park system is roughly proportionate to the dedication or reservation being made.
2. The City may purchase or accept voluntary dedication or reservation of areas within the subdivision that are suitable for the development of parks and other public uses; however, the City is under no obligation to accept such areas offered for dedication or sale.

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

11-3.6.040 Sanitary Sewer and Water Service Improvements.

- A. Sewers and Water Mains Required.** All new development is required to connect to City water and sanitary sewer systems. Sanitary sewer and water system improvements shall be installed to serve each new development and to connect developments to existing mains in accordance with the adopted facility master plans and applicable Public Works Design Standards. Where the City Engineer or Public Works Designee requires stubbing of streets to the edge of the subdivision, sewer and water system improvements, and other utilities, shall also be stubbed with the streets, except where alternate alignment(s) are approved by the City.
- B. Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the City Engineer or Public Works Designee has approved all sanitary sewer and water plans in conformance with City standards.
- C. Over-Sizing.** The City decision-making body may require as a condition of development approval that sewer and water lines serving new development be sized to accommodate future development within the area as projected by the applicable facility master plans; and the City may authorize other cost-recovery or cost-sharing methods as provided under State law.
- D. Inadequate Facilities.** Development permits may be restricted or rationed by the Planning Commission where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. The City decision-making body may require water booster pumps, sanitary sewer lift stations, and other critical facilities be installed with backup power.

3.6 – Public Facilities | Storm Drainage/Surface Water Management Facilities

11-3.6.050 Storm Drainage/Surface Water Management Facilities

- A. General Provisions.** The City may adopt and periodically update engineering design standards and criteria for storm drainage/surface water management facilities. The City shall issue a development permit only where adequate provisions for storm water runoff have been made in conformance with such standards and any Storm Drainage/Surface Water Master Plan adopted by the City.
- B. Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be large enough to accommodate existing and potential future runoff from the entire upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the City Engineer.
- C. Effect on Downstream Drainage.** Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development and water quality treatment in accordance with City standards.
- D. Over-Sizing.** The City may require as a condition of development approval that sewer, water, and/or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the applicable facility master plan, provided that the city may grant the developer credit toward any required system development charge for the same pursuant with the System Development Charge.
- E. Existing Watercourse.** Where a watercourse, drainage way, traverses a proposed development channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety.

11-3.6.060 Utilities

The following standards apply to new development where extension of electric power or communication lines is required:

A. General Provision. The developer of a property is responsible for coordinating his development plan with the applicable utility providers and paying for the extension/installation of utilities not otherwise available to the subject property.

B. Underground Utilities.

1. **General Requirement.** The requirements of the utility service provider shall be met. All utility lines in new subdivisions, including but not limited to those required for electric, communication, and lighting, and related facilities, shall be placed underground, except where the City decision-making body determines that placing utilities underground would adversely impact adjacent land uses. The City decision-making body may require screening and buffering of above ground facilities to protect the public health, safety or welfare.

2. **Subdivisions.** The following additional standards apply to all new subdivisions, in order to facilitate underground placement of utilities:

- a. The developer shall make all necessary arrangements with the serving utility to provide the underground services. Care shall be taken to ensure that all above ground equipment does not obstruct vision clearance areas for vehicular traffic, per Chapter 11-3.3 Access and Circulation;
- b. The City reserves the right to review and approve the location of all surface-mounted facilities;
- c. All underground utilities installed in streets must be constructed and approved by the applicable utility provider prior to the surfacing of the streets; and
- d. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

C. Exception to Undergrounding Requirement. The City decision-making body may grant exceptions to the undergrounding standard where existing physical constraints, such as geologic conditions, streams, or existing development conditions make underground placement impractical.

11-3.6 – Public Facilities | Utilities

11-3.6.070 Pressure Irrigation

[Reserved]

11-3.6.080 Easements

- A. Provision.** The developer shall make arrangements with the City and applicable utility providers for each utility franchise for the provision and dedication of utility easements.
- B. Standard.** At a minimum, public utility easements shall be provided within a ten (10) foot setback along all rights-of-way, and within a ten (10) foot setback along rear property lines and a five (5) foot setback along side property lines (10 feet total for two abutting side yards). The City Engineer may waive a utility easement standard where the future extension of utilities is infeasible or it is unreasonable to expect a utility extension to occur.
- C. Recordation.** All easements for sewers, storm drainage and water quality facilities, water mains, electric lines, or other utilities shall be recorded and referenced on a survey or final plat, as applicable. See Chapter 11-4.2 Site Plan Review, and Chapter 11-4.3, Land Divisions.

11-3.6.090 Construction Plan Approval

- A. General Requirement.** No development, including sanitary sewers, water, streets, parking areas, buildings, or other development, shall be undertaken without plans having been approved by the City of Nyssa, permit fees paid, and permits issued.
- B. Plan Submittal.** At a minimum, plans shall be prepared by a professional engineer registered in the State of Oregon, and shall include a plan drawn to a scale of one (1) inch equals forty (40) feet, or less, with a vicinity map, property boundary, plan and profile of utilities, and elevations based on topographic survey.
- C. Fee for Review.** Permit fees are required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The City may hire consultants during the review and approval process, to include engineering, planning, legal, and administration, and applicants are responsible to pay all necessary consulting fees associated with the review. Permit fees are as set by City Council Resolution.

11-3.6.100 Facility Installation

- A. Conformance Required.** Improvements installed by the developer either as a requirement of these regulations or at the developer's option, shall conform to the requirements of this Chapter, approved construction plans, and to improvement standards and specifications adopted by the City.
- B. Adopted Installation Standards.** The City of Nyssa has adopted the Idaho Standards for Public Works Construction (ISPWC).
- C. Commencement.** Work in a public right-of-way shall not begin until all applicable agency permits have been approved and issued.
- D. Resumption.** If work is discontinued for more than six (6) months, it shall not be resumed until the City Engineer or Public Works Designee is notified in writing and grants approval of an extension.
- E. City Inspection.** Improvements shall be constructed under the inspection of the City Engineer or Public Works Designee. The City Engineer or Public Works Designee may approve minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest, except that substantive changes to the approved design shall be subject to review under Chapter 11-4.6, Modifications to Approved Plans and Conditions of Approval. Any survey monuments that are disturbed before all improvements are completed by the developer or subdivider shall be replaced prior to final acceptance of the improvements.
- F. Engineer's Certification and As-Built Plans.** A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City's acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide 2 sets of "as-built" plans, in both hardcopy and electronic format, for permanent filing with the City. If required by the City, the developer or subdivider shall provide a warranty bond pursuant with Section 11-3.6.110.

11-3.6 – Public Facilities | Performance Guarantee and Warranty

11-3.6.110 Performance Guarantee and Warranty

- A. Performance Guarantee Required.** The City at its discretion may approve a final plat or building permit when it determines that at least seventy-five percent (75%) of the public improvements required for the site development or land division, or phase thereof, are complete and the applicant has an acceptable assurance for the balance of said improvements. The applicant shall provide a bond issued by a surety authorized to do business in the State of Oregon, irrevocable letter of credit from a surety or financial institution acceptable to the City, cash, or other form of security acceptable to the City.
- B. Determination of Sum.** The assurance of performance shall be for a sum determined by the City Engineer as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses, plus reasonable inflationary costs. The assurance shall not be less than one hundred ten (110) percent of the estimated improvement costs.
- C. Itemized Improvement Estimate.** The subdivider/developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- D. Agreement.** A written agreement between the City and subdivider/developer shall be signed recorded. The agreement shall contain, at a minimum, all of the following:
1. The period within which all required improvements and repairs shall be completed;
 2. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
 3. The improvement fees and deposits that are required;
 4. (Optional) A provision for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.
- E. When Subdivider/Developer Fails to Perform.** In the event the subdivider/developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee.** The subdivider/developer shall not cause termination of nor allow expiration of the guarantee without first securing written authorization from the City.
- G. Warranty Bond.** A warranty bond good for two (2) years is required on all public improvements and landscaping when installed in the public right-of-way. The warranty bond shall equal fifteen (15) percent of the total cost of improvements and begin upon acceptance of said improvements by the City

Chapter 11-3.7 Signs

11-3.7.010 Signs

In a C zone, signs located within one hundred (100) feet of a residential zone shall be setback not less than ten (10) feet from the lot in the residential zone, shall not be moving or intermittent flashing, and shall not exceed an area of twenty-five (25) square feet on each side.

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Article 11.4 – Application Review Procedures and Approval Criteria

Chapters:

- 4.1 General Review Procedures and Zoning Checklist
- 4.2 Site Design Review
- 4.3 Land Divisions and Property Line Adjustments
- 4.4 Conditional Use Permits
- 4.5 Modifications to Approved Plans
- 4.6 Amendments to the Zoning Map or Code
- 4.7 Variances
- 4.8 Master Planned Developments

Chapter 11-4.1 – General Review Procedures

Sections:

11-4.1.010	Purpose and Applicability
11-4.1.020	Type I Procedure (Ministerial Staff Review and Zoning Checklist)
11-4.1.030	Type II Procedure (Administrative Review)
11-4.1.040	Type III Procedure (Quasi-Judicial Review - Public Hearing)
11-4.1.050	Type IV Procedure (Legislative Review)
11-4.1.060	General Provisions Applicable to All Reviews

11-4.1.010 Purpose and Applicability

A. Purpose. The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 11-4.1.010 provides a key for determining the review procedure and the decision-making body for particular approvals.

B. Applicability of Review Procedures. All land use and development permit applications and approvals, except building permits, shall be decided by using the procedures contained in this chapter. The procedure “type” assigned to each application governs the decision-making process for that permit or approval. There are four types of permit/approval procedures as described in subsections 1-4 below. Table 11-4.1.010 lists the City’s land use and development approvals and corresponding review procedure(s).

- 1. Type I Procedure (Staff Review – Zoning Checklist).** Type I decisions are made by the City Manager, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying City standards and criteria that do not require the use of discretion (i.e., clear and objective standards);
- 2. Type II Procedure (Administrative/Staff Review with Notice).** Type II decisions are made by the City Manager with public notice and an opportunity for appeal to the Planning Commission. Alternatively the City Manager may refer a Type II application to the Planning Commission for its review and decision in a public meeting;
- 3. Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. Quasi-Judicial decisions involve discretion but implement established policy.
- 4. Type IV Procedure (Legislative Review).** The Type IV procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Type IV reviews are considered by the Planning Commission, who makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

11-4.1 – General Review Procedures | Purpose and Applicability

Table 11-4.1.010 – Summary of Approvals by Type of Review Procedure

Approvals*	Review Procedures	Applicable Regulations
Zoning Checklist Review	Type I	Applicants are required to complete a Zoning Checklist before applying for any other permit or approval. See Section 11-4.1.020.
Access to a Street	Type I	Chapter 11-3.3 and the standards of the applicable roadway authority (City/County/ODOT)
Annexation	Type IV	See Oregon Revised Statute 222
Code Interpretation	Type II or III	Chapter 11-1.5
Code Text Amendment	Type IV	Chapter 11-4.6
Comprehensive Plan Amendment	Type IV	Chapter 11-4.6
Conditional Use Permit	Type III	Chapter 11-4.4
Home Occupation	No permit, except when required by Chapter 11-4.7.	
Legal Lot Determination	Type I	Chapter 11-1.3
Master Planned Development Concept Plan	Type III	Chapter 11-4.8
Detailed Plan	Type I	Chapter 11-4.8
Modification to Approval or Condition of Approval	Type I, II or III	Chapter 11-4.5
Non-Conforming Use or Structure, Expansion of	Type I, II or III	Chapter 11-1.4
Parking Determination	Type I	Chapter 11-3.5
Partition or Re-plat of 2-3 lots Preliminary Plat	Type III	Chapter 11-4.3
Final Plat	Type I	Chapter 11-4.3
Property Line Adjustments, including Lot Consolidations	Type I	Chapter 11-4.3
Site Design Review	Type II or III	Chapter 11-4.2
Subdivision or Replat of >3 lots Preliminary Plat	Type III	Chapter 11-4.3
Final Plat	Type I	Chapter 11-4.3
Variance	Type III	Chapter 11-4.7
Zoning District Map Change	Type III or IV	Chapter 11-4.6

* The applicant may be required to obtain building permits and other approvals from other agencies, such as a road authority or natural resource regulatory agency. The City's failure to notify the applicant of any requirement or procedure of another agency shall not invalidate a permit or other decision made by the City under this Code.

