



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: December 22, 2015

Jurisdiction: City of Donald

Local file no.: LA 2015-04

DLCD file no.: 003-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 12/21/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**  
 File No.: 003-15 {24108}  
 Received: 12/21/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Donald

Local file no.: **La-2015-04**

Date of adoption: 12/8/2015

Date sent: 12/21/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 11/4/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change?    Yes    No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Heidi Bell

Phone: 503-678-5543

E-mail: [manager@donaldoregon.gov](mailto:manager@donaldoregon.gov)

Street address: 10710 Main Street NE

City: Donald

Zip: 97020-

**PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY**

**For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

**For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

- |             |    |        |  |
|-------------|----|--------|--|
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |
| Change from | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

Amend the Donald Development Ordinance (DDO) to include: New terms under Definitions (DDO 1.200); add commercial marijuana retailers as a conditional use to the Commercial (C) zone (DDO 2.105); add marijuana production and processing as a conditional use to the Industrial (I) zone (2.106). Additional text amendments proposed in the original Notice of Planned Amendment to DLCD are being processed via separate non-emergency Ordinance and will be submitted to DLCD upon final ordinance reading.

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

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List affected state or federal agencies, local governments and special districts: DLCD, Oregon Health Authority, Oregon Liquor Control Commission

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

The adoption Ordinance #164-2015 for the Donald Development Ordinance and the Exhibit with the text amendments are included herein.

## **ORDINANCE NO. 164-2015**

### **AN ORDINANCE AMENDING SECTIONS OF THE DONALD DEVELOPMENT ORDINANCE RELATED TO MEDICAL AND RECREATIONAL MARIJUANA FACILITIES AND DECLARING AN EMERGENCY**

**WHEREAS**, on August 13, 2015, the City Council adopted Ordinance NO. 160-2015 regarding Planning File No. LA 2015-03, an application by the City of Donald to amend the Donald Development Ordinance (DDO) to include standards and regulations for the operation of medical marijuana dispensaries; and

**WHEREAS**, Oregon House Bill 3400 further clarified medical marijuana regulations, expanded permissions for recreational marijuana facilities and allowed local jurisdictions to adopt a reasonable time, place and matter restrictions on both; and

**WHEREAS**, on October 20, 2015 the City Council and Planning Commission met in a work session to create reasonable regulations for recreational and medical marijuana facilities through the DDO; and

**WHEREAS**, on November 30, 2015 the Planning Commission held a public hearing and upon consideration of information provided by staff and the public voted to recommend to the City Council approval of the proposed amendments; and

**WHEREAS**, the State's implementation of House Bill 3400 creates an immediate need by the City to develop the City's permissible regulation of marijuana businesses;

### **NOW THEREFORE, THE CITY OF DONALD, OREGON, ORDAINS AS FOLLOWS:**

**Section 1.** The City Council of the City of Donald does hereby adopt amendments to the Donald Development Code in Exhibit "A" and by this reference made a part hereof.

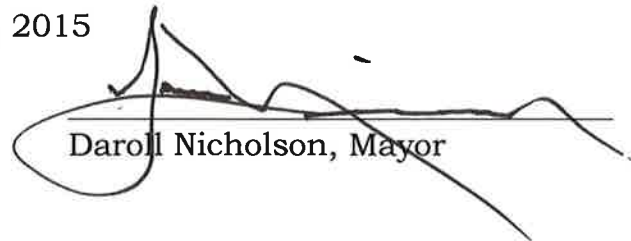
**Section 2.** The City Council of the City of Donald does hereby adopt those certain findings of fact, conclusions and supporting documentation shown in Exhibit "A" and Legislative Amendment 2015-04 (LA-2015-04) by this reference made a part hereof.

**Section 3.** A public hearing as well as a first and second reading of this Ordinance No. 164-2015 was conducted on December 8, 2015. Passed and adopted by the City Council as an emergency enactment on December 8, 2015 as follows:

AYES 4  
NAYS 0  
ABSTENTIONS 1

**Section 4:** For the necessary peace, health, safety and orderly development of the City of Donald, an emergency is hereby declared to exist and this ordinance shall take effect immediately upon its passage by the Council and signature of the Mayor.

**SIGNED** and **DATED** this December 8, 2015



Daroll Nicholson, Mayor

**ATTEST:**



Heidi Bell, City Manager

PASSED by the City Council: December 8, 2015  
SIGNED by the Mayor: December 8, 2015  
EFFECTIVE: December 8, 2015

# DONALD DEVELOPMENT ORDINANCE

**ADOPTED BY THE CITY COUNCIL  
OF THE  
CITY OF DONALD**

**Amended: July 19, 1978 (Ordinance No. 3)**  
**Amended: November 3, 1994 (Ordinance No. 88)**  
**Amended: July 11, 1996 (Ordinance No. 102)**  
**Amended: March 6, 1997 (Ordinance No. 106-97)**  
**Amended: May 9, 2000 (Ordinance No. 115-00)**  
**Amended: December 2001 (Ordinance No. 124-01)**  
**Amended: June 8, 2004 (Ordinance No. 130-04)**  
**Amended: June 9, 2009 (Ordinance No. 139-09)**  
**Amended: August 13, 2015 (Ordinance No. 160-2015)**  
**Amended: \_\_\_\_\_, 2015 (Ordinance No. \_\_\_\_\_ and  
Ordinance No. \_\_\_\_\_)**

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1.101 TITLE

This ordinance shall be known as the City of Donald Development Ordinance (DDO).

1.102 PURPOSE AND SCOPE

**1.102.01 Purpose**

This Ordinance is enacted to:

- A. Implement the goals and policies of the City of Donald Comprehensive Plan;
- B. Provide methods of administering and enforcing the provisions of this Ordinance; and
- C. Promote the public health, safety, and general welfare of the community.

**1.102.02 Conformance Required**

The use of all land, as well as the construction, reconstruction, enlargement, structural alteration, use, or occupation of any structure within the City of Donald shall conform to the requirements of this Ordinance.

**1.102.03 Administration**

This Ordinance shall be administered by the City Manager of the City of Donald. Unless otherwise specifically prohibited, the City Manager has the authority to delegate his/her duties under this ordinance.

**1.102.04 Interpretation**

The provisions of this Ordinance shall be interpreted as minimum requirements. When this Ordinance imposes a greater restriction than is required by other provisions of law, or by other regulations, resolutions, easements, covenants or agreements between parties, the provisions of this Ordinance shall control.

When a certain provision of this Ordinance conflicts with another provision of this Ordinance or is unclear, the correct interpretation of the Ordinance shall be determined by the City Manager, or designee. The Manager, or designee, may, at his/her discretion, request that City Legal Counsel, the Planning Commission or the City Council resolve the conflict or uncertainty.

**1.102.05 Effect on Other Public and Private Regulations and Restrictions**

It is not the intent of this Ordinance to interfere with other laws or Ordinances relating to the use of structures, vehicles or land, or, relating to the construction or alteration of any buildings or improvements. It is not the intent of this Ordinance

to interfere with any easement, deed restriction, covenant or other legally enforceable restriction imposed on the use or development of land more restrictive than the provisions of this Ordinance.

**1.102.06      Violations**

Violations of the Development Ordinance are considered infractions and subject to the civil infractions provisions of the City.

**1.102.07      Savings Clause**

Should any section, clause, or provision of this Ordinance be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the Ordinance as a whole or of the remaining sections. Each section, clause, and phrase is declared severable.

**1.102.08      Conflicting Ordinances**

City of Donald Ordinance 88, Ordinance 3 and all other ordinances or parts of ordinances in conflict herewith are hereby repealed.

1.103 ESTABLISHMENT OF ZONING DISTRICTS

**1.103.01 Districts**

For the purposes of this Ordinance, the City of Donald is divided into the following zoning districts:

<u>Classification</u>	<u>Abbreviation</u>
Single Family Residential (7,000 sq. ft. min)	R-7
Multiple Family Residential (3,000 sq. ft. min)	RM
Commercial	C
Industrial	I
Employment Industrial	EI
Public	P

For the purposes of this Ordinance, the following overlay zones are placed in certain areas of the City of Donald:

Limited Use Overlay Zone	LUO
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**1.103.02 Comprehensive Plan Designation and Zoning Districts**

Zone classifications implement the Comprehensive Plan map designations. The following are the zones allowed in each Comprehensive Plan designation:

<u>Comprehensive Plan Designation</u>	<u>Zone Classification</u>
Residential	R-7, RM
Commercial	C
Industrial	I, EI
Public	P

**1.103.03 Boundaries**

- A. Zoning Map. The zoning district boundaries are shown on the zoning map of the City of Donald. This map is made a part of this Ordinance and shall be filed in City Hall. The City Manager, or designee, shall amend the map as required. The map shall be available for public review with copies provided at reasonable cost.
- B. Zoning Map Interpretation. The City Manager, or designee, shall resolve any dispute over the exact location of a zoning district boundary. In interpreting the location of the zoning boundaries, the Manager, or

designee, shall rely on the Donald Comprehensive Plan Map and the following guidelines:

1. Right-of-way. Boundaries indicated as approximately following the centerline or the right-of-way boundary of streets, highways, railways or alleys shall be construed to follow such centerline or boundary.
2. Lot Lines. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
3. Water Courses. Boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline.
4. Extensions. Boundaries indicated as parallel to or extensions of features indicated in subsections 1., through 3., above shall be so construed.
5. Specific Description. Where a Plan map designation or zoning action referenced a specific property description, that description shall establish the boundary. Where 2 or more property descriptions establish conflicting boundaries, the most recent description shall govern.

SECTION 1.2 - DEFINITIONS

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1.200 DEFINITIONS

**1.200.01 Grammatical Interpretation**

A. Words used in the masculine include the feminine, and feminine the masculine. Words used in the present tense include the future, and the singular includes the plural. The word "shall" is mandatory. Where terms or words are not defined, they shall have their ordinary accepted meanings within the context of their use. Webster's Third New International Dictionary of the English Language (principal copyright 1961) shall be considered as providing accepted meanings.

B. Interpretation. When there are two definitions for the same word or phrase, then the definition most applicable for the given situation shall apply. If appropriate, specific terms may be applied to general situations.

**1.200.02 Definitions**

Access: The way or means by which pedestrians, bicycles, and vehicles shall have safe, adequate, and usable ingress and egress to a property.

Access Management: Regulations of access to streets, roads, and highways from public roads and private driveways.

Accessory Structure: A detached subordinate building or portion of a main building, the use of which is incidental to the main building or use of the land.

Accessory Use: A use incidental and subordinate to the main use of the parcel, lot or building.

Accessway: A right-of-way or easement, not located within a street right-of-way, that provides space for either or both pedestrian and bicycle passage.

Adjacent: Shall apply to abutting property lines but shall not include properties or lots separated by a public right-of-way.

Alteration: A change, addition, or modification to the exterior of a structure.

Appeal: A request for a review of a decision authority's action on an application.

Applicant: The property owner of record or contract purchaser or agent authorized to work on behalf of, or represent, an owner.

Approved: Means approved by the City Manager, Planning Commission or City Council having the authority to grant such approval.

Area: The total area circumscribed by the boundaries of a lot or parcel, except:

1. When the legal instrument creating the property shows the boundary extending into a public street right-of-way, then for purposes of computing the lot or parcel area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the street.
2. Private access easements, and the access strips to flag-lots, shall not be included when calculating the area.

Area of Special Flood Hazard: Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

Basement: The part of a building between floor and ceiling which is partly below and partly above grade, but located such that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Bed and Breakfast: A facility providing overnight accommodations, with limited services and amenities, and serving a single meal, usually breakfast.

Bicycle Facilities: Any facilities provided for the benefit of bicycle travel, including bikeways and parking facilities as well as all other roadways not specifically designated for bicycle use.

Block: A parcel of land bounded by three or more through streets.

Building: A structure having a roof and built for the support, shelter, or enclosure of persons, animals, or property of any kind. Recreational vehicles shall not be considered buildings.

Building Height: The vertical distance from the average elevation of the finished grade to the highest point of the structure. By definition, building height does not include architectural and building features exempt from height restrictions.

Building Official: An individual empowered by the City to administer and enforce the Uniform Building Code (UBC).

Carport: A structure consisting of a roof and supports for covering a parking space and of which not more than one side shall be enclosed by a wall.



Cemetery: Land designed for the burial of the dead, and dedicated for cemetery purposes, including a columbarium, crematory, mausoleum, or mortuary, when operated in conjunction with and within the boundary of such cemetery.

Church: A permanently located building primarily used for religious worship, including accessory buildings for related religious activities and a residence.

City: The City of Donald, Oregon.

Clear-Vision Area: A triangular area at the intersection of two right-of-ways, two sides of which are lines measured from the corner intersection of the right-of-way lines for a specific distance. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lines at the intersections have rounded corners the right-of-way lines will be extended in a straight line to a point of intersection.

Commission: The Planning Commission of Donald, Oregon.

Comprehensive Plan: The officially adopted City of Donald Comprehensive Plan.

Conditional Use: A use permitted in a particular zone, that due to certain aspects of the use, will require special development or siting conditions to ensure compatibility with adjacent land uses.

Conforming: In compliance with the regulations of the Code.

Council: The City Council of Donald, Oregon.

Day Care Facility: An establishment, not a part of a public school system, in which are commonly received three or more children, not of common parentage, under the age of 14 years, for a period not exceeding 12 hours per day for the purpose of being given care apart from their parents or guardians.

Decision: The formal act by which the City Manager, Planning Commission or City Council makes its final disposition of a land use action.

Demolish: To raze, destroy, dismantle deface or in any other manner cause partial or total destruction of a structure.

Density: The number of dwellings units per gross acre of land. "Land" includes all property within an "area" as defined in this section.

Development: Artificial changes to property, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling.

Dwelling Unit: One or more rooms designed for occupancy by one family and not having more than one cooking facility.

Dwelling, Accessory: a single dwelling unit, either attached or detached, that is a subordinate use on the same lot with any single-family dwelling unit.

Dwelling, Multi-Family: A building containing three or more dwelling units designed for occupancy by three or more families living independently of each other.

Dwelling, Single Family (Attached): A building, located on a single parcel or lot, containing one dwelling unit design exclusively for occupancy by one family, but sharing a common wall or corner on one side or two sides with a similar adjacent unit

Dwelling, Single Family (Detached): A detached building containing one dwelling unit designed exclusively for occupancy by one family.

Dwelling, Two-family (Duplex): A detached building, located on a single parcel or lot, containing two dwelling units designed for occupancy by two families living independently of each other.

Easement: A grant of right to use an area of land for a specific purpose.

Employees: All persons, including proprietors, performing work on a premises.

Encroachment: Any structure or use, or part of a structure or use, which is placed or advanced beyond the proper limits or boundaries such as a building encroaching into a required setback area.

Family: An individual or two or more persons related by blood, marriage, adoption, or legal guardianship, or a group of not more than five unrelated individuals, living together as a single housekeeping unit.

Family Day Care Provider: A day care provider who regularly provides child care in the family living quarters of the home of the provider.

FEMA: The Federal Emergency Management Agency, the federal organization responsible for administering the National Flood Insurance Program.