11-4.1 – General Review Procedures | Type I Procedure

11-4.1.020 Type I Procedure (Staff Review and Zoning Checklist)

- A. Type I Procedure (Staff Review).** The City Manager, or his or her designee, without public notice and without a public hearing, makes ministerial decisions through the Type I procedure. Ministerial decisions are those where City standards and criteria do not require the exercise of discretion (i.e., clear and objective standards).
- B. Zoning Checklist.** The City Manager reviews proposals requiring a Type I review using a Zoning Checklist. The Zoning Checklist is a preliminary review that is intended to ensure a project proposal meets the basic requirements of Article 11.2 (Zoning) before more detailed plans are prepared and before the City authorizes the Building Official to issue a building permit.
- C. Application Requirements.**
- 1. Application Forms.** Approvals requiring Type I review, including Zoning Checklists, shall be made on forms provided by the City.
 - 2. Application Requirements.** When a Zoning Checklist is required, it shall:
 - a. Include the information requested on the application form;
 - b. Address the criteria in sufficient detail for review and action; and
 - c. Be filed with the required fee. Fees are required to defray the cost and expenses incurred by the City. Fees are as set by City Council Resolution.
- D. Requirements.** The City shall not act upon an application for land use approval and a building permit shall not be issued until the City Manager has approved a Zoning Checklist for the proposed project.
- E. Criteria and Decision.** The City Manager's review of a Zoning Checklist is intended to determine whether minimum code requirements are met and whether any other land use permit or approval is required prior to issuance of a building permit.
- F. Effective Date.** A Zoning Checklist decision is final on the date it is signed by the City Manager. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the State Land Use Board of Appeals. See also, Section 11-1.2.090, Zoning Checklist and Building Permits.

11-4.1.030 Type II Procedure (Administrative Review With Notice)

The City Manager, or his or her designee performs Administrative Staff Reviews through the Type II procedure. Type II decisions are made by the City Manager with public notice and an opportunity for appeal to the Planning Commission. Alternatively the City Manager may refer a Type II application to the Planning Commission for its review and decision in a public meeting.

A. Pre-Application and Application Requirements.

1. **Pre-Application Meeting.** Prior to submitting an application for Type II review, the applicant shall meet with City staff to verify the application requirements, criteria, and review procedure.
2. **Application Forms.** Applications for projects requiring Administrative Review shall be made on forms provided by the City Manager.
3. **Submittal Information.** The City Manager shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - a. The information requested on the application form;
 - b. Plans and exhibits required for the specific approval(s) being sought (For example, requirements for property line adjustments are in Chapter 11-4.3.);
 - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail; and
 - d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
 - e. The required fee. Be filed with the required fee. Fees are required to defray the cost and expenses incurred by the City. Fees are as set by City Council Resolution.

B. Procedure.

1. The City Manager shall mail notice of a pending Type II decision to the following individuals and agencies not less than fourteen (14) days prior to making the Type II decision.
2. The purpose of the Administrative decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the Planning Official issues the decision. The intent is to invite people to participate early in the decision-making process. Therefore all of the following individuals and agencies shall be notified:
 - a. All owners of record of real property within a minimum of one hundred (100) feet of the site;

11-4.1 – General Review Procedures | Type II Procedure

- b. Any person who submits a written request to receive a notice; and
 - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Manager shall notify the road authority if different than the City Nyssa. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
3. The notice of pending Administrative Decision, at a minimum, shall contain all of the following information:
 - a. The deadline for submitting written comments, which must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled Planning Commission meeting date where an application is referred to the Commission for review;
 - b. A summary of the proposal and the relevant approval criteria. The notice must have sufficient detail to help the public identify and locate applicable code requirements;
 - c. The address and City contact person for submitting written comments; and the date, time and location the City Manager or Planning Commission, as applicable, is scheduled to make a decision on the application;
 - d. The street address or other easily understandable reference to the location of the proposed use or development;
 - e. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 - f. Statement that all evidence relied upon by the City Manager or Planning Commission, as applicable, to make its decision is in the public record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the City; and
 - g. Statement that after the comment period closes the City will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
4. At the conclusion of the comment period, the City Manager shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Code criteria. Alternatively, the City Manager may transmit all written comments received, if any, along with a copy of the application to the Planning Commission for review and decision at its next regularly scheduled meeting.

11-4.1 – General Review Procedures | Type II Procedure

5. Where the City Manager refers an application subject to Administrative Review to the Planning Commission, the Planning Commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Code criteria. The Planning Commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided the Commission must make a final decision within the 120-day period prescribed under State law (ORS 227.178) and as described in Section 11-4.1.060 of this Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the 120-day timeframe and the Commission may decide to accept oral and written testimony in a public hearing review of the application, pursuant with Section 11-4.1.040; in which case a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.
6. Within seven (7) days of a Type II (Administrative) decision, the City Manager shall proceed to prepare a notice of decision and mail it to the applicant, property owner (if different), the Building Official, those who provided written comments on the proposal, and those who requested a copy of the decision. The City Manager shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.
7. The Administrative Notice of Decision shall contain all of the following information:
 - a. A description of the applicant's proposal and the City's decision on the proposal. The notice may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (i.e., copy of assessor's map may be used);
 - c. A statement of where the City's decision can be obtained;
 - d. The date the decision shall become final, unless appealed; and
 - e. A statement that all persons entitled to notice may appeal the decision to City Council pursuant with subsection 11-4.1.030.D.

C. Effective Date of Decision. Unless the conditions of approval specify otherwise, an Administrative Decision becomes effective twelve (12) days after the City mails the decision notice unless the decision is appealed pursuant with subsection 11-4.1.030.D.

D. Appeal of Type II (Administrative) Decision. A Type II Administrative Decision made by the City Manager may be appealed to the City of Nyssa Planning Commission; and a Type II Administrative Decision made by the Planning Commission may be appealed to the City Council, as applicable, pursuant with the following:

I. Who may appeal. The following people have legal standing to appeal a Type II Administrative Decision:

- a. The applicant or owner of the subject property;

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- b. Any person who was entitled to written notice of the Type II decision;
- c. Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

2. Appeal filing procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures.
- b. *Time for filing.* A Notice of Appeal shall be filed with the City Manager within the timeframe specified on the Notice of Decision; typically, this will be within ten (10) days of the date the Notice of Decision is mailed.
- c. *Content of notice of appeal.* The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues being raised on appeal; and
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

- 3. **Scope of appeal.** The appeal of a Type II Administrative Decision shall be a hearing de novo either before the Planning Commission, where the contested decision was made by the City Manager, or before the City Council, where the Planning Commission made the contested decision. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Administrative Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.

- 4. **Appeal Hearing Procedure.** Hearings on appeals of Type II decisions shall follow the same procedure used for public hearings on Type III reviews under Section 11-4.1.040. Section 11-4.1.040 contains requirements for public hearing notices, conduct of hearings, and decision-making procedures.

11-4.1.040 Type III Procedure (Quasi-Judicial Review – Public Hearing)

Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council.

A. Pre-Application and Application Requirements.

1. **Pre-Application Meeting.** Prior to submitting an application for Type III review, the applicant shall meet with City staff to verify the application requirements, criteria, and review procedures.
2. **Application Forms.** Applications requiring Quasi-Judicial review shall be made on forms provided by the City Manager.
3. **Submittal Information.** The City Manager shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
 - a. The information requested on the application form;
 - b. Plans and exhibits required for the specific approval(s) being sought;
 - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail; and
 - d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
 - e. The required fee. Be filed with the required fee. Fees are required to defray the cost and expenses incurred by the City. Fees are as set by City Council Resolution.

B. Procedure

1. Mailed and Posted Notice.

- a. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Manager shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
 - (1) All owners of record of real property located within a minimum of 100 feet of the subject site.
 - (2) Any person who submits a written request to receive a notice; and

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- (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Manager shall notify the road authority if different than the City of Nyssa. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
 - b. At least fourteen (14) days before the hearing, the applicant or applicant's representative shall post notice of the hearing on the project site in clear view from a public right-of-way using a poster format prescribed by the City Manager. The applicant shall submit an affidavit of notice using a form provided by the City, which shall be made a part of the file. The affidavit shall state the date that the notice was posted.
2. **Content of Notice.** Notice of a Quasi-Judicial hearing to be mailed and published per Subsection 1 above shall contain all of the following information:
 - a. A summary of the proposal and the relevant approval criteria. The notice must have sufficient detail to help the public identify and locate applicable code requirements;
 - b. The date, time and location of the scheduled hearing;
 - c. The street address or other easily understandable reference to the location of the proposed use or development;
 - d. A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
 - e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Manager and that copies shall be provided at a reasonable cost;
 - f. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven (7) days before the hearing, and that a copy shall be provided on request at a reasonable cost;
 - g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and

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- h. A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

C. Staff Report. The City Manager or his or her designee shall prepare a staff report summarizing the project proposal and reviewing it against the applicable approval criteria. The staff report shall contain a recommendation of approval, denial, or approval with conditions for consideration by the hearings body. The staff report shall be available for public review at City Hall no cost at least seven (7) days before the hearing. Additional copies shall be made available to the public for purchase at cost.

D. Conduct of the Public Hearing.

- 1. At the commencement of the hearing, the Chairperson of the Commission or Mayor, as applicable, or his or her designee, shall state to those in attendance all of the following information and instructions:
 - a. The applicable approval criteria by Code chapter that apply to the application;
 - b. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
 - c. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude appeal to the State Land Use Board of Appeals on that issue;
 - d. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See subsection 'G' Record of the Public Hearing.
 - e. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 5 of this subsection, or leave the record open for additional written evidence or testimony as provided paragraph 6 of this subsection.
- 2. The public is entitled to an impartial hearing body as free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts as reasonably possible. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members or the hearing body shall not participate in the hearing, except where State law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.
- 3. Presenting and receiving evidence.

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- a. The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
 - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this Section;
 - c. Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
4. The hearing body, in making its decision, shall consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). Upon announcing its intention to take notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.
5. If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven (7) days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven (7) days, so that they can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the hearing body may limit additional testimony to arguments and not accept additional evidence.
6. If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven (7) days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:
- a. When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant with this Section is subject to the limitations of Section 11-4.1.060 (ORS 227.178 - "120-day rule"), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
 - c. If requested by the applicant, the hearing body shall grant the applicant at least seven (7) days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.

7. The Notice of Quasi-Judicial Decision shall contain all of the following information:
 - a. A description of the applicant's proposal and the City's decision on the proposal. The notice may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
 - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (i.e., copy of assessor's map may be used);
 - c. A statement of where the City's decision can be obtained;
 - d. The date the decision shall become final, unless appealed; and
 - e. A statement that all persons entitled to notice may appeal the Planning Commission's decision to City Council pursuant with subsection 11-4.1.040.F, or may appeal the City Council's decision to the State Land Use Board of Appeals, as applicable

E. Effective Date of Decision. Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective ten (10) days after the City mails the decision notice unless the decision is appealed pursuant to subsection 11-4.1.040.F.

F. Appeal of Planning Commission Decision. The Planning Commission's decision may be appealed to the City Council as follows:

1. Who may appeal. The following people have legal standing to appeal:

- a. The applicant or owner of the subject property; and
- b. Any person who testified orally or in writing during Planning Commission hearing before the close of the public record.

2. Appeal filing procedure.

- a. *Notice of appeal.* Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
- b. *Time for filing.* A Notice of Appeal shall be filed with the City Manager within the timeframe specified on the Notice of Decision; typically, this will be within ten (10) days of the date the Notice of Decision is mailed.

11-4.1 – General Review Procedures | Type III Procedure

- c. *Content of notice of appeal.* The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
 - (1) An identification of the decision being appealed, including the date of the decision;
 - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
 - (3) A statement explaining the specific issues being raised on appeal; and
 - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

- 3. **Scope of appeal.** The appeal of a Type III Quasi-Judicial Decision shall be a hearing de novo before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Quasi-Judicial Decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony or argument concerning any applicable standard, criterion, condition, or issue.

G. Record of the Public Hearing.

- 1. The official public hearing record shall include all of the following information:
 - a. All materials considered by the hearings body;
 - b. All materials submitted by the City Manager to the hearings body regarding the application;
 - c. The minutes of the hearing;
 - d. The final written decision; and
 - e. Copies of all notices given as required by this Chapter, and correspondence regarding the application that the City mailed or received.
- 2. The meeting minutes shall be filed in hardcopy form with the City Manager. The minutes and other evidence presented as a part of the hearing shall be part of the record.
- 3. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

- ### **H. Effective Date and Appeals to State Land Use Board of Appeals.** A Quasi-Judicial Decision or Appeal Decision, as applicable, is effective the date the City mails the decision notice. Appeals of City Council decisions under this Chapter shall be filed with the State Land Use Board of Appeals pursuant with ORS 197.805 - 197.860.

11-4.1.050 Type IV (Legislative Review)

A. Timing of Requests. The City Council may establish a schedule for when it will accept legislative code amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178.

B. Application Requirements.

1. **Application forms.** Legislative applications shall be made on forms provided by the City Manager.