Fill: The placement of any material on land for the purposes of increasing its elevation in relation to that which exists. Fill material includes, but is not limited to, the following: soil, rock, concrete, bricks, wood stumps, wood, glass, garbage, plastics, metal, etc.

Final Decision: A decision made in accordance with, and pursuant to, the provisions of this ordinance, or decisions made by the Land Use Board of Appeals or the Courts, after the applicable appeal periods have expired.

Floor Area: The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, but not including:

1. Attic space providing headroom of less than seven feet;
2. Basement, if the floor above is less than six feet above grade;
3. Uncovered steps or fire escapes;
4. Private garages, carports, or porches;
5. Accessory water towers or cooling towers;
6. Off-street parking or loading spaces.

Frontage: That portion of a lot or parcel which abuts a public street.

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

Grade: The average elevation of the finished ground at the centers of all walls of a building.

Hazardous Material: Combustible, flammable, corrosive, explosive, toxic, or radioactive substance which is potentially harmful to humans and the environment.

Home Occupation: A business or professional activity operated by a resident of a dwelling unit as a secondary use of the residence. This term does not include the lease or rental of a dwelling unit, the rental of guest rooms on the same premises, or the operation of a day care facility.

Hotel/Motel: A commercial building in which lodging is provided to guests for compensation, not designed primarily for residential use, and in which no provision is made for cooking in individual rooms.

Junk Yard/Wrecking Yard: The use of more than 200 square feet of the area of any lot for the storage of salvage materials, including scrap metals or other scrap materials, or for the dismantling or "wrecking" of automobiles or other vehicles or machinery.

Kenel: Any lot or premises on which dogs and/or cats are kept for sale, lease, boarding, or training.

Land Division: Any partition or subdivision of a lot or parcel.

Land Use Action: An amendment to the City of Donald Comprehensive Plan or this Ordinance, or a decision on a zone change, variance, conditional use, partitioning or subdivision, or administrative permits, including appeals from any of the foregoing decisions. The issuance of a building permit is not a land use action.

Landscaped: Areas primarily devoted to the planting and preservation of trees, shrubs, lawn and other organic ground cover, together with other natural or artificial supplements such as watercourses, ponds, fountains, decorative lighting, benches, arbors, gazebos, bridges, rock or stone arrangements, pathways sculpture, trellises, and screens.

Legislative Action: Land use action involving amendments to the Comprehensive Plan, the text of this Ordinance, or an amendment to the Comprehensive Plan map or Zoning map involving more than five separate property ownerships.

Livestock: Animals such as, but not limited to: horses, cattle and sheep, which are customarily found and raised on farms and ranches. Also see Donald Municipal Code Section 92.

Loading Space: An off-street space on the same lot with a building, or group of buildings, used for the parking of a vehicle while loading or unloading merchandise, materials or passengers.

Lot: A unit of land created by a subdivision as defined in ORS 92.010 in compliance with all applicable zoning, subdivision ordinances; or created by deed or land sales contract if there were no applicable zoning, subdivision or partitioning ordinances, exclusive of units of land created solely to establish a separate tax account. Such lots may consist of a single lot of record; a portion of a lot of record; or a combination thereof. Lots created judicially may be

considered legal lots only if established as part of a formal judicial decree or settlement.

Lot, Area: The total area of a lot, measured in a horizontal plane within the lot boundary lines, and exclusive of public and private roads and easements of access to other property. For flag-shaped lots, the access strip shall not be included in lot area for the purposes of minimum lot area requirements of this Ordinance.

Lot, Corner: A lot abutting on two or more intersecting streets, other than an alley or private access easement.

Lot Depth: The horizontal distance measured from the midpoint of the front lot line to the midpoint of the rear lot line.

Lot, Flag: A lot or parcel of land with access by a relatively narrow strip of land between the major portion of the parcel and the point of public access to the parcel, all of which is in the same ownership.

Lot, Frontage: The distance between the two side lot lines measured at the minimum front setback line, parallel to the street line.

Lot, Interior: A lot other than a corner lot.

Lot Line, Front: In the case of an interior lot having only one street or roadway easement frontage, the lot line separating the lot from the street right-of-way or the nearest right-of-way line of a roadway easement. Where no street separation exists, the lot line which the architecturally designed front of the building faces.

Lot Line, Rear: A property line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line ten feet in length within the lot, parallel to and at a maximum distance from the front line.

Lot Line, Side: Any property line which is not a front or rear lot line.

Lot Line, Zero: A lot line shared by a common wall or two attached dwellings, or a condition whereby a residence is located adjacent to a side lot line without a setback.

Lot Line Adjustment: The realignment of a common boundary between two contiguous lots or parcels which does not create a new lot or parcel.

Lot of Record: A lawfully created lot or parcel established by plat, deed, or contract as duly recorded in Marion County property records.

Lot, Through: An interior lot having frontage on two streets.

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

Manufactured Home: A home, a structure with a Department of Housing and Urban Development label certifying that the structure is constructed in accordance with the National Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.), and constructed after June 15, 1976.

Manufactured Home Park: Any place where more than four manufactured homes are located within 500 feet of each other on property under the same ownership, the primary purpose of which is to rent or lease space to any person, or, to offer space free in connection with securing the trade or patronage of such person. Manufactured home park does not include lot(s) located within a subdivision being rented or leased for occupancy by no more than one manufactured home per lot if the subdivision was approved pursuant to this Ordinance.

Marijuana Grow Site: A facility lawfully registered with the State of Oregon at which marijuana leaves or flowers are manufactured, planted, cultivated, grown, trimmed, harvested, or dried.

Marijuana Processing Site: A facility registered with the State of Oregon at which marijuana is processed, compounded or converted into products, concentrates or extracts.

Medical Marijuana Dispensary or Commercial Marijuana Retailer: A facility authorized and/or registered with the State of Oregon, the State of Oregon Health Authority (OHA) or Oregon Liquor Control Commission (OLCC) as applicable, that dispenses ~~medical~~ marijuana, marijuana products, concentrates or extracts, or transfers usable marijuana and immature plants to and from cardholders, retail customers, or persons authorized by the State of Oregon to purchase, grow or process marijuana or marijuana products. ~~validly registered with the State of Oregon and authorized according to the State of Oregon Health Authority (OHA), to transfer usable marijuana and immature plants to and from registry identified cardholders and persons responsible for a medical marijuana grow site.~~

Mini-storage Warehouse: A facility designed and intended to be used for the rental of storage units to individuals for the safekeeping of personal items.

Modular Home: A home which is constructed off-site and so designed to be transported to, and/or assembled on, the permanent building site, and which complies with the Uniform Building Code requirements for a single family home.

New Construction: Structures for which construction was initiated on or after the effective date of this Ordinance.

Non-Conforming Structure or Use: A lawfully existing structure or use at the time this Ordinance, or any amendments, becomes effective, which does not conform to the requirements of the zone in which it is located.

Notification Area: An area bounded by a line, parallel to the boundary of a subject lot. As used in this section "subject lot" includes not only the lot that is the subject of the land use action, but also includes any contiguous lot in which any applicant or owner of the subject lot has either sole, joint, or common ownership, or an option to purchase. In the event that the application does not apply to the entire lot, the boundary of the notification area shall be measured from the lot line, not the boundary of the portion of the lot.

Notification List: A certified list prepared by a Title Company or the Marion County Assessor's Office which includes the names and addresses of all property owners within the notification area as shown in the County Assessor's records.

Nursing Home: A home, place or institution which operates and maintains facilities providing continual convalescent and/or nursing care. Convalescent care may include, but is not limited to, the procedures commonly employed in the nursing and caring for the aged and includes rest homes and convalescent homes, but does not include a boarding home for the aged, a retirement home, hotel, hospital, or a chiropractic facility.

Official Zoning Map: The map which indicates the zones in the City of Donald.

Owner: The owner of record of real property as shown on the latest tax rolls or deed records of the county, or a person who is purchasing a parcel or property under written contract.

Overlay Zone: A separate zone which establishes specific development requirements addressing unique circumstances or situations on a property or group of properties. For example, the "flood plain overlay zone" establishes special requirements for development within the flood plain and is used in addition to, but does not supplant, the development requirements of the property's underlying zone.

Parcel: A unit of land that is created by a partitioning of land.

Parking Lot or Area: An open area, building or structure, other than a street or alley, used for the parking of automobiles and other motor vehicles and available for use by persons patronizing a particular building, establishment or area.

Parking Space: A designated space in a parking lot or area for the parking of one motor vehicle.

Partial Street: A public street which does not currently meet the minimum right-of-way standards identified in the Development Code or Transportation System Plan for the street which may be required in the future to require additional right of way dedication from abutting property owners.

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. "Partition" does not include:

1. Divisions of land resulting from lien foreclosures, divisions of land resulting from contracts for the sale of real property, and divisions of land resulting from the creation of cemetery lots; or,
2. Any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning ordinance; or,
3. A sale or grant by a person to a public agency or public body for state highway, county road, or other right-of-way purposes provided that such road or right-of-way complies with the applicable comprehensive plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).

Permit (noun): Any action granting permission to do an act or to engage in activity where such permission is required by this Ordinance.

Permitted Use: Those uses permitted in a zone that are allowed without obtaining a conditional use permit.

Person: Every natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government, or any other group or combination acting as a unit.



Pet: Domestic animal kept, and cared for, by the occupants of a dwelling for personal pleasure, and which are not raised for food, fur, or monetary gain. Pets may include dogs, cats, birds, small mammals and reptiles, but may not include fowl, herd animals, pigs, goats or horses of any type or breed.

Plan Map: An officially adopted map of the City, including urban growth boundary, showing land use designations identified in the Comprehensive Plan.

Planning Commission: The Planning Commission of Donald, Oregon.

Plat: The final map which is a diagram, drawing, re-plat or other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision or partition.

Professional Office: An office occupied by an accountant, architect, attorney-at-law, engineer, surveyor, land use planner, insurance agent, real estate broker, landscape architect, or practitioner of the human healing arts, or other professional business similar in type, scale and character.

Property Line Adjustment: The realignment of a common boundary between two contiguous lots or parcels which does not create a new lot or parcel.

Public Facilities and Services: Projects, activities, and facilities which are necessary for the public health, safety, and welfare. These may include, but are not limited to, water, gas, sanitary sewer, storm sewer, electricity, telephone and wire communication service, and cable television service lines, mains, pumping stations, reservoirs, poles, underground transmission facilities, substations, and related physical facilities which do not include buildings regularly occupied by employees, parking areas, or vehicle, equipment or material storage areas.

Recreational Vehicle: A unit, with or without motive power, which is designed for human occupancy and intended to be used for recreational or temporary living purposes. Recreational vehicle includes:

1. Camping Trailer: A non-motorized vehicle unit mounted on wheels and constructed with sides that can be collapsed when the unit is towed by another vehicle.
2. Motor Home: A vehicular unit built on or permanently attached to a motorized vehicle chassis cab or van which is an integral part of the complete vehicle.
3. Travel Trailer: A vehicular unit without motive power which has a roof, floor, and sides and is mounted on wheels and designed to be towed by a

motorized vehicle, but which is not of such size or weight as to require special highway movement permits.

4. Truck Camper: A portable unit which has a roof, floor, and sides and is designed to be loaded onto and unloaded out of the bed of a truck or pick-up truck.
5. Boat, licensed or unlicensed, including trailer.
6. All-terrain vehicle (ATV).

Recreational Vehicle Park: Any area operated and maintained for the purposes of providing space for overnight use by recreational vehicles.

Recreational Vehicle Space: The area occupied by a recreational vehicle.

Recycling Depot: A area used for the collection, sorting, and temporary storage of non-putrescible waste and discarded materials which are taken elsewhere to be re-used or recycled.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" or "repairs" shall not include structural changes.

Residential Facility: A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to and resident of the residential facility.

Residential Home: A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to ant resident of the residential facility.

Right-of-Way: The full length and width of a public street or way, either planned or constructed.

Roadway: A right-of-way across private property granted by the property owner to owners of one or more lots and allowing vehicles access from a street or roadway to those lots.

Rooming and Boarding House: A residential building or portion thereof with guest rooms, providing lodging, or lodging and meals, for three or more persons for compensation.

School, Elementary, Junior High or High School: An institution, public or parochial, offering instruction in the several branches of learning and study, in accordance with the rules and regulations of the State Department of Education.

School, Trade or Commercial: A building where the instruction is given to pupils for a fee, which fee is the principal reason for the existence of the school.

Scrap and Waste Materials Establishment: An business that is maintained, operated or used for storing, keeping, buying or selling old or scrap copper; brass, rope, rags, batteries, paper, rubber, or debris; waste or junked, dismantled, wrecked, scrapped, or ruined motor vehicles or motor vehicle parts (except wrecking yards), iron, steel, or other old scrap metal or non-metal materials. Scrap and waste materials establishments does not include drop stations, solid waste transfer stations, or recycling depot.

Semi-Public Use: A structure or use intended for a public purpose by a non-profit organization.

Service Station: A building designed for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhaul. "Major repair and overhaul", as used in this definition, shall be considered to include such activities at painting, body-work, steam cleaning, tire recapping, and major engine or transmission overhaul or repair involving the removal of a cylinder head or crankcase.

Setback: The distance between a specified lot line and the foundation or exterior wall of a building or structure.

Site, Development, or Complex: A group of structures or other development that is functionally or conceptually integrated, regardless of the ownership of the development or underlying land.

Space, Manufactured Home: An area or lot reserved exclusively for the use of a manufactured home occupant. This definition excludes individual lots within a subdivision.

Special Permitted Use: A use allowed outright within a zone but requiring additional design or development requirements identified elsewhere within the Ordinance.

Special Setback: An area of additional land that is required to meet the minimum right-of-way width for an adjacent street.

Start of Construction: The actual start of construction, repair, reconstruction, placement or other improvement.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade as defined herein, such basement or cellar shall constitute a story.

Street: The entire width between the boundary lines of every way of travel which provides for ingress and egress for vehicular and pedestrian traffic and the placement of utilities to one or more lots, parcels, areas, or tracts of land. A private way is excluded that is created to provide ingress and egress to land in conjunction with the use of such land for forestry, mining, or agricultural purposes.

1. Alley: A narrow street through a block used primarily for access by service vehicles to the back or side of properties fronting on another street.
2. Arterial: A street of considerable continuity which is used primarily for through traffic and interconnection between major areas of the City.
3. Collector: A street supplementary to the arterial street system, used partly by through traffic and partly for access to abutting properties.
4. Cul-de-sac (dead-end): A short street with one end open to traffic and the other terminated by a vehicle turn-around.
5. Half Street: A portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision of development.
6. Local Street: A street intended primarily for access to abutting properties, but protected from through traffic.

7. **Private Street:** A street generally narrower in width and designed to a construction standard less than that of a public street and maintained by adjacent property owners, homeowners association or similar association and approved by the City.

**Structural Alteration:** Any change to the supporting members of a structure, including foundation bearing walls or partitions, columns, beams or girders, or any structural change in the roof or in the exterior walls.

**Structure:** That which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in some definite manner.

**Subdivide:** To divide an area or tract of land into four or more lots within a calendar year for the purpose of transfer of ownership or building development when such parcel exists as a unit or contiguous units under a single ownership as shown on the tax roll for the year preceding the division of property.