2. **Submittal Information.** The application shall contain all of the following information:

- a. The information requested on the application form;
- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
- c. The required fee, except when City of Nyssa initiates the request; and
- d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

C. Procedure. Hearings on Legislative Land Use requests are conducted similar to City Council hearings on other legislative proposals, except the notification procedure for Legislative Land Use requests must conform to State land use laws (ORS 227.175), as follows:

1. The City Manager shall notify in writing the Oregon Department of Land Conservation and Development (DLCD) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least thirty-five (35) days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCD Certificate of Mailing.

11-4.1 – General Review Procedures | Type IV Procedure

2. At least twenty (20) days, but not more than forty (40) days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another). See also, ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
3. At least ten (10) days before the scheduled City Council public hearing date, public notice shall be published in a newspaper of general circulation in the City.
4. For each mailing and publication of notice, the City Manager shall keep an affidavit of mailing/publication in the record.

D. Final Decision and Effective Date. A Legislative Land Use decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant. Notice of a Legislative Land Use decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development within twenty (20) business days after the City Council decision is filed with the City Manager. The City shall also provide notice to all persons as required by other applicable laws.

11-4.1 – General Review Procedures | Time Limit; Consolidated Review; City Manager’s Duties

11-4.1.060 Time Limit; Consolidated Review; City Manager’s Duties

- A. Time Limit - 120-day Rule.** The City shall take final action on Administrative and Quasi-Judicial land use applications, pursuant with this Chapter, including resolution of all appeals, within 120 days from the date the City Manager deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to Legislative Land Use decisions.)
- B. Time Periods.** In computing time periods prescribed or allowed by this Chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.
- C. Consolidated Review of Applications.** When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.
- D. City Manager’s Duties.** The City Manager, or his or her designee, shall perform all of the following duties with regard to administration of this Code:
1. Prepare application forms based on in the provisions of this Code and applicable State law;
 2. Prepare required notices, and process applications for review and action;
 3. Assist Planning Commission and City Council in administering the hearings process;
 4. Answer questions from the public regarding the City’s land use regulations.
 5. Prepare staff reports summarizing pending applications, including applicable decision criteria;
 6. Prepare findings consistent with City decisions on land use and development applications;
 7. Prepare notices of final decisions, file the notices in the City’s records and mail a copy of the notices to all parties entitled to notice under this Code; and
 8. Maintain and preserve the file and public record for each application.

11-4.2 – Site Design Review | Review Procedure

Chapter 11-4.2 - Site Design Review

Sections:

11-4.2.010	Purpose
11-4.2.020	Applicability
11-4.2.030	Review Procedure
11-4.2.040	Application Submission Requirements
11-4.2.050	Approval Criteria and Adjustments
11-4.2.060	Assurances
11-4.2.070	Compliance with Conditions; Modifications; Permit Expiration

11-4.2.010 Purpose

The purpose of this Chapter is to advance all of the following objectives in the public interest:

- A. Carry out the development pattern and plan of the City and its comprehensive plan policies through efficient and effective review of site development proposals;
- B. Promote the public health, safety and general welfare;
- C. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and
- D. Encourage efficient use of land resources and public services, and the provision of transportation options.

11-4.2.020 Applicability

Site Design Review approval is required for new development. Site Design Review approval is also required to expand a non-conforming use or development. Except as specified by a condition of approval on a prior City decision, or as required for uses subject to Conditional Use Permit approval, Site Design Review is not required for the following:

- A. Change in occupancy from one type of land use to a different land use resulting in no increase in vehicular traffic or development;
- B. Single-family detached dwelling (including manufactured home);
- C. A single duplex;
- D. Building addition of up to five hundred (500) square feet or ten percent (10%), whichever is greater;

- E. Home occupation, except for uses requiring a Conditional Use Permit;
- F. Development and land uses that are already approved as part of a Site Design Review or Conditional Use Permit application, provided modifications to such plans may require Site Design Review, pursuant with Chapter 11-4.7;
- G. Public improvements required by City standards or as stipulated by a condition of land use approval (e.g., transportation facilities and improvements, parks, trails, utilities, and similar improvements), as determined by the City Manager, except where a condition of approval requires Site Design Review.
- H. Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing and similar maintenance and repair shall be exempt from review.

11-4.2.030 Review Procedure

Site Design Review shall be conducted using the Type II procedure in Section 11-4.1.030, except that proposals exceeding the thresholds below shall be reviewed using the Type III procedure in Section 11-4.1.040:

- A. The proposed use's estimated vehicle trip generation exceeds 100 average daily trips, based on the latest edition of the Institute of Transportation Engineers (ITE) Manual. This is the equivalent of approximately 10 dwelling units; or
- B. The use exceeds 5,000 square feet of gross leasable floor area; or the project involves more than one (1) acre total site area; or
- C. The proposal involves a Conditional Use (new or expanded); or
- D. The proposal involves a variance under Chapter 11-4.7; or
- E. The proposal involves expansion of a non-conforming use; or
- F. The City Manager determines that, due to the nature of the proposal, a public hearing is the most effective way to solicit public input in reviewing the application.

11-4.2 – Site Design Review | Application Submission Requirements

11-4.2.040 Application Submission Requirements

All of the following information is required for Site Design Review application submittal, except where the City Manager determines that some information is not pertinent and therefore is not required.

A. General Submission Requirements

1. Information required for Type II or Type III review, as applicable. (See Chapter 11-4.1); and
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study. The study shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system; water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City requirements; The City may require a Traffic Impact Analysis pursuant with Section 11-3.6.020.A(5).

B. Site Design Review Information. In addition to the general submission requirements an applicant for Site Design Review shall provide the following information, as deemed applicable by the City Manager. The City Manager may request any information that he or she needs to review the proposal and prepare a complete staff report and recommendation to the approval body:

1. **Site analysis map.** The site analysis map shall contain the following information, as the City Manager deems applicable:
 - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
 - b. Topographic contour lines at 2-foot intervals for slopes, except where the City Engineer or Public Works designee determines that larger intervals are acceptable;
 - c. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
 - d. Potential natural hazard areas, including, as applicable, the base flood elevation identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated by the City, County, or State as having a potential for geologic hazards;
 - e. Areas subject to overlay zones;

11-4.2 – Site Design Review | Application Submission Requirements

- h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
- i. The location, size and species of trees and other vegetation (outside proposed building envelope) having a caliper (diameter) of six (6) inches greater at four (4) feet above grade;
- j. North arrow, scale, names and addresses of all persons listed as owners of the subject property on the most recently recorded deed;
- k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable.

2. Proposed site plan. The site plan shall contain the following information:

- a. The proposed development site, including boundaries, dimensions, and gross area;
- b. Features identified on the existing site analysis maps that are proposed to remain on the site;
- c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
- d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
- e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
- f. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
- g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops);
- h. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
- i. Loading and service areas for waste disposal, loading and delivery;
- j. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
- k. Location, type, and height of outdoor lighting;
- l. Location of mail boxes, if known;

11-4.2 – Site Design Review | Application Submission Requirements

- m. Name and address of project designer, if applicable;
 - n. Locations of bus stops and other public or private transportation facilities;
 - o. Locations, sizes, and types of signs;
- 3. Architectural drawings.** Architectural drawings, as applicable:
- a. Building elevations with dimensions;
 - b. Building materials, colors and type;
 - c. Name and contact information of the architect or designer.
- 4. Preliminary grading plan.** A preliminary grading plan prepared by a civil engineer registered in the State of Oregon shall be required for development sites one-half (1/2) acre or larger, or where otherwise required by the City. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 11-3.6.040.
- 5. Landscape plan.** Where a landscape plan is required, it shall show the following, pursuant with Chapter 11-3.4:
- a. The location and height of existing and proposed fences, buffering or screening materials;
 - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
 - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
 - d. Existing and proposed building and pavement outlines;
 - e. Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule;
 - f. Other information as deemed appropriate by the City Manager. An arborist's report may be required for sites with mature trees that are to be retained and protected.

11-4.2 – Site Design Review | Application Submission Requirements

6. **Deed restrictions.** Copies of all existing and proposed restrictions or covenants, including those for roadway access control.
7. **Narrative.** Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 11-4.2.050.
8. **Traffic Impact Analysis,** when required by Section 11-3.6.020.A(5).
9. **Other information** determined by the City Manager. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Code.

4.2 – Site Design Review | Approval Criteria

11-4.2.050 Approval Criteria

An application for Site Design Review shall be approved if the proposal meets all of the following criteria. The City decision-making body may, in approving the application may impose reasonable conditions of approval, consistent with the applicable criteria.

- A. The application is complete, in accordance with Section 11-4.2.040, above.
- B. The application complies with all of the applicable provisions of the underlying Land Use District (Article 11.2), including but not limited to: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards;
- C. The proposal includes required upgrades, if any, to existing development that does not comply with the applicable land use district standards, pursuant to Chapter 11-1.4, Non-Conforming Uses and Development;
- D. The proposal complies with all of the Development and Design Standards of Article 11.3, as applicable, including but not limited to:
 - 1. Chapter 11-3.3 - Access and Circulation;
 - 2. Chapter 11-3.4 - Landscaping, Fences and Walls, Outdoor Lighting;
 - 3. Chapter 11-3.5 - Parking and Loading; and
 - 4. Chapter 11-3.6 - Public Facilities; and
 - 5. Chapter 11-3.7 - Signs.
- E. For non-residential uses, all adverse impacts to adjacent properties, such as light, glare, noise, odor, vibration, smoke, dust, or visual impact, are avoided; or where impacts cannot be avoided, they are minimized.
- F. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.

Note: Compliance with other City codes and requirements, though not applicable land use criteria, may be required prior to issuance of building permits.

11-4.2.060 Assurances

Public improvement required as part of a Site Design Review approval shall be subject to the performance guarantee and warranty bond provisions of Section 11-3.6.090, as applicable.

11-4.2.070 Compliance With Conditions; Modifications; Permit Expiration

Development shall not commence until the applicant has received all applicable land use and development approvals. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require bonding or other assurances for improvements. Site Design Review approvals are subject to all of the following standards and limitations:

- A. Approval Period.** Site Design Review approvals shall be effective for a period of one (1) year from the date of approval. The approval shall lapse if:
1. A public improvement plan or building permit application for the project has not been submitted within one year of approval; or
 2. Construction on the site is in violation of the approved plan.
- B. Extension.** The City Manager, upon written request by the applicant, may grant a written extension of the approval period not to exceed one year; provided that:
1. No changes are made on the original approved plan;
 2. The applicant can show intent of initiating construction on the site within the one-year extension period;
 3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the subject plan does not comply with those changes, then the extension shall not be granted; in this case, a new Site Design Review shall be required; and
 4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.
- C. Modifications to Approved Plans and Developments.** Modifications to approved plans are subject to City review and approval under Chapter 11-4.5.

4.3 – Land Divisions and Property Line Adjustments

Chapter 11-4.3 - Land Divisions and Property Line Adjustments

Sections:

11-4.3.010	Purpose
11-4.3.020	General Requirements
11-4.3.030	Approval Process
11-4.3.040	Preliminary Plat Submission Requirements
11-4.3.050	Preliminary Plat Approval Criteria
11-4.3.060	Land Division-Related Variances
11-4.3.070	Final Plat Submission Requirements and Approval Criteria
11-4.3.080	Filing and Recording
11-4.3.090	Re-platting and Vacation of Plats
11-4.3.100	Pre-Planning for Annexations
11-4.3.110	Property Line Adjustments

11-4.3.010 Purpose

The purpose of this chapter is to implement the objectives in subsections A-E, below:

- A.** Provide rules, regulations and standards governing the approval of subdivisions, partitions and property line adjustments as follows:
 - 1. Subdivisions are the creation of four (4) or more lots from one parent lot, parcel or tract, within one (1) calendar year.
 - 2. Partitions are the creation of three (3) or fewer lots from one parent lot, parcel, or tract within one calendar year.
 - 3. Property line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots).
- B.** Carry out the City's development pattern, as envisioned by the City's comprehensive plan.
- C.** Encourage efficient use of land resources and public services, and to provide transportation options.
- D.** Promote the public health, safety and general welfare through orderly and efficient urbanization.
- E.** Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards.

4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Process

11-4.3.020 General Requirements

A. Subdivision and Partition Approval Through Two-Step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and
2. The final plat must demonstrate compliance with all conditions of approval of the preliminary plat.

Note: Property line adjustments and lot consolidation requests (i.e., no new lot is created) are subject to Section 11-4.3.110; they are not subject to 11-4.3.020 through 11-4.3.090.

B. Compliance With Oregon Revised Statutes (ORS) Chapter 92. All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.

C. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than three times or 300 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future.

D. Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as streets, water, sewer, gas, and electrical systems, pursuant with Chapter 11-3.6. These systems shall be located and constructed underground where feasible.

E. Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required, pursuant with Chapter 11-3.6.

F. Adequate Access. All lots created or reconfigured shall have adequate vehicle access and parking, as may be required, pursuant with Chapter 11-3.3.

11-4.3 – Land Divisions and Property Line Adjustments | General Requirements

11-4.3.030 Preliminary Plat Approval Process

- A. Review of Preliminary Plat.** Preliminary plats shall be processed using the Type III procedure under Section 11-4.1.040. All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in Section 11-4.3.050.
- B. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of two (2) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant with Section 11-4.3.070, within the 2-year period. The Planning Commission may approve phased subdivisions, pursuant with subsection 11-4.3.030.D, with an overall time frame of more than two (2) years between preliminary and final plat approvals.
- C. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 11-4.5. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period not to exceed one (1) year per extension, provided that all of the following criteria are met:
1. Any changes to the preliminary plat follow the procedures in Chapter 11-4.5;
 2. The applicant has submitted written intent to file a final plat within the one-year extension period;
 3. An extension of time will not prevent the lawful development of abutting properties;
 4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
 5. The extension request is made before expiration of the original approved plan.
- D. Phased Subdivision.** The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided applicant's proposal meets all of the following criteria:
1. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than one (1) year;
 2. Public facilities shall be constructed in conjunction with or prior to each phase;
 3. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
 4. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
 5. Planning Commission approval is required for modifications to phasing plans.

11-4.3.040 Preliminary Plat Submission Requirements

Applications for Preliminary Plat approval shall contain all of the following information:

A. General Submission Requirements.

1. Information required for a Type III review. (See Section 11-4.1.040); and
2. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study, which shall address, at a minimum, the transportation system, including required improvements for vehicles and pedestrians; the drainage system; the parks system (for subdivisions and planned unit developments of 20 or more dwelling units); water system; and sewer system. For each system and type of impact, the study shall propose improvements necessary to meet City standards under adopted ordinances and facility master plans. The City may require a Traffic Impact Analysis pursuant with Section 11-3.6.020.A(5).

B. Preliminary Plat Information. In addition to the general information described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information, in quantities determined by City Manager:

I. General information:

- a. Name of subdivision (partitions are named by year and file number). This name shall not duplicate the name of another land division Malheur County (check with County Surveyor);
- b. Date, north arrow, and scale of drawing;
- c. Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;
- d. Zoning of parcel to be divided, including any overlay zones; and
- e. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the name of the engineer and surveyor, and the date of the survey; and
- f. Identification of the drawing as a “preliminary plat”.

11-4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submission

- 2. Existing Conditions.** Except where the City Manager deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing conditions of the site:
- a. **Streets:** Location, name, and present width of all streets, alleys and rights-of-way on and abutting the site;
 - b. **Easements:** Width, location and purpose of all existing easements of record on and abutting the site;
 - c. **Utilities:** Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
 - d. **Ground elevations** shown by contour lines at 2-foot vertical interval. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Planning Commission may waive this standard for partitions when grades, on average, are less than 6 percent;
 - e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
 - f. The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable;
 - g. North arrow and scale; and
 - h. Other information, as deemed necessary by the City Manager for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
- 3. Proposed Development.** Except where the City Manager deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:
- a. Proposed lots, streets, tracts, open space and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
 - b. **Easements:** location, width and purpose of all proposed easements;
 - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;

11-4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Submission

- d. Proposed uses of the property, including all areas proposed to be dedicated as public right-of-way or reserved as open space for the purpose of surface water management, recreation, or other use;
- e. Proposed public street improvements, pursuant with Chapter 11-3.6;
- f. On slopes exceeding an average grade of 10%, as determined by the City Engineer, the preliminary location of development on lots (e.g., building envelopes), demonstrating that future development can meet minimum required setbacks and applicable engineering design standards;
- g. Preliminary design for extending City water and sewer service to each lot, per Chapter 11-3.6;
- h. Proposed method of storm water drainage and treatment, if required, pursuant with Chapter 11-3.6;
- i. The approximate location and identity of other utilities, including the locations of street lighting fixtures, as applicable;
- j. Evidence of compliance with applicable overlay zones, including but not limited to City of Nyssa Flood Plain Overlay; and
- k. Evidence of contact with the applicable road authority for proposed new street connections.

11-4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Criteria

11-4.3.050 Preliminary Plat Approval Criteria

A. Approval Criteria. The Planning Commission may approve, approve with conditions or deny a preliminary plat. The Planning Commission decision shall be based on findings of compliance with all of the following approval criteria:

1. The land division application shall conform to the requirements of Chapter 11-4.3;
2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Article 11.2 (Zoning), except as modified under subsection B of this section.
3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer and streets, shall conform to Article 11.3 (Development and Design Standards);
4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
5. The proposed streets, utilities, and surface water drainage facilities conform to City of Nyssa adopted master plans and applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands. The preliminary plat shall identify all proposed public improvements and dedications;
6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
7. Evidence that any required State and Federal permits, as applicable, have been obtained or can reasonably be obtained prior to development;
8. Evidence that improvements or conditions required by the City, road authority, Malheur County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met;

B. Lot Size Averaging. To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees and other natural and built features, the approval body may grant a ten percent (10%) modification to the lot area and/or lot dimension (width/depth) standards in Chapter 11-2.3, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that all of the following are met:

1. Granting the modification is necessary to achieve planned housing densities, as allowed by the underlying zone, or to improve development compatibility with natural features or adjacent land uses;
2. Where a proposed subdivision would abut an existing subdivision with standard-, or larger-, sized lots, the perimeter of the proposed subdivision shall contain standard-, or larger-, sized lots; except that this

11-4.3 – Land Divisions and Property Line Adjustments | Preliminary Plat Approval Criteria

provision does not apply where the existing lots are larger than 20,000 square feet;

3. The Planning Commission may require screening, buffering, or other transitions in site design where substandard lots are proposed to abut standard-, or larger-, sized lots.

C. Emergency Vehicle Access. A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots it serves. No fence, structure or other obstacle shall be placed within the drive area. Where required, emergency vehicle apparatus lanes, including any required turn-around, shall conform to applicable building and fire code requirements. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow).

D. Maximum Drive Lane Length. The maximum length of a drive serving more than one dwelling is subject to requirements of the Uniform Fire Code, but in no case shall it exceed four hundred (400) feet.

E. Conditions of Approval. The Planning Commission may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations.

11-4.3.060 Land Division-Related Variances

Variances shall be processed in accordance with Chapter 11-4.7. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted; when practical the applications shall be reviewed concurrently.

11-4.3.070 Final Plat Submission Requirements and Approval Criteria

Final plats require review and approval by the Planning Commission prior to recording with Malheur County. The final plat submission requirements, approval criteria, and procedure are as follows:

- A. Submission Requirements.** The applicant shall submit the final plat within two (2) years of the approval of the preliminary plat as provided by Section 11-4.3.050. The format of the plat shall conform to ORS 92.
- B. Approval Process and Criteria.** By means of a Type II Review, the Planning Commission shall review and approve or deny the final plat application based on findings of compliance or noncompliance with the all of the following criteria:
 1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
 2. All public improvements required by the preliminary plat have been installed and approved by the City or applicable service provider if different than the City of Nyssa (e.g., road authority), or otherwise bonded in conformance with Section 11-3.6.090;

11-4.3 – Land Divisions and Property Line Adjustments | Final Plat Submission and Approval

3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. All required streets, access ways, roads, easements, and other dedications or reservations are shown on the plat;
5. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, and water and sewer facilities, as applicable;
6. As applicable, the applicant has furnished acceptable copies of Covenants, Conditions and Restrictions (CC&R's); easements, maintenance agreements (e.g., for access, common areas, parking, etc.); and other documents pertaining to common improvements recorded and referenced on the plat;
7. Verification by the City that water and sanitary sewer service is available to every lot depicted on the plat; and
8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner approved by the Malheur County Surveyor for purposes of identifying its location.

11-4.3.080 Filing and Recording

A new lot is not a legal lot for purposes of ownership (title), sale, lease, or development/land use until a final plat is recorded for the subdivision or partition containing the lot is recorded. Requests to validate an existing lot created through means other than a final plat ("lot of record") shall follow the procedures set forth in ORS 92.010 to 92.190. The final plat filing and recording requirements are as follows:

- A. Filing Plat with County.** Within sixty (60) days of the City approval of the final plat, the applicant shall submit the final plat to Malheur County for signatures of County officials as required by ORS Chapter 92.
- B. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and three (3) paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to Recording the Plat.**
 1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
 2. No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS

Chapter 92.

11-4.3.090 Re-platting and Vacation of Plats

Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed. Except as required for street vacations, the same procedure and standards that apply to the creation of a plat (preliminary plat followed by final plat) shall be used to re-plat or vacate a plat. Street vacations are subject to ORS Chapter 11-271. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable City standards.

11-4.3 – Land Divisions and Property Line Adjustments | Pre-Planning for Annexations

11-4.3.100 Pre-planning for Annexations

- A. Purpose.** Section 11-4.3.100 requires the pre-planning of areas to be annexed to the City, in conjunction with the application of City zoning to those areas. The purpose of this section is to avoid piecemeal development and to ensure the formation of complete neighborhoods with adequate public facilities.
- B. Applicability.** This section applies to proposed annexations of more than five (5) acres; it applies even where no development or subdivision is proposed. For the purposes of this section.
- C. Area Plan Required.** Where an application/petition for annexation and rezoning is subject to this section, the applicant/petitioner shall submit a conceptual master plan illustrating the types and location of planned streets, utility corridors, parks, open spaces, and land uses for the ultimate buildout of the subject property. The plan shall demonstrate how future development, including any proposed phasing, meets the guidelines under subsection D, below.
- D. Criteria.** The conceptual plan required under subsection (C), above, is not required to be engineered but shall have a sufficient level of detail so that City officials can determine that it meets the following guidelines:
1. Streets are interconnected to the extent practicable; blocks are walkable in scale (generally not more than 600 feet in length), except where topography, existing development, or other physical features require longer blocks, which case pedestrian access ways must connect through long blocks;
 2. Water, sewer and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations, etc.) in the future, the plan must describe conceptually how such improvements can be accommodated;
 3. Overall, the plan is capable of achieving a housing density that is within 80%-100% of planned densities, consistent with the Comprehensive Plan and Development Code; and
 4. The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.
- E. Implementation.** The City will review the conceptual master plan required by this section and provide input to the applicant during the annexation process. The City may also refer the plan to outside agencies with jurisdiction for their input. The master plan is not binding but the applicant is encouraged to refine the plan based on the City input before submitting a development application for the subject property. The applicant is also encouraged to contact adjacent property owners and solicit their input prior to submitting a development application.

11-4.3.110 Property Line Adjustments

A Property Line Adjustment is the modification of lot boundary when no lot is created. The City Manager reviews applications for Property Line Adjustments pursuant with the Type I procedure under Section 11-4.1.020. The application submission and approval process for Property Line Adjustments is as follows:

- A. Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I review, pursuant with Section 11-4.1.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of lands subject to the City of Nyssa Flood Plain Overlay; existing fences and walls; and any other information deemed necessary by the Planning Commission for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.
- B. Approval Criteria.** The City Manager shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:
1. **Parcel Creation.** No additional parcel or lot is created by the lot line adjustment;
 2. **Lot standards.** All lots and parcels conform to the applicable lot standards of the zoning district (Article 11.2) including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform the City of Nyssa Flood Plain Overlay; and
 3. **Access and Road authority Standards.** All lots and parcels conform to the standards or requirements of Chapter 11-3.3 - Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.

C. Recording Property Line Adjustments

1. **Recording.** Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment documents with Malheur County within 60 days of approval (or the decision expires), and submit a copy of the recorded map to the City, to be filed with the approved application.
2. **Time limit.** The applicant shall submit a copy of the recorded property line adjustment survey map to the City within fifteen (15) days of recording and prior to any application being filed for a building permits on the re-configured lots.

11-4.4 – Conditional Use Permits

Chapter 11-4.4 - Conditional Use Permits

Sections:

11-4.4.010	Purpose
11-4.4.020	Approvals Process
11-4.4.030	Application Submission Requirements
11-4.4.040	Criteria, Standards and Conditions of Approval
11-4.4.050	Supplemental Development Standards

11-4.4.010 Purpose

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. Conditional uses are identified in Chapter 11-2.2 - Zoning District Regulations. The purpose of this chapter is to provide procedures and standards for permitting conditional uses.

11-4.4.020 Approvals Process

The Planning Commission using a Type III procedure, per Section 11-4.1.040, reviews conditional use applications. The Planning Commission may require annual, or less frequent, renewal of conditional use permits. Modifications to conditional use permits are subject to Chapter 11-4.5 Modifications.