**Subdivision:** Divisions of property which create four or more lots in a single calendar year.

**Tract:** An area created as part of a partition or subdivision set aside for the purpose of dedication to the City, or held in ownership by an association, and not intended for development.

**Urban Growth Boundary:** An adopted boundary around the City which defines the area in which the City expects to grow, where public facilities will be extended, and where joint planning responsibilities are exercised with Marion County.

**Use:** The purpose for which land or a structure is designed, arranged or intended, or, for which it is occupied or maintained.

**Variance:** Authority granted by the City to depart from the literal requirements of the Development Ordinance.

**Vehicle:** For purpose of this Ordinance vehicle shall have the same meaning as the definition in the rules and regulations of the State Department of Motor Vehicles.

**Warehouse:** A place for the safekeeping of goods and materials for an industrial or commercial enterprise (also see "Mini-Storage Warehouse").

Wetland: Land identified as generally containing wet or spongy soil, and the plants associated with such soils, and regulated by the Division of State Lands.

Yard: An open space on a lot which is unobstructed from the ground upward except as otherwise provided in this Code.

Yard, Front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel to the nearest point of the foundation of the main building.

Yard, Rear: A yard extending across the full width of the lot between the most rear portion of a main building and the rear lot line; but for determining the depth of the required rear yard, it shall be measured horizontally from the nearest point of the rear lot line toward the nearest part of the foundation of the main building.

Yard, Side: A yard, between the main building and side lot line, extending from the front yard, or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the foundation of the main building.

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2.101 GENERAL PROVISIONS

**2.101.01 Interpretation of Uses**

- A. Types of Uses. Within each zone, uses are classified as "permitted," "special permitted" and "conditional." Further, uses are functionally classified by description of the particular activity (such as "single-family residence").
- B. Interpretation of Uses. Where a use is not otherwise defined in Section 1.2, the words of this zoning ordinance describing such use are to be given their ordinarily accepted meaning, except where the context in which they are used otherwise clearly requires.
- C. Prohibited Uses. Uses not specifically identified as permitted, special permitted or conditionally permitted within the zone, or, otherwise allowed through interpretation, shall be considered prohibited uses.

2.102

RESERVED

2.103 SINGLE FAMILY RESIDENTIAL - 7,000 SQUARE FOOT (R-7)

**2.103.01 Purpose**

The purpose of the R-7 zone is to allow development of single family dwellings on individual lots provided with urban services at low urban densities. Other uses compatible with residential development are also appropriate. These areas are designated as Residential in the Comprehensive Plan.

**2.103.02 Permitted Uses**

The following uses, when developed under the applicable development standards in the Ordinance, are permitted in the R-7 zone:

- A. One detached single family dwelling on a separate lot or parcel.
- B. One two-family dwelling (duplex) on a separate lot or parcel.
- C. Residential homes and facilities.
- D. Child day care service, including family day care provider, for 12 or fewer children.

**2.103.03 Special Permitted Uses**

The following uses, when developed under the applicable standards in the Ordinance and special development requirements, are permitted in the R-7 zone:

- A. Partitions, subject to the provisions in Section 2.307.
- B. Subdivision, subject to the provisions in Section 2.307.
- C. Accessory structure(s) and use(s) prescribed in Section 2.203 and subject to the provisions in Section 2.309.
- D. Accessory Dwelling Unit subject to the provisions in Section 2.309.02
- E. The following uses, subject to the applicable standards in Section 2.4:
  - 1. Manufactured homes on individual lots (Section 2.402)
  - 2. Manufactured home parks (Section 2.403).
  - 3. Home occupations (Section 2.404).

**2.103.04 Conditional Uses**

The following uses require approval of a conditional use permit:

- A. Elementary schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day-care services for 13 or more children.
- D. Churches.
- E. Bed and breakfast, limited to 2 units per property, with one on-site parking space provided per unit, and occupied by the owner of the property (Section 2.406).

**2.103.05 Dimensional Standards**

A. Minimum Lot Dimension and Height Requirements

DIMENSION	Residential Uses	Non-Residential Uses
Lot Size	7,000 sq ft - Single Family 7,000 sq. ft. - Duplex	Adequate to comply with all applicable development standards
Maximum Height	35 feet	45 feet

B. Minimum Yard Setback Requirements

SETBACKS	Single Family Dwelling	Duplex	Accessory Dwelling Unit	Non-Residential
Front	10 feet	10 feet	20 feet	20 feet
Side	8 feet	8 feet	10 feet	10 feet
Rear	15 feet - 1-story 20 feet - 2-story	15 feet - 1-story 20 feet - 2-story	15 feet- 1 story 20 feet- 2 story	20 feet
Street-side	10 feet	10 feet	20 feet	20 feet
Garage (1)	20 feet	20 feet	20 feet	20 feet

- (1) The garage setback shall be measured from the property line or edge of private access easement to the entrance of the garage. The centerline of the driveway

shall be measured if the driveway to the garage entrance is not perpendicular to the property line or private access easement.

### **2.103.06 Development Standards**

All development in the R-7 Zone shall comply with the applicable provisions of this Ordinance. The following references additional development requirements:

- A. Off-street Parking: Parking shall be as specified in Section 2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 2.308.
- C. Site Development Review: Manufactured home parks and non-residential uses shall require a Site Development Review, pursuant to Section 3.1.
- D. Landscaping: A minimum of 35% of the property shall be landscaped, including all required yards. Landscaped areas shall be landscaped as provided in Section 2.309.
- E. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be 65%
- F. Density: When R-7 zoned property is subdivided, the minimum density shall be 4 units per acre; the maximum density shall be 6 units per acre.
- G. Exterior Finish: The use of "T-111" siding on single family dwellings and duplexes located on lots or parcels 7,000 square feet or larger shall be prohibited.
- H. Garage or Carport Construction: All single family dwellings, including manufactured homes on individual lots, shall contain an attached or detached garage that contains a minimum of 240 square feet of area. Garages and/or carports shall be constructed to include a roof pitch similar to the primary dwelling(s), and shall be constructed to include exterior siding and paint to match the primary dwelling(s).

2.104 MULTIPLE FAMILY RESIDENTIAL (RM)

**2.104.01 Purpose**

The RM zone is primarily intended for multiple family development on a parcel at medium residential densities. Other uses compatible with residential development are also appropriate. RM zones are located in areas designated Residential in the Comprehensive Plan. They are suited to locations near commercial areas and along collector and arterial streets so that traffic is not required to travel on local streets through lower density residential areas.

**2.104.02 Permitted Uses**

The following uses, when developed under the applicable development standards in the Ordinance, are permitted in the RM zone:

- A. Residential buildings containing two or more dwelling units.
- B. Residential homes and facilities.
- C. Child day care service, including family day care provider, for 12 or fewer children.

**2.104.03 Special Permitted Uses**

The following uses, when developed under the applicable standards in the Ordinance and special development requirements, are permitted in the RM zone:

- A. Partitions, subject to the provisions in Section 2.307.
- B. Subdivision, subject to the provisions in Section 2.307.
- C. Accessory structures and uses prescribed in Section 2.203 and subject to the provisions in Section 2.309.
- D. The following uses subject to the applicable standards in Section 2.4:
  - 1. Manufactured home parks (Section 2.403).
  - 2. Home occupations (Section 2.404).

**2.104.04 Conditional Uses**

The following uses require a conditional use permit:

- A. Schools.
- B. Public parks, playgrounds, community clubs including swimming, tennis and similar recreational facilities, and other public and semi-public uses.
- C. Child day care service for 13 or more children.
- D. Churches.