11-4.4.030 Application Submission Requirements

In addition to the submission requirements for a Type III review under Section 11-4.1.040, applications for conditional use permits shall include a description of existing conditions, a site plan, and information on any existing and any proposed restrictions or covenants. (For a more detailed description of each item, please refer to Section 11-4.2.040 Site Design Review Application Submission Requirements.) An application for a Conditional Use Permit shall also contain a narrative report or letter responding to the applicable approval criteria in Section 11-4.4.040

11-4.4.040 Criteria, Standards and Conditions of Approval

The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, including requests to enlarge or alter a conditional use, based on findings of fact with respect to all of the criteria and standards in A-B.

A. Use Criteria

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations.
2. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval.
3. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards.
4. A conditional use permit shall not allow a use that is prohibited or not expressly allowed under Article 11.2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.

B. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, one or more of the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building or structure height, size, lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking and loading areas;
6. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;

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7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;
13. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards; and
14. The Planning Commission may require review renewal of conditional use permits annually or in accordance with another timetable as approved pursuant with this Chapter. Where applicable, the timetable shall provide for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such period review shall occur through a Type III review procedure, except where the Planning Commission delegates authority to the City Manager to issue renewals, who shall do so through a Type I or Type II procedure, as applicable. (See Chapter 11-4.1 for review procedures.)

Chapter 11-4.5 - Modifications to Approved Plans and Conditions

Sections:

11-4.5.010	Purpose
11-4.5.020	Applicability
11-4.5.030	Major Modifications
11-4.5.040	Minor Modifications

11-4.5.010 Purpose

The purpose of this Chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources.

11-4.5.020 Applicability

This Chapter applies when an applicant proposes to modify an approved application or condition of approval.

11-4.5.030 Major Modifications

A. Major Modification. The Planning Commission reviews applications for major modifications through the Quasi-Judicial procedure under Section 11-4.1.040. Any one of the following changes constitutes a major modification:

1. A change in land use, from a less intensive use to a more intensive use, as evidenced by parking, paved area, estimated an increase in automobile or truck trips (peak and/or average daily trips), an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is twenty percent (20%) or more, provided the standards of Article 11.2 and Article 11.3 are met; or
2. An increase in floor area to a commercial or industrial development, or an increase in the number of dwelling units in a multifamily development, by twenty percent (20%) or more, provided the standards of Article 11.2 and Article 11.3 are met; or
3. A reduction in required setbacks, or an increase in lot coverage, by twenty percent (20%) or more, provided the standards of Article 11.2 and Article 11.3 are met; or
4. A change in the type and/or location of vehicle access points or approaches, driveways, or parking areas affecting off-site traffic when roadway authority determines the change could cause a significant adverse impact on traffic operations or safety (i.e., requiring mitigation); or

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5. A reduction to screening, or a reduction to the area reserved for common open space or landscaping by twenty percent (20%) or more; or
6. Change to a condition of approval, or a change similar to items 1-5, above, that could have a detrimental impact on adjoining properties. The City Manager shall have discretion in determining detrimental impacts triggering a major modification; or
7. Other changes similar to those in subsections 1-6, above, in scale, magnitude, or impact to adjacent properties, as determined by the City Manager.

B. Major Modification Applications; Approval Criteria. Requests for major modifications shall conform to all of the following procedures and criteria:

1. The applicant shall submit an application form, filing fee, a letter describing the modification, and a site plan using the same plan format as in the original approval. The City may require other relevant information, as necessary, in evaluating the request;
2. The application shall be subject to the same approval criteria used for the initial project approval; except that a modification adding a conditional use to a project approved without a conditional use shall require findings in conformance with Chapter 11-4.4;
3. The scope of review shall be limited to the modification request. For example, a request to modify a commercial development's parking lot shall require Site Design Review only for the proposed parking lot and any changes to associated access, circulation, etc. Notice shall be provided in accordance with Chapter 11-4.1; and
4. The Planning Commission shall approve, deny, or approve with conditions an application for major modification based on written findings on the applicable Code criteria (e.g., subdivision, Site Design Review, conditional use, etc.).

11-4.5.040 Minor Modifications

A. Minor Modification. The City Manager through a Type I or II procedure, depending on whether the proposal involves the exercise of discretion, shall review proposals for Minor Modifications. Minor modifications include technical corrections to comply with codes and regulations, and changes that fall below the thresholds in 11-4.5.030, as determined by the City Manager. Administrative Land Use Review, pursuant with Section 11-4.1.030. A minor modification is a change to an approved plan or condition of approval that does not meet any of the thresholds for a major modification listed in Section 11-4.5.030.A.

B. Minor Modification Applications; Approval Criteria. An application for minor modification shall include an application form, filing fee, a letter describing the modification, and a site plan using the same plan format as in the original approval. The City Manager may require other relevant information, as necessary, in

4.5 – Modifications to Approved Plans and Conditions | Minor Modifications

evaluating the request.

- C. Minor Modification Approval Criteria.** The Planning Commission shall approve, deny, or approve with conditions an application for minor modification based on findings of compliance or noncompliance with the applicable requirements of the Development Code and the conditions of approval on the original decision.

11-4.6 – Amendments to Zoning Map or Code

Chapter 11-4.6 – Amendments to Zoning Map or Code

Sections:

11-4.6.010	Purpose
11-4.6.020	Procedure
11-4.6.030	Criteria
11-4.6.040	Record of Amendments
11-4.6.050	Transportation Planning Rule Compliance

11-4.6.010 Purpose

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and Zoning Map. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law.

11-4.6.020 Procedure

- A. Except for corrections, amendments to Development Code text are Legislative.
- B. Amendments to the Zoning Map that affect more than one parcel, or more than one-half (1/2) acre, whichever is greater, are reviewed through a Type IV Legislative process. See Chapter 11-4.1.050.
- C. Amendments to the Zoning Map that require an amendment to the Comprehensive Plan are reviewed through a Type IV Legislative process. See Chapter 11-4.1.050.
- D. Amendments that do not meet the criteria under subsection 11-4.6.020.A, 11-4.6.020.B, or 11-4.6.020.C may be processed through the Type III procedure as Quasi-Judicial amendments. See Chapter 11-4.1.40.

11-4.6.030 Criteria

Planning Commission review and recommendation, and City Council approval, of an ordinance amending the Zoning Map, Development Code or Comprehensive Plan shall be based on all of the following criteria:

- A. If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
- B. The proposal must be consistent with the Comprehensive Plan. (The Comprehensive Plan may be amended concurrently with proposed changes in zoning);

11-4.6 – Amendments to Zoning Map or Code

- C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code; and
- D. The amendment must conform to the Transportation Planning Rule provisions under Section 11-4.6.050.

11-4.6.040 Record of Amendments

The City Manager shall maintain a record of amendments to the text of this Code and the Zoning Map in a format convenient for public use. In the case of a map amendment, the map shall be made part of the ordinance.

11-4.6.050 Review of Plan and Zoning Changes for Effect on Transportation Facilities

Proposals to amend the Comprehensive Plan or Zoning Map shall be reviewed to determine whether they significantly affect a transportation facility pursuant with Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant affect on a transportation facility, the City shall work with the roadway authority and applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

11-4.7 – Variances

Chapter 11-4.7 - Variances

Sections:

11-4.7.010	Purpose
11-4.7.020	Intent and Applicability
11-4.7.030	Approval Criteria
11-4.7.040	Expiration

11-4.7.010 Purpose

Chapter 11-4.7 provides standards and procedures for variances.

11-4.7.020 Intent and Applicability

Variances are intended to provide relief to a code standard where due to the physical characteristics of the site, the code prevents reasonable development in compliance with a code standard. The variance review procedure is intended to ensure that the resulting development is compatible with adjacent properties and is consistent with the intent of the Code.

11-4.7.030 Approval Criteria

The Planning Commission through a Type III procedure may approve a Variance upon finding that it meets all of the following criteria:

- A. The Variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, existing development patterns, or adjacent land uses. A legal lot determination may be sufficient evidence of a hardship for purposes of approving a variance;
- B. The Variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
- C. The need for the Variance is not self-imposed by the applicant or property owner. (For example, the Variance request does not arise as result of a property line adjustment or land division approval previously granted to the applicant);
- D. The Variance does not conflict with other applicable City policies or other applicable regulations;
- E. The Variance will result in no foreseeable harm to adjacent property owners or the public; and
- F. All applicable building code requirements and engineering design standards shall be met.

11-4.7.040 Expiration

Variance approvals shall expire if not acted upon by the property owner within one (1) year of the City approving the variance; except the City Manager may extend a variance approval, where the owner has applied for a building permit or final plat, has made site improvements consistent with a City-approved development plan or permit, or provides other evidence of working in good faith toward completing the project, and accordingly submits a written request to extend the approval to the City Manager prior to the variance expiring.

11-4.8 – Master Planned Developments

Chapter 11-4.8 - Master Planned Developments

Sections:

11-4.8.010	Purpose
11-4.8.020	Applicability
11-4.8.030	Review and Approvals Process
11-4.8.040	Modifications to Development Standards
11-4.8.050	Concept Plan Submission
11-4.8.060	Concept Plan Approval Criteria
11-4.8.070	Expiration
11-4.8.080	Detailed Development Plan Submission
11-4.8.090	Detailed Development Plan Criteria
11-4.8.100	Subsequent Development Reviews

11-4.8.010 Purpose

The purposes of Chapter 11-4.8 are to:

- A.** Implement the Comprehensive Plan by providing a means for master planning large development sites, as an alternative to piecemeal subdivision developments;
- B.** Encourage innovative neighborhood design with a variety of housing, open space, pathways, and other amenities;
- C.** Encourage housing options for a range of household sizes and incomes;

11-4.8.020 Applicability

The master planned development designation may be applied over any of the City's residential zoning districts. It is an option available to developers of land.

11-4.8.030 Review and Approvals Process

- A. Review Steps.** There are three required steps to master planned development approval, which may be completed individually or combined for concurrent review:
 - 1. Application for master planned development concept plan approval;
 - 2. Application for detailed development plan approval, which may include a preliminary subdivision plan; and
 - 3. Application(s) for final development plan (e.g., final plat and/or site design review) approval.

B. Approval Process.

1. The master planned development concept plan shall be reviewed pursuant with the Type III procedure in Section 11-4.1.040, the submission requirements in Section 11-4.8.050, and the approval criteria in Section 11-4.8.060.
2. The detailed development plan and preliminary subdivision plan shall be reviewed using the Type II procedure in Section 11-4.1.030 to ensure substantial compliance with the approved concept plan.
3. Site design review applications for approved planned developments shall be reviewed using a Type II procedure in Section 11-4.1.030 to ensure substantial compliance with the approved concept plan.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows the above order. Notification and hearings may be combined.

11-4.8.040 Modifications to Development Standards

The standards of Article 11.2 and Article 11.3 may be modified through the master plan development process without the need for variance under Chapter 11-4.7. In evaluating this criterion, the City decision making body shall consider whether the proposal, on balance, exceeds the City's minimum requirements and provides greater community benefits than would otherwise occur under the base Development Code requirements. In evaluating community benefits, the City decision-making body shall apply the following criteria; the City may deny an application for Master Planned Development concept plan approval that does not meet all of the following criteria:

- A. Comprehensive Plan.** The modification does not conflict with the Comprehensive Plan. A Master Planned Development may exceed the maximum residential density (minimum lot size) permitted by the underlying zone, provided that the overall density of the project (average of total dwelling units per acre) is not greater than 110% of the density permitted by the underlying zone.
- B. Purpose and Intent of Development Code.** The modification equally or better meets the purpose and intent of the Development Code section(s) to be modified, as compared to a project that strictly conforms to code standards; and
- C. Public Benefit.** The modification provides a net benefit to the public by one or more of the following:
1. Greater variety of housing types or lot sizes than would be achieved under the base Development Code standards;
 2. More open space or more usable open space than would be required under the base Development Code standards;
 4. Greater protection of natural features than would be required under the base Development Code

11-4.8 – Master Planned Developments

standards;

5. Avoidance of natural hazards (e.g., geological hazards, river resources, or flood hazards);
6. Improved transportation connectivity, such as the provision of pathways and/or other transportation facilities, that would not otherwise be provided pursuant to base Development Code requirements; and

D. Public Works Design Standards. Modifications to the City of Nyssa Public Works Design Standards require separate variance to such standards approved by the City Engineer or Public Works designee. The City may grant such variances concurrently with the master planned development.

11-4.8.050 Concept Plan Submission

A. General Submission Requirements. An application for a Concept Development Plan shall follow the submission requirements for a Type III review under Section 11-4.1.040, and shall include all of the following:

1. A statement of planning objectives to be achieved by the master planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;
2. A development schedule indicating the approximate dates when construction of the project and its various phases, if any, including public facilities, are expected to be initiated and completed;
3. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development;
4. Narrative report or letter documenting compliance with the applicable approval criteria contained in Section 11-4.8.060;
5. Maintenance plan for any common areas or lands not dedicated to a public agency or owned in fee simple; and
6. Additional reports or studies prepared by qualified professionals, as required by the City Manager determine potential project impacts and mitigation, if any, related to: transportation; public facilities; geologic or other hazards; architecture; noise, light, solar access, air quality, or similar concerns; and natural features.