**2.104.05 Dimensional Standards**

A. Minimum Lot Dimension and Height Requirements

DIMENSION	Multi-Family	Non-Residential
Lot Size	3,000 square feet per unit	Adequate to comply with all applicable development standards
Maximum Height	45 feet	45 feet

B. Minimum Yard Setback Requirements

SETBACKS	Multi-Family	Non-Residential
Front	20 feet	20 feet
Side	(1)	10 feet
Rear	(1)	20 feet
Street-side	10 feet	20 feet
Garage (2)	20 feet	20 feet

- (1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet.

- (2) The garage setback shall be measured from the property line or edge of private access easement to the entrance of the garage. The centerline of the driveway shall be measured if the driveway to the garage entrance is not perpendicular to the property line or private access easement.

#### **2.104.06 Development Standards**

All development in the RM Zone shall comply with the applicable provisions of this Ordinance. The following references additional development requirements:

- A. Off-street Parking: Parking shall be as specified in Section 2.303.
- B. Yards and Lots: Yards and lots shall conform to the standards of Section 2.308.
- C. Site Development Review: Manufactured home parks, multi-family developments and non-residential uses shall require a Site Development Review, pursuant to Section 3.1.
- D. Landscaping: A minimum of 25% of the property shall be landscaped, including all required yards. Landscaped areas shall be landscaped as provided in Section 2.306.
- E. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be 75%
- F. Density: Subdivisions and multi-family development within the RM zone shall comply with the following density requirements:
  - 1.
  - 2. Multiple Family Dwellings and Manufactured Home Parks: The minimum density shall be 8 units per acre; the maximum density shall be 14 units per acre.
- G. Garage or Carport Construction: Garages and/or carports shall be constructed to include a roof pitch similar to the primary dwelling(s), and shall be constructed to include exterior siding and paint to match the primary dwelling(s).



## 2.105 COMMERCIAL (C)

### 2.105.01 Purpose

The Commercial (C) Zone is the primary commercial zone within the City. The zone is specifically designed to provide area for commercial activities to serve the residents of the City and the surrounding area. The Commercial Zone is suitable for the Commercial Plan designation.

### 2.105.02 Permitted Uses

The following uses, when developed under the applicable development standards in the Zoning Ordinance, are permitted in the C zone:

- A. Pre-schools, nurseries and kindergartens.
- B. Non-profit member organizations, such as business associations, labor unions, political organizations or fraternal lodges.
- C. Public and semi-public buildings, structures and uses, such as parks, parking, municipal offices, libraries, police and fire stations and hospitals.
- D. Public utility structures and buildings, such as pump stations, reservoirs, electric substations, and necessary right-of-way for public utilities.
- E. Business offices including, but not limited to, insurance, real estate and title insurance; credit agencies, newspaper, periodical, publishing and printing offices, and, similar business offices.
- F. Professional offices.
- G. Bank services, brokerages, loan companies, investment companies and other financial institutions.
- H. Hotels and motels.
- I. Mortuary.
- J. Retail sales outlet including, but not limited to, food stores, pharmacy, furniture store, hobby or photography store, florist and garden supply including greenhouse, liquor store, hardware store, appliance or stereo equipment store, pet shop, sporting goods, department store, jewelry, gift, and other types retail activities, excluding marijuana processing, wholesaling, or production.

- K. Restaurants, drive-ins, taverns, snack shops and other types of eating and drinking establishments, including entertainment facilities.
- L. Retail and service related stores such as TV and radio sales and service, bicycle shop, equipment rental or other similar activities where a service department is customarily a secondary activity to the retail use.
- M. Service related businesses such as barber shops, beauty shops, advertising agencies, laundry or dry cleaning, printing or photocopying, or other activities which provide a service to retail customers.
- N. Automobile service station, including towing service and vehicle washing and polishing facilities, and services.
- O. Automobile, truck, motorcycle, trailer, agricultural equipment, recreational vehicle and boat sales.
- P. Part and accessory sales for automobiles, trucks, motorcycles, trailers, agricultural equipment, recreational vehicles and boats, including retail tire sales; but, specifically prohibiting junk yards, wrecking yards, or auto salvage and restoration yards.
- Q. Residences limited to one of the following areas on the property:
  - 1. Second or upper story.
  - 2. Behind the commercial portion of the building, provided, the residence does not face the same street as the commercial portion of the building, and, the setbacks of the residential portion of the building is no less than the setbacks on the commercial portion.

**2.105.03 Special Permitted Uses**

The following uses, when developed under the applicable standards in the Ordinance and special development requirements, are permitted in the C zone:

- A. Partitions, subject to the provisions in Section 2.307.
- B. Subdivision, subject to the provisions in Section 2.307.
- C. Accessory structures and uses prescribed in Section 2.203 and subject to the provisions in Section 2.309.

- D. The following uses are subject to the applicable standards in Section 2.4:
  - 1. Home occupations (Section 2.404).
  - 2. Used Merchandise Store (Section 2.405)
  - 3. Medical Marijuana Dispensary and Commercial Marijuana Retail Stores (Section 2.407)

#### **2.105.04 Dimensional Standards**

- A. Lot Dimension and Height Requirements
  - 1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
  - 2. Maximum Height. The maximum height shall be 45 feet.
- B. Minimum Yard Setback Requirements
  - 1. Front: None, provided no building shall project beyond a line formed by the fronts of the existing buildings on the same side of the street within the same block.
  - 2. Side, Rear Yard: None, provided the setback shall be no less than the minimum rear yard setback of the zone on the adjacent property.

#### **2.105.05 Development Standards**

- A. Development Exemptions: All C zoned property located along Main Street, between Butteville Road and Matthieu Road, shall be exempt from off-street parking, landscaping and lot coverage requirements. Existing or permitted residential uses within the C shall comply with off-street parking requirements.
- B. Use Restrictions. No permitted or special permitted use shall in any way involve any of the rendering, processing, or cleaning of animals, fish, seafoods, fowl, poultry, fruits, vegetables, or dairy products for wholesale use.
- C. All development in the C Zone shall comply with the applicable provisions of this Ordinance. The following references additional development requirements:

1. Off-street parking. Parking shall be as specified in Section 2.303.
2. Yards and Lots. Yards and lots shall conform to the standards of Section 2.308.
3. Site Development Review: Development within the C Zone shall be subject to the Site Development Review procedures in Section 3.1.
4. Landscaping: All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 2.306. A minimum 10% of the property shall be landscaped.
5. Lot Coverage: The maximum coverage allowed for buildings, accessory structures and paved parking shall be 90%.

2.106 INDUSTRIAL (I)

**2.106.01 Purpose**

The purpose of the I Zone is to provide areas suitable for warehousing, primary and secondary processing, packaging, fabricating of finished goods and equipment with related outdoor storage and incidental sales. The Industrial zone is appropriate in those areas designated Industrial in the Comprehensive Plan where the location has access to an arterial street or highway and where the noises, lights, odors, and traffic will not conflict with residential areas.

**2.106.02 Permitted Uses**

The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the I zone:

- A. Dwelling for a caretaker or watchman.
- B. Commercial activities:
  - 1. Vehicle repair and maintenance, including electric motor repair, paint and body shop, tire recapping and similar automotive repair facilities.
  - 2. Warehouse for short term storage, including mini-warehouse.
  - 3. Lumber yard and contracting supplies for lumber, stone, masonry or metal.
  - 4. Special trade contracting facilities, such as; floor laying, building equipment, masonry and stone, plumbing, electrical, metal work or painting.
  - 5. Cabinet shop where activities are conducted wholly within a building.
  - 6. Tractor, farm equipment, heavy construction equipment, and logging equipment, rental, sales and service.
  - 7. Welding and blacksmith shop.
- C. Industrial uses:
  - 1. Battery manufacture, sales and service.