B. Additional Information. In addition to the general information described in Subsection “A” above, the concept plan, data, and narrative shall include all of the following exhibits and information:

1. Existing Conditions map, as defined in Section 11-4.2.040 - Site Design Review Application Submission Requirements;
2. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
3. Grading concept (for hillside or sloping properties, or where extensive grading is anticipated);
4. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);
5. Architectural concept (e.g., plans illustrate architectural styles, building heights, and general materials);
6. Sign concept plan (e.g., locations, general size, style and materials of signs), as applicable; and
7. Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

11-4.8.060 Concept Plan Approval Criteria

The City, in approving or approving with conditions a Concept Plan, shall make findings that all of the following criteria are met. The City must deny an application where not all of the criteria are met.

- A. Comprehensive Plan.** The proposal conforms to the Comprehensive Plan;
- B. Land Division Chapter.** Except as may be modified under Section 11-4.8.040, all of the requirements for land divisions under Chapter 11-4.3, are met;
- C. Article 11.2 and Article 11.3 Standards.** Except as may be modified under Section 11-4.8.040, all of the requirements of Article 11.2 and Article 11.3 are met;
- D. Open Space.** Master plans shall contain a minimum of twenty percent (20%) open space, which may be public, private, or a combination of public and private open space. Such open space shall be integral to the master plan and connect to a majority of the proposed residential lots. Plans shall provide space for both active and passive recreational uses, and may include but are not limited to: neighborhood parks, pathways/trails, natural areas, plazas, and play fields. Open space areas shall be shown on the final plan and recorded with the final plat or separate instrument; and the open space shall be conveyed in accordance with one of the following methods:
 1. By dedication to the City as publicly owned and maintained open space. Open space proposed for dedication to the City must be acceptable to the Planning Commission with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide an environmental assessment), and approved by City Council based on budgetary, maintenance, and liability

11-4.8 – Master Planned Developments

considerations; or

2. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association or other legal entity. The terms of such lease or other instrument of conveyance must include provisions for maintenance and property tax payment acceptable to the City. The City through conditions of approval may also require public access be provided, i.e., where the open space is deemed necessary, based on impacts of the development, to meet public recreational needs pursuant to the Comprehensive Plan.

E. Modifications to Standards. Modifications to Code standards must conform to the criteria in Section 11-4.8.040.

11-4.8.070 Concept Plan and Expiration

- A. Filing.** Upon approval of a concept plan, the approved plan, including any conditions of approval, shall be binding on future uses and development of the property, except where an approval expires.
- B. Expiration.** Except as provided by subsection (C), below, a concept plan shall become void three (3) years after the date of approval if the applicant, or successor, has not filed with the City an application for detailed development plan and final plat approval in conformance with Section 11-4.8.080 through 11-4.8.090.
- C. Extension.** The City may grant extensions of the concept plan approval period, not to exceed one (1) year per extension, provided that the extension request is made before expiration of the MPD approval, the applicant can show intent of applying for detailed development plan review within the one- year extension period, and there have been no substantive changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based.

11-4.8.080 Detailed Development Plan Submission

Detailed development plan submittal requirements are determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan submittal shall meet the minimum requirements for final plat submission under Chapter 11-4.3, and shall contain information demonstrating compliance with the concept plan. The detailed development plan and preliminary subdivision plan shall be reviewed using the Type II procedure in Section 11-4.1.030 to ensure substantial conformance to the approved concept plan. Where the proposal is for a multifamily development, Site Design Review is required, pursuant to Section 11-4.2; Site Design Reviews on detailed development plans shall be processed through the Type II procedure.

11-4.8.090 Detailed Development Plan Criteria

Approval of the detailed development plan shall be based upon a finding that the final plan substantially conforms to the concept plan, including any concept plan conditions of approval. Minor changes to the approved concept plan may be approved with the detailed plan where the City Manager finds that: 1) The modification is necessary to correct an error, or to address changes in circumstances beyond the applicant's control that have occurred since the date of project approval. Other changes must be reviewed as major modifications under Chapter 11-4.5.

11-4.8.100 Subsequent Development Reviews

Notwithstanding the provisions of Section 11-4.2.030, where the City has previously approved a development project in concept as part of a master planned development approval, as determined by the City Manager, subsequent land use applications for the same project may be processed through a Type I review.

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Article 5 – Definitions

Chapter 11-5.1 — Definitions

Sections:

11-5.1.010	Purpose
11-5.1.020	Applicability
11-5.1.030	Definitions

11-5.1.010 Purpose

The purpose of Chapter 11-5.1 is to define terms that are used in the City of Nyssa Development Code and other terms that may arise in interpreting the Code, particularly those that may be uncommon or have more than one meaning.

11-5.1.020 Applicability

- A. Definitions.** The definitions in Chapter 11-5.1 apply to all actions and interpretations under the City of Nyssa Development Code. The meanings of some terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control.
- B. When A Term Is Not Defined.** Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. Webster’s Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.
- C. Land Use Categories.** Chapter 11-5.1 defines the land use categories used in Article 2.
- D. Conflicting Definitions.** Where a term listed in Chapter 11-5.1 is defined by another section of this Code or by other regulations or statutes referenced by this Code, the term is not redefined herein for purposes of that other code.

11-5.1.030 Definitions

The following definitions are organized alphabetically.

A

Abutting. Contiguous or adjoining.

Access. A way or means of approach to provide pedestrian, bicycle, and/or motor vehicular entrances or exits to a property.

Access Control. Where the right of access between a property abutting the highway and the highway has been acquired by a roadway authority or eliminated by law pursuant with access or approach spacing standards.

Access Easement. An easement conveyed for the purposed of providing vehicle, bicycle, and/or pedestrian access from a public street to a lot or parcel across intervening property under separate ownership from the parcel being provided access. **Cross access easement** is an easement providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.

Access Management. The systematic control of the location, spacing, design, and operation of driveways, median openings interchanges, and street connections to a roadway to minimize conflicts between turning and through vehicles, bicyclists and pedestrians. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Public facility measures to support access management include roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. Measures that may be included as conditions of approval for development decisions include but are not limited to 1) standards such as minimum spacing of driveways and onsite vehicle storage requirements, 2) mitigations related to site conditions such as right-in-right-out only approaches, medians, dedicated turn lanes, and shared driveways and 3) provision for future opportunities for mitigation by land dedication or easement.

Access Management Plan. A plan adopted by the City, or jointly by the Oregon Transportation Commission (OTC) in coordination with the City, for managing access on a designated section of an arterial street or highway.

Access Way. A walkway or multi-use path connecting two rights-of-way to one another where no vehicle connection is made.

Alternate Access. The right to access a property by means other than the proposed approach or access connection. It may include an existing public right of way, another location on the subject street or highway, an easement across adjoining property, a different street, a service road, a local road, or an alley, and may be in the form of a single or joint approach.

Access, Reasonable. Access that does not require excessive out-of-direction travel or pose a safety hazard.

Access Point. A connection providing for the movement of vehicles to or from a lot or parcel to a public roadway.

Access Spacing/Approach Spacing. The distance from one connection to a public street to another street connection.

Access Spacing Standards. The minimum distance required between a proposed street or driveway connection, as measured from its centerline, and the centerline of the nearest existing street or driveway connection on the same side of the highway or street in both directions, as set forth by the standards of the applicable roadway authority. Spacing standards for state highways are contained in OAR 734-051-4020.

Access Way. A walkway providing a through connection for pedestrians between two streets, between two lots, or between a development and a public right-of-way. It may be an access way for pedestrians and bicyclists (with no vehicle access), or a walk way on public or private property (*i.e.*, with a public access easement); may also be designed to accommodate emergency vehicles. See also, Walkway.

Accessible. Two meanings are possible depending on the specific code provision: In general, accessible means approachable by pedestrians, vehicles or other transportation mode, as applicable. Accessible may also mean approachable and useable by people with disabilities, in conformance with the Federal Americans With Disabilities Act. Either or both definitions may apply in a particular situation.

Accessory Structure. A structure of secondary importance or function on a site. In general, the primary use

11-5.1 – Definitions

of the site is not carried on in an accessory structure. Accessory structures are detached from the primary structure. Examples of accessory structures include but are not limited to: garages, decks, fences, arbors, gazebos, workshops and other structures. See also Primary Structure.

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

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

Alter/Alteration. A change in use or occupancy or physical change to a structure or site. Alteration does not include normal maintenance and repair. Alterations may or may not require land use approval, but property owners should check with the City of Nyssa before preparing project plans or commencing development. Alterations include but are not limited to the following:

- Changes in use or occupancy;
- Changes to the exterior of a building;
- Changes to the interior of a building;
- Increases or decreases in floor area of a building;
- Changes to other structures on the site, or the development of new structures;
- Changes to exterior improvements;
- Changes to landscaping; and
- Changes in the topography of the site.

Applicant. A person who applies for a permit or approval under this Code. An applicant can be the owner of the property, a contract purchaser, or someone who is legally authorized to represent the owner, such as a builder, developer, or contract purchaser.

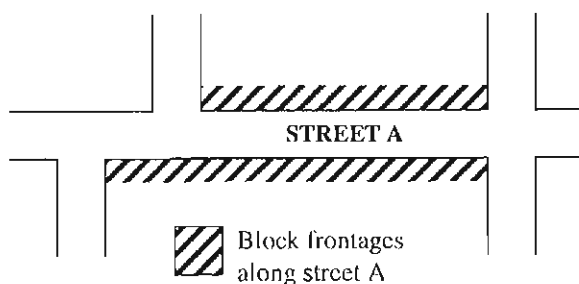
B

Bed and Breakfast Inn. Any establishment located in a structure designed for a single family residence and structures appurtenant thereto, providing limited overnight lodging and meals for guests pursuant with the special use requirements for bed and breakfast inns.

Block. All of the property bounded by streets, rights-of-way (pedestrian or vehicle ways), water features, or any combination thereof, but is not divided or separated in any way by streets or water features.

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

Block Frontage



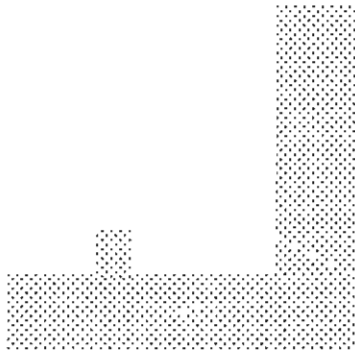
Building. See applicable Building Code.

Building Footprint. The outline of a building, as measured around its foundation, or Building Coverage, whichever is greater.

Building/Structure Height. The vertical distance from the grade plane to the average height of the highest roof structure. See also, International Building Code.

Building Line. A line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building on the site, typically used in reference to required setback yards. See Figure.

Building Lines



Building Official. The person who enforces the building ordinances and regulations for the City, and other ordinances and regulations as assigned.

C

Capacity. Maximum holding or service ability, as used for transportation, utilities, parks and other public facilities. See also, definition of “Occupancy” in applicable building codes.

Carport. A stationary structure consisting of a roof, its supports, not more than one wall or storage cabinets substituting for a wall, used to shelter motor vehicles, recreational vehicles, or boats; does not include temporary shelters or canopies not affixed to a permanent foundation per applicable building codes.

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

Child Care Facility. Facilities that provide care and supervision of minor children for periods of less than 24 hours that do not otherwise meet the definition of Family Daycare.

City. The City of Nyssa, Oregon.

Clearing (as in clearing and grading). Any activity that removes existing vegetation or strips surface material from any portion of the site and exceeding typical yard maintenance for a single family dwelling.

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

Club. Any organization, group, or association supported by the members thereof, the purpose of which is to

11-5.1 – Definitions

render a service customarily rendered for members and their guests but shall not include any organization, group, or association, the chief activity of which is to render a service customarily carried on as a business.

Commercial. Land use involving buying/selling of goods or services as the primary activity. See also “Retail Sales and Services.”

Commercial Outdoor Recreation (Land Use). Includes firing ranges, golf courses, driving ranges, miniature golf, courses, and other unenclosed commercial recreation or amusement activities.

Common Area. Land jointly owned to include open space, landscaping or recreation facilities (e. g., may be managed by a homeowners' association).

Community Services (Land Use). Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community, except for Schools, which are categorized separately. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Private lodges, clubs, and non-profit organizations that have membership provisions may be considered a Community Service. Uses providing mass shelter or short term housing where tenancy may be arranged for periods of less than one (1) month when operated by a public or non-profit agency may also be considered a Community Service. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature. See also, “Religious Institutions” and “Parks and Open Spaces.”

Comprehensive Plan. The current adopted Comprehensive Plan of the City of Nyssa.

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

Condominium. Ownership of a single unit in a multi-unit structure that may contain common areas and facilities; includes both residential and commercial condominiums. See ORS 100 for applicable requirements.

Corner lot. See Lot, Corner lot.

Corner Radius. The radius of a street corner, as measured around the curb or edge of pavement, except as otherwise specified by applicable engineering design standards.

Council/City Council. The City Council of Nyssa, Oregon.

County. Malheur County.

D

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

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

Density(ies). A measurement of the number of dwelling units in relationship to a specified amount of land based on the minimum lot size per dwelling unit required by the applicable zone.

Develop. To construct or alter a structure or to make a physical change to the land including excavations, clearing and fills. See also, Alteration.

Development. All improvements on a site, including alterations to land and new or remodeled structures, parking and loading areas, landscaping, paved or graveled areas, and areas devoted to exterior display, storage, or activities.

Discontinued Use. A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract. See Chapter 1.4 Non-Conforming Situations.

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

Drive-Through/Drive-Up Facility. A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through facilities may serve the primary use of the

site or may serve accessory uses. Examples are drive-up windows; automatic teller machines; coffee kiosks and similar vendors; menu boards; order boards or boxes; gas pump islands; car wash facilities; auto service facilities, such as air compressor, water, and windshield washing stations; quick-lube or quick-oil change facilities; and drive-in theaters. All driveways queuing and waiting areas associated with a drive-through/drive-up facility are similarly regulated as part of such facility.

Driveway. The area that provides vehicular access to a site from a street, or the area that provides vehicular circulation on a site.

Driveway Apron. The edge of a driveway where it meets a public right-of-way. Note: The design standards of the applicable roadway authority apply.

Driveway Approach. A driveway connection to a public street or highway where it meets a public right-of-way. Note: The design standards of the applicable roadway authority apply. See also, Oregon Administrative Rules 734, Division 51, for definitions specific to state highways.

Driveway, Shared. When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) must be created and recorded for this purpose.

Dwelling (Land Use). A structure conforming to the definition of a dwelling under applicable building codes. For the purposes of this Code, the following definitions are provided:

- **Accessory Dwelling.** A secondary dwelling unit on a lot where the primary use is a single-family dwelling.
- **Attached, Single Family (Townhome).** A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units on adjacent lot(s).
- **Duplex Dwelling.** A structure that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.
- **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, as applicable, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar.
- **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.
- **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.
- **Multifamily Development.** A structure or grouping of structures containing three (3) or more dwellings on the same lot.
- **Multifamily Structure.** A structure containing three (3) or more dwelling units. The land underneath the structure is not divided into separate lots.
- **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.
- **Recreational Vehicle.** A vehicle with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal or emergency purposes and as further defined by

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State law and/or administrative rules.

- **Residential Home** is a residential treatment or training or adult foster home licensed by or under the authority of the State of Oregon, pursuant to ORS 443.400 through 443.825, a residential facility registered under ORS 443.480 through 443.500, or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five (5) or fewer individuals who need not be related. (See also, ORS 197.660.)
- **Residential Facility** is defined under ORS 430.010 (for alcohol and drug abuse programs); ORS 443.400 (for persons with disabilities); and ORS 443.880. Residential facilities provide housing and care for six (6) to fifteen (15) individuals who need not be related. Staff persons required to meet State-licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents.
- **Senior Housing.** Housing designated and/or managed for persons over a specified age. Specific age restrictions vary, and uses may include assisted living facilities, retirement homes, convalescent or nursing homes, and similar uses not otherwise classified as Residential Homes or Residential Facilities.
- **Single-Family, Detached Dwelling.** A detached dwelling unit located on its own lot.

E

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

Emergency Apparatus Lane or Fire Lane. Unobstructed area or driveway meeting Uniform Fire Code requirements; typically not be used for parking or loading area.

F

Family Daycare. Care for not more than sixteen (16) children in a home. See ORS 657A.440(4) for applicable licensing and other requirements.

Final Plat. The diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions and information concerning a land division, pursuant with ORS 92 and Chapter 4.3 of this Code.

Floodplain/Hazard Area. Area as so indicated by the Federal Flood Insurance Rate Map, as amended.

Floor Area. Area of building, which may be described in terms of gross (overall) square feet, or net marketable/leasable space.

G

Garage. A covered permanent structure designed to provide shelter for vehicles, and which is accessory to a dwelling or other primary use. Carports are considered garages.

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

Grading. All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development.

Ground Cover. Living or processed plant material (e. g. , mulch, bark chips), river rock and cinders used for aesthetic purposes and to prevent erosion (i.e., cover bare ground) in designated landscape areas. See Chapter 3.4 Landscaping.

Ground Floor. Building floor closest to street level and within four (4) feet of finished grade.

Group Living. Group Living is characterized by the long-term (i.e., more than 28 days) residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size of the group typically is larger than the average size of a household. Group Living structures do not include self-contained units but rather have common facilities for residents including those for dining, social and recreational and laundry. Group Living is divided into two subcategories based on whether or not residents receive any personal care, training and/or treatment:

Room and board facilities are group living establishments where no personal care, training and/or treatment is provided. Examples include dormitories, fraternities, sororities, boarding houses, monasteries and convents, residential hotels, lodging houses operated by organizations for members only, and similar uses.

Long-term care facilities are group living establishments where personal care for children, the aged, and special categories of persons with some limits on ability for self-care is provided. In addition to the provision of room and board, services such as supervision; protection; assistance while bathing, dressing, grooming or eating; management of money; transportation; and recreation are provided. Medical care may or may not be a major element. Examples include hospice, nursing and personal care facilities, homes for the deaf or blind, and similar uses.

H

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

- Nuclear or radioactive materials or waste;
- Chemicals Subject to Reporting Under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, published July, 1987, U. S. Environmental Protection Agency; and
- Hazardous Materials Table, in the Code of Federal Regulations (CFR), Title 49, Part 172.101.
- Other substances as determined by applicable state or federal agency.

Home Occupation, Home Occupation Site. A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the Household Living use on the site, subject to the special use provisions of Chapter 2.3.

Hotel/Motel. A building or portion thereof designed and used for occupancy of transient individuals lodged with or without meals for a continuous period not to exceed 29 days. (See ORS 446.310.)

I

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

Intersection. An at-grade connection of a public or private approach road to the highway.

Industrial Service Uses. Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Examples include welding shops; machine shops; tool repair; electric motor repair; sales, repair, salvage or wrecking of heavy machinery, metal, building materials, autos or trucks (does not include junk yards); towing and temporary vehicle storage; heavy truck servicing and repair; tire re-treading or recapping; truck stops; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; industrial laundry, dry-cleaning, and carpet cleaning plants; photofinishing laboratories; and similar uses.

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J

Junk Yard. (1) Any property or establishment on which one or more persons are engaged in breaking up, dismantling, sorting, storing, distributing, buying, or selling scrap or waste materials. (2) Any establishment or place of business on which an unreasonable volume of waste or refuse is collected, stored, maintained, bought, or sold. Includes wrecking yards, automobile graveyards, garbage dumps, and scrap metal processing facilities.

K

Kennel. As defined by Municipal Code Section 6.02.

L

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

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

Land Use. The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses.

Land Use Decision. A final decision or determination made by the City of Nyssa (or other agency with jurisdiction) that concerns the adoption, amendment, or application of the Statewide planning goals, the Comprehensive Plan, or any land use regulation (i.e., this Code) where the decision requires the interpretation or exercise of policy or legal judgment. (ORS 197.015) Note: All decisions requiring Quasi-Judicial review by the City of Nyssa are Land Use Decisions. Decisions subject to Administrative review are considered Limited Land Use Decisions, pursuant with ORS 197.015.

Legislative. A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e. g., adoption of, or amendment to, a comprehensive plan or development regulation). See also, Section 4.1.050.

Level of Service ("LOS"). A quantitative standard for transportation facilities describing operational conditions. See City of Nyssa Transportation System Plan.

Loading Area. The area available for the maneuvering and standing of vehicles engaged in delivering and loading goods, freight, or other articles. See also, Chapter 3.5, Parking and Loading.

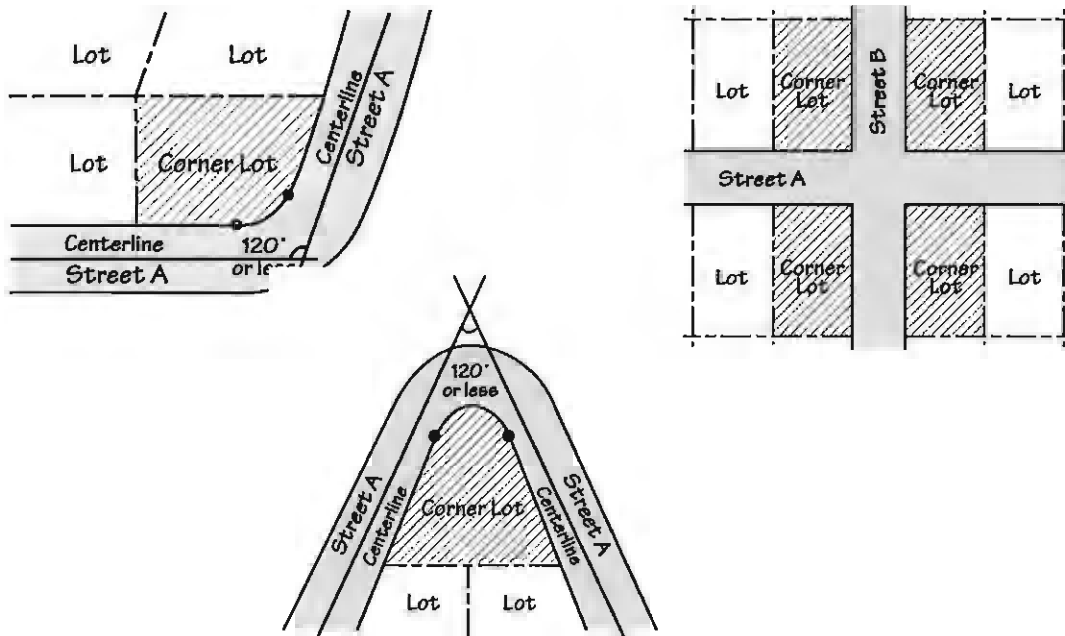
Lot. A lot is a legally defined piece of land other than a tract that is the result of a land division. The following definitions for "lot" apply to the State definition of both lot (result of subdividing) **and** parcel (result of partitioning). See figures below.

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

Lot Lines/Property Lines. The property lines along the edge of a lot or site. See Figures below.

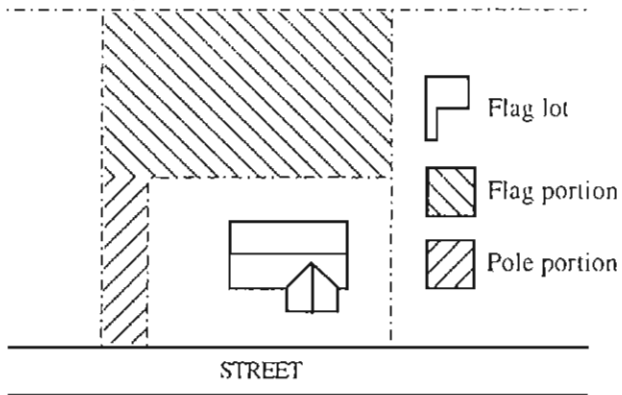
- **Front Lot Line.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front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

Corner Lots

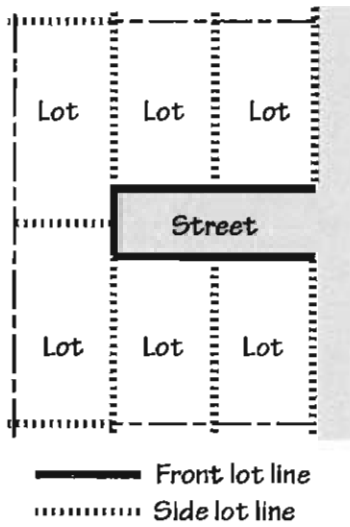


11-5.1 – Definitions

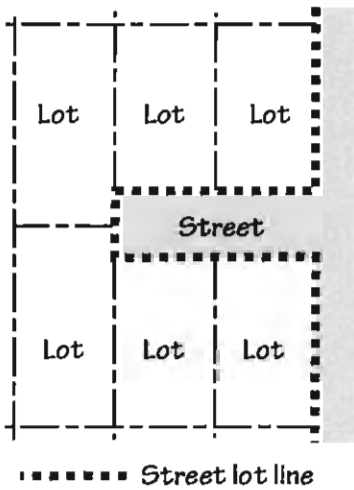
Flag Lot



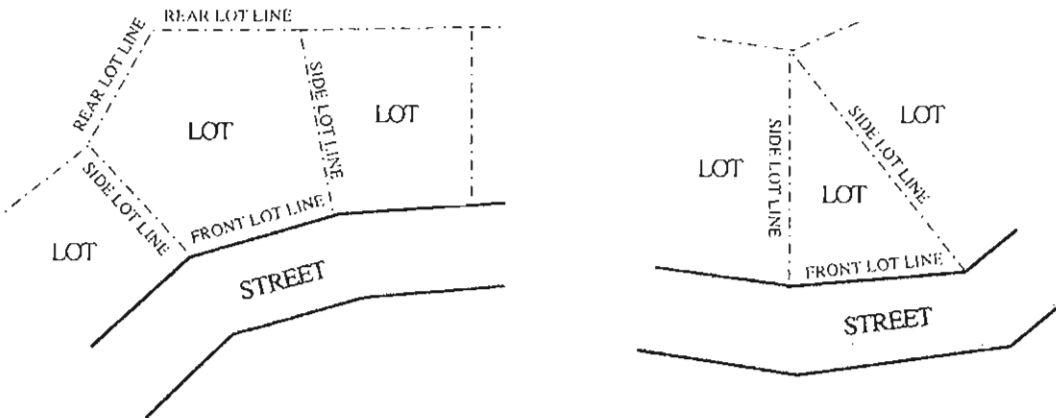
Front and Side Lot Lines



Street Lot Lines



Lot Lines on Irregular Lots



- **Lot of Record.** A legally created lot or parcel meeting all applicable regulations in effect at the time of creation, and held in separate ownership, or any other lot deemed a legal lot under Chapter 1.3.