2. Beverage bottling facility, including warehousing and distribution.
3. Feed and seed facilities, grain elevators and storage; including agricultural chemical, fertilizer, insecticide storage and distribution, excluding uses related to medical or recreational marijuana.
4. Textile and leather products manufacture.
5. Dairy products manufacturing, such as butter, milk cheese, and ice cream.
6. Manufacture of wood products, including sawmills, paper and allied products, and secondary wood products.
7. Machine shop, and sales, service and repair of machinery.
8. Wrecking, demolition, junk yards, including recycling firms.
9. Manufacture of metal products including metal plating.
10. Cement, glass, clay and stone products manufacturing.
11. Food processing, including canning, freezing, drying and similar food processing and preserving excluding uses related to medical or recreational marijuana.
12. Freight terminals, including loading docks, storage, warehousing and wholesale distribution, cold storage lockers and similar personal storage facilities such as mini-storage warehouses.

### **2.106.03 Special Permitted Uses**

The following uses, when developed under the applicable standards in the Ordinance and special development requirements, are permitted in the I zone:

- A. Partitions, subject to the provisions in Section 2.307.
- B. Subdivision, subject to the provisions in Section 2.307.
- C. Accessory structures and uses prescribed in Section 2.203 and subject to the provisions in Section 2.309.

**2.106.04 Conditional Uses**

The following uses shall require a conditional use permit:

- A. Petroleum products storage and distribution.
- B. Chemical manufacturing including agricultural chemicals, fertilizers and insecticides.
- C. Auction yard.
- D. Marijuana grow site and/or marijuana processing sites, subject to Section 2.408.
- ~~D.E.~~ Other industrial type of activities not specifically, or generally, identified in Section 2.106.02 or 2.106.03.

**2.106.05 Dimensional Standards**

- A. Lot Dimension and Height Requirements
  - 1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
  - 2. Maximum Height. 50 feet.
- B. Minimum Yard Setback Requirements

ADJACENT PROPERTY USE

SETBACKS	Single Family or Duplex	Multi-Family	Commercial	Industrial
Front	20 feet	20 feet	20 feet	20 feet
Side	(1), (2)	(1), (2)	(1)	(1)
Rear	(1), (2)	(1), (2)	(1)	(1)
Street-side	20 feet	20 feet	20 feet	20 feet

- (1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. For the I zone, the rear yard setback is 0 feet.
- (2) Yards adjacent to residential zones shall be contained by a sight-obscuring fence, wall, or hedge a minimum of 8 feet in height.

#### **2.106.06 Development Standards**

All development in the I Zone shall comply with the applicable provisions of this Ordinance. The following includes referenced items as well as additional development requirements:

- A. Off-street Parking. Parking shall be as specified in Section 2.303.
- B. Yards and Lots. Yards and lots shall conform to the standards of Section 2.308.
- C. Site Development Review: Development within the I Zone shall be subject to the Site Development Review procedures in Section 3.1.
- D. Landscaping: A minimum of 10% of the property shall be landscaped, including all required yards. Landscaped areas shall be landscaped as provided in Section 2.309.
- E. Lot Coverage: The combined maximum building and parking area coverage shall not exceed 90%.
- F. Open Storage: Open storage of materials used for the manufacture or assembly of goods, and equipment is prohibited in required yards, but is otherwise permitted provided that such storage is enclosed with a sight-obscuring fence, wall, hedge, or berm a minimum of 8 feet in height.



2.107 PUBLIC (P)

**2.107.01 Purpose**

The purpose of the P (PUBLIC) zone is to provide areas appropriate for specific public and semi-public uses and to ensure their compatibility with adjacent uses. The Public zone is applicable to those properties designated Public in the Comprehensive Plan.

**2.107.02 Permitted Uses**

The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the P zone:

- A. All public and governmental buildings such as fire stations, police stations, libraries, schools, hospitals, clinics, and community centers.
- B. Utility facilities necessary for public service except public power generation and public water and sewer treatment facilities.
- C. Parks, playgrounds and other recreational facilities.

**2.107.03 Special Permitted Uses**

The following uses, when developed under the applicable standards in the Ordinance and special development requirements, are permitted in the I zone:

- A. Partitions, subject to the provisions in Section 2.307.
- B. Accessory structures and uses prescribed in Section 2.203 and subject to the provisions in Section 2.309.

**2.107.04 Conditional Uses**

The following uses may be permitted in a P zone subject to obtaining a conditional use permit:

- A. Power generating facilities.
- B. Water and sewage treatment facilities.

**2.107.05 Dimensional Standards**

A. Lot Dimension and Height Requirements

- 1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
- 2. Maximum Height. 35 feet.

B. Minimum Yard Setback Requirements

ADJACENT PROPERTY USE

SETBACKS	Single Family or Duplex	Multi-Family	Commercial	Industrial
Front	20 feet	20 feet	20 feet	20 feet
Side	(1), (2)	(1), (2)	(1)	(1)
Rear	(1), (2)	(1), (2)	(1)	(1)
Street-side	20 feet	20 feet	20 feet	20 feet

- (1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. For the P zone, the rear yard setback is 10 feet.
- (2) Yards adjacent to residential zones shall be contained by a sight-obscuring fence, wall, or hedge a minimum of 8 feet in height.

**2.107.06 Development Standards**

All development in the P Zone shall comply with the applicable provisions of this Ordinance. The following references additional development requirements:

- A. Off-street Parking. Parking shall be as specified in Section 2.303.
- B. Yards and Lots. Yards and lots shall conform to the standards of Section 2.308.
- C. Site Development Review: Development within the P Zone shall be subject to the Site Development Review procedures in Section 3.1.

- C. Landscaping: A minimum of 20% of the property shall be landscaped, including all required yards. Landscaped areas shall be landscaped as provided in Section 2.309.
- D. Lot Coverage: The combined maximum building and parking area coverage shall not exceed 80%.
- E. Open Storage: Open storage of materials used for the manufacture or assembly of goods, and equipment is prohibited in required yards, but is otherwise permitted provided that such storage is enclosed with a sight-obscuring fence, wall, hedge, or berm a minimum of 8 feet in height.

## 2.116 EMPLOYMENT INDUSTRIAL (EI)

### **2.116.01 Purpose**

The purpose of the EI Zone is to provide areas suitable for warehousing, primary and secondary processing, packaging, fabricating of finished goods and equipment with related outdoor storage and incidental sales. The Employment Industrial Zone is appropriate in those areas designated Industrial in the Comprehensive Plan where the location has access to an arterial street or highway and where the noises, lights, odors, and traffic will not conflict with residential areas.

### **2.116.02 Permitted Uses**

The following uses, when developed under the applicable development standards in this Zoning Ordinance, are permitted in the EI Zone:

- A. Dwelling for caretaker or watchman.
- B. Industrial uses:
  - 1. Battery manufacture, sales and service.
  - 2. Beverage bottling facility, including warehousing and distribution.
  - 3. Feed and seed facilities, grain elevators and storage; including agricultural chemical, fertilizer, insecticide storage and distribution.
  - 4. Textile and leather products manufacture.
  - 5. Dairy products manufacturing, such as butter, milk cheese, and ice cream.
  - 6. Manufacture of wood products, including sawmills, paper and allied products, and secondary wood products.
  - 7. Machine shop, and sales, service and repair of machinery.
  - 8. Wrecking, demolition, junk yards, including recycling firms.
  - 9. Manufacture of metal products, including metal plating.
  - 10. Cement, glass, clay and stone products manufacturing.

11. Food processing, including canning, freezing, drying and similar food processing and preserving.
12. Freight terminals, including loading docks, storage, warehousing and wholesale distribution, cold storage lockers and similar personal storage facilities such as mini-storage warehouses.