Lot, Double-Frontage. See Lot, Through Lot.

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

Lot Consolidation. The reduction in the number of lots; i.e., the creation of one lot from two or more existing lots.

Lot Coverage. The total area of a lot covered by building(s) or impervious surfaces, as provided by the applicable land use district development standards.

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Lot Line Adjustment. See Property Line Adjustment.

M

Major Remodeling. Major remodel projects are those where a site is not vacant and the floor area or developed area of the site is proposed to increase by ten percent (10%) or more. See also, Chapter 11-4.2 Site Design Review.

Minor Remodeling. Minor remodel projects do not meet the definition of Major Remodeling; examples include replacement of exterior cladding, doors or windows on a building, where the floor area and developed area of the site do not increase.

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

Manufactured and Mobile Homes. See Residential Structure Types.

Manufactured and Mobile Home Park (Land Use). Any place where four (4) or more manufactured dwellings are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. “Manufactured dwelling park” does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by no more than one (1) manufactured dwelling per lot. See also, ORS Chapter 446.

Manufacturing and Production (Land Use). Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Examples include processing of food and related products; breweries and distilleries when not accessory to a commercial use; slaughter houses or meat packing; taxidermist; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, vehicles, appliances; sign making; production of prefabricated structures, including mobile homes; and the production of energy.

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

Multifamily Housing. See Residential Structure Types.

N

Nonconforming Development. An element of a development, such as lot area, setback, height, lot coverage, landscaping, sidewalk, or parking area, or lack thereof, that was created in conformance with development regulations but which subsequently, due to a change in the zone or applicable Code standards, is no longer in conformance with the current applicable development regulations. See Chapter 1.4.

Nonconforming Situation. A Nonconforming Development or Nonconforming Use. A situation may be nonconforming in more than one aspect. For example, a site may contain a nonconforming use and also have some nonconforming development. See also Nonconforming Development and Nonconforming Use. See Chapter 1.4.

Nonconforming Use. A use that was allowed by right when established or a use that obtained a required land

use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Chapter 1.4.

O

Office (Land Use). Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.

Off-street Parking. All off-street areas designed, constructed, used, or required or intended to be used for the parking of motor vehicles. See Chapter 3.5 for parking standards.

On-street Parking. Parking in the street right-of-way, typically in parking lanes or bays, when allowed by the applicable roadway authority. See Chapter 3.5 for parking standards.

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

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

P

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

Parks and Open Space (Land Use). Parks and Open Space Areas are public parks or private common areas consisting mostly of recreational facilities, community gardens, or natural areas.

Parking Area. A parking area is all the area devoted to the standing, maneuvering, and circulation of motor vehicles. Parking areas do not include driveways or areas devoted exclusively to non-passenger loading or fire apparatus lanes.

Parking Lot Perimeter. The boundary of a parking lot area that usually contains a landscaped buffer area.

Parking Space. An improved space designed to provide standing area for a motor vehicle. See Chapter 3.5 for parking space standards.

Parking Versus Storage. Parking is to leave a motor vehicle for a temporary time. Storage is to place or leave in a location for storage, maintenance, repair, future sale or rental, or future use for an indefinite period of time.

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

Pathway. A walkway, bikeway or access way conforming to City standards and separated from the street right-of-way, that may or may not be within a public right-of-way.

Planned Road or Street. A highway, road, street or alley identified in an adopted corridor plan, comprehensive plan or transportation system plan in accordance with administrative procedures of OAR 660-012 and ORS chapter 197 but has not been constructed.

Planter Strip. A landscape area for street trees and other plantings within the public right-of-way, usually a continuous planter area between the street and a sidewalk.

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

11-5.1 – Definitions

Posted Speed. The statutory speed established by ORS 811.105 or ORS 811.180, or the designated speed established by ORS 810.180.

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

Primary Building Entrance. A main entrance is the entrance to a building that most pedestrians are expected to use. Generally, each building has one main entrance, however, some buildings may have more than one primary entrance or may have entrances that open directly into the building's lobby or principal interior ground level circulation space.

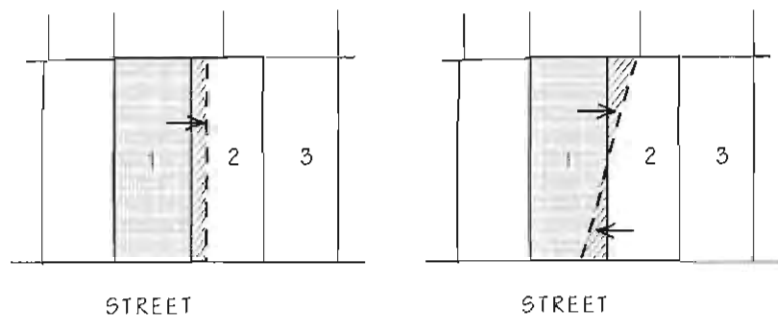
Primary Structure. A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, design, appearance,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

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

Project. An existing or proposed use or development subject to one or more land use approvals.

Property Line Adjustment. The relocation of a single common property line between two abutting properties not resulting in an increase in the number of lots, pursuant with Chapter 4.3. See Figure below.

Property Line Adjustment



Exchange Parcel

Lot 1 may assume a portion of Lot 2 through a Property Line Adjustment Review.

Lot 1 may assume a portion of Lot 2 and Lot 2 may assume a portion of Lot 1 through one Property Line Adjustment Review.

Public Access Easement. A public access easement is an easement granted to the public for vehicular and pedestrian access, or for non-motorized access.

Public Improvements. Development of public infrastructure, as required by the City, Special District, or Road Authority, as applicable. See Chapter 3.6.

Q

Quasi-judicial. An action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to the facts of a development or land use proposal, and requires a public hearing. See Section 4.1.040.

R

Radio Frequency Transmission Facilities (Land Use). Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Towers may be self supporting, guyed, or mounted on poles or buildings.

Recreational Vehicle Park (Land Use). A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park, however, the City may establish the maximum length of stay. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks.

Religious Institutions and Places of Worship (Land Use). Uses primarily providing meeting areas for religious activities; may include schools as an accessory use.

Residential Use (Land Use). Residential Use is characterized by the long-term (i.e., more than 28 days) occupancy of a dwelling unit, including owner-occupied and rented dwellings. See also, Dwelling.

Retail Sales and Service Uses (Land Use). Retail Sales and Service uses sell, lease, or rent new or used products, goods, or services. They include services such as barber/salon, accountant, restaurant, bar, repair service, and similar uses. See also, "Vehicle Service."

Right-Of-Way. Real property or an interest in real property owned by a roadway authority for the purpose of constructing, operating and maintaining public facilities.

Roadway. The portion of a right-of-way that is improved for motor vehicle and bicycle travel, subject to applicable State motor vehicle licensing requirements. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

Road/Roadway Authority. The City or other agency (e. g., Oregon Department of Transportation, City of Nyssa, or Malheur County) with jurisdiction over a road or street.

S

Schools (Land Use). Public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level.

Self-Service Storage. Mini-storage or other storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.

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

Shared Driveway. A driveway used to access two or more parcels.

Shared Parking. Required parking facilities for two or more uses, structures, or lots or parcels, which are satisfied jointly with the same facilities. See Chapter 3.5.

11-5.1 – Definitions

Sidewalk. A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway.

Sight Distance. The unobstructed viewing distance measured from one object or location to another object or location, usually required for the purpose of traffic safety. For example, a length of street or highway that a driver can see with an acceptable level of clarity, pursuant to the standards of the applicable roadway authority.

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

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

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

Site Frontage. The part of a site that abuts a street. See also, Block/Street Frontage.

Street. A right-of-way that is intended for motor vehicle, pedestrian or bicycle travel or for motor vehicle, bicycle or pedestrian access to abutting property. For the purposes of this Code, street does not include alleys, rail rights-of-way that do not also allow for motor vehicle access, or freeways and their on-ramps.

Street Connectivity. Expressed as the number of street and/or access way connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

Street-Facing/Oriented to Street. A wall plane of a structure that faces or is oriented within 45 degrees or less from a street lot line.

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

Structure. Except as provided by applicable building codes, any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, utility vaults, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

Subdivision. To divide land into four (4) or more lots within a single calendar year. See also, Chapter 4.3, Land Divisions, and ORS 92.010.

T

Through Street. A street that connects to other streets at both ends or is planned to do so in the future, pursuant with a comprehensive plan, transportation system plan, access management plan, or land use approval.

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

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

Traffic Impact Analysis. A report prepared by a professional engineer that analyzes existing and future roadway conditions, and which may recommend transportation improvements and mitigation measures.

Turnaround. A vehicle maneuvering area at the end of a dead-end street (e.g., hammerhead, cul-de-sac, or other configuration) that allows for vehicles to turn around.

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

U

Use (Land Use). The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.

Utilities. For the purposes of this Code, there are two types of utilities: 1) Private: telephone, electric, telecommunication, and similar franchise facilities; and 2) Public: water and wastewater conveyance and treatment facilities.

Utilities (Land Use). Utilities are infrastructure services, which need to be located in or near the area where the service is provided. Basic Utility uses may or may not have regular employees at the site. Services may be public or privately provided. Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; suspended cable transportation systems; public safety facilities; district heating and cooling systems; solar, wind, or geothermal power generation facilities that are not accessory to a primary use; and emergency communication broadcast facilities. Larger-scale utility facilities, and those that do not conform to the above definition (e.g., biomass power generation), may be classified as Industrial uses or “Other” uses (e.g., Utility Corridor) as applicable.

V

Variance. A City Council decision to lessen or otherwise modify the requirements of this Code. See Chapter 4.7.

Vehicle Areas. All of the areas on a site where vehicles may circulate or park including parking areas, driveways, drive-through lanes, and loading areas. See also, Driveway and Parking Area.

Vehicle Repair. Repair of passenger vehicles, trucks or other motor vehicles such as motorcycles, boats and recreational vehicles.

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Vehicle Servicing. Gas stations, unattended card key stations, car washes, commercial vehicle maintenance and/or, oil and lubrication services, and similar uses.

Vision Clearance Area. Areas near intersections of roadways and motor vehicle access points where a clear field of vision is required for traffic safety and to maintain adequate sight distance. See Chapter 3.3.

W

Walkway. A sidewalk or path, including any access way, improved to City standards, or to other roadway authority standards, as applicable. See also, Access Way, Pathway, Sidewalk.

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

Waste-Related Use. Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of organic material. Waste-Related uses also include uses that receive, store, sort, and distribute post-consumer recyclable materials; and those that receive hazardous wastes from others and are subject to the regulations of OAR 340. 100-110, Hazardous Waste Management.

Warehouse, Freight Movement and Distribution. The storage or movement of goods, except as accessory to a primary permitted use on the subject site.

Wireless Communication Equipment. Cellular towers, antennae, monopoles, and related facilities used for radio signal transmission and receiving.

X [reserved]

Y

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

Z [reserved]

main
OR 97913



7009 2250 0001 9138 9936



U.S. POSTAGE
PAID
NYSSA, OR
97913
JUL 11 2013
AMOUNT
\$3.26
00027294-07




1004 97301



Attn: Plan Amendment Specialist
 DLCD
 635 Capitol Street NE, Suite 150
 Salem, OR 97301-2540

DEPT OF
 JUL 15 2013
 LAND CONSERVATION
 AND DEVELOPMENT