### **2.116.03 Special Permitted Uses**

The following uses, when developed under the applicable standards in the Ordinance and special development requirements, are permitted in the EI zone:

- A. Partitions, subject to the provisions in Section 2.307.
- B. Subdivision, subject to the provisions in Section 2.307.
- C. Accessory structures and uses prescribed in Section 2.203 subject to the provisions in Section 2.309, and provided:
  1. Accessory structures and uses shall be both accessory to and in conjunction with the operation of a permitted use. For accessory retail sales, the retail sales use must be secondary, directly related, and limited to products manufactured, repaired, or assembled on the site, or by the operator of the site.
  2. The provisions in Section 2.203 and 2.309 that are applicable to accessory retail sales uses and structures do not apply to area used for wholesale sales. For purposes of this section, retail sales shall mean sales of goods, materials, and services to daily general public customers. Retail sales does not include “wholesale sales” businesses which sell and distribute merchandise to retailers, industrial, commercial and professional business users, but not the general public.

### **2.116.04 Conditional Uses**

The following uses shall require a conditional use permit:

- A. Petroleum products storage and distribution.
- B. Chemical manufacturing, including agricultural chemicals, fertilizers and insecticides.

- C. Auction yard.
- D. Other industrial type of activities not specifically, or generally, identified in Section 2.116.02 or 2.116.03.

Office uses in a building accessory to and in conjunction with a permitted industrial use where the office area occupies more than 25 percent of the area of the industrial use. The maximum office area allowed in the EI zone under a conditional use permit shall not exceed 40 percent of the area of the industrial use.

**2.116.05 Dimensional Standards**

- A. Lot Dimension and Height Requirements.
  - 1. Lot Size. The parcel size shall be adequate to comply with setback requirements and applicable development standards.
  - 2. Maximum Height. 50 feet.
- B. Minimum Yard Setback Requirements
- C. ADJACENT PROPERTY USE

SETBACKS	Single Family or Duplex	Multi-Family	Commercial	Industrial or Employment Industrial
Front	20 feet	20 feet	20 feet	20 feet
Side	(1), (2)	(1), (2)	(1)	(1)
Rear	(1), (2)	(1), (2)	(1)	(1)
Street-side	20 feet	20 feet	20 feet	20 feet

- (1) The setback shall be no less than the minimum rear yard setback of the zone on the adjacent property. For the I or EI Zone, the rear yard setback is 0 feet.
- (2) Yards adjacent to residential zones shall be contained by a sight-obscuring fence, wall, or hedge a minimum of 8 feet in height.

## **2.116.06 Development Standards**

All development in the EI Zone shall comply with the applicable provisions of this Ordinance. The following includes referenced items, as well as additional development requirements.

- A. Off street Parking - Parking shall be as specified in Section 2.303.
- B. Yards and Lots. - Yards and lots shall conform to the standards of Section 2.308.
- D. Site Development Review: - Development within the EI Zone shall be subject to the Site Development Review procedures in Section 3.1.
- E. Landscaping: - A minimum of 10% of the property shall be landscaped, including all required yards. Landscaped areas shall be landscaped as provided in Section 2.309.
- F. Lot Coverage: - The combined maximum building and parking area coverage shall not exceed 90%.
- G. Open Storage: - Open storage of materials used for the manufacture or assembly of goods, and equipment is prohibited in required yards, but is otherwise permitted provided that such storage is enclosed with a sight-obscuring fence, wall, hedge, or berm a minimum of 8 feet in height.

2.120 LIMITED USE OVERLAY ZONE (LUO)

**2.120.01 Purpose**

The purpose of the Limited Use Overlay Zone is to reduce the list of permitted uses in a zone to those that are suitable for a particular location. Zones permit a number of uses without notification or opportunity for a hearing. These uses are included in the zone because they are considered basically equivalent in terms of the type and intensity of activity. However, on a particular property certain permitted uses may conflict with adjacent land uses. Rather than reject an otherwise acceptable zone change request because the proposed zone would permit an objectionable use, the Limited Use Overlay can be used to identify the appropriate uses and require a conditional use permit for other uses normally permitted in the zone. It is the intent that the maximum number of acceptable uses be permitted so that the use of the property is not unnecessarily limited.

**2.120.02 Overlay Zone Requirements**

When the Limited Use Overlay zone is applied, the uses permitted in the underlying zone shall be limited to those permitted uses specifically referenced in the order or ordinance adopting the Limited Use Overlay zone. Until the Overlay zone has been removed or amended, the only permitted uses in the zone shall be those specifically referenced in the adopting ordinance. Uses that would otherwise be permitted may only be allowed if a conditional use permit is approved.

**2.120.03 Procedures and Criteria**

The Limited Use Overlay zone is applied at the time the underlying zone is being changed. It shall not be necessary to mention in the hearing notice of a rezoning application that this overlay zone may be applied. The order or ordinance adopting the overlay zone shall include findings to the following:

- A. No zone has a list of permitted uses where all uses would be appropriate.
- B. The proposed zone is the best suited to accommodate the desired uses.
- C. It is necessary to limit the uses permitted in the proposed zone.
- D. The maximum number of acceptable uses in the zone have been identified and will be permitted.

The order or ordinance adopting the overlay zone shall by section reference, or by name, identify those permitted uses in the zone that will remain permitted uses. A



permitted use description may be segmented to require a conditional use for distinct uses that may not be compatible.

**2.120.04 Official Zoning Map**

The official zoning map shall be amended to show an LUO suffix on any parcel where the Limited Use Overlay zone has been applied.

**2.120.05 Site Plan Requirement**

In addition to limiting the uses in the zone, it may be necessary to require City approval of the location of buildings, access and parking, screening and other site planning considerations in order to ensure the compatibility of the permitted uses with the area. This requirement may be added by specific reference in the adopting order or ordinance. The document shall indicate any special concerns or locational requirements that must be addressed in the site plan and approved by the City.

SECTION 2.2 - GENERAL PROVISIONS

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## 2.201 GENERAL STANDARDS

### **2.201.01 Minimum Requirements**

In interpreting and applying this Ordinance, these provisions shall be considered the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, and general welfare.

### **2.201.02 Building Permits**

- A. **Building Permits Required.** No building shall be constructed or structure erected without receiving the appropriate building permit. Building permit shall include electrical, mechanical, structural, foundation and similar types of permits issued by the appropriate building codes agency.
- B. **Completion of a Structure.** Residential structures shall be completed within one year of beginning construction. Public, commercial or industrial structures shall receive a certificate of occupancy within two years of beginning construction. A structure not completed within the required time period of beginning construction shall constitute a violation of this Ordinance and is subject to the violation provisions in Section 1.102.05.

### **2.201.03 Lots of Record**

- A. **Legal Lot.** A parcel is a legal lot of record for purposes of this Ordinance when the lot conforms to all zoning requirements, subdivision requirements, and Comprehensive Plan provisions in effect on the date when a recorded deed or contract creating the separate lot or parcel was signed by the parties to the deed or contract.
- B. **Separate Legal Lot.** A lot or parcel which is a separate legal lot or parcel prior to the adoption of this Ordinance shall remain a separate legal lot regardless of ownership.
- C. **Development of a Lot of Record.** The use or development of any legal lot of record shall be subject to the regulations applied to the property when such development or use begins, irrespective of the lot width, street frontage, depth or area, but subject to all other regulations.

#### **2.201.04 Access to a Public Street**

- A. Access Required. All uses shall be located on property having access to a public street. Access to a public street is defined as a minimum of 20 feet of frontage on one of the following:
  - 1. Public Street. A public street with a right-of-way not less than 20 feet wide that has been graveled or paved and is open for public use to the property.
  - 2. Private Street. A private street not less than 20 feet wide graveled or paved and open for use to the property prior to the date this ordinance is adopted and connecting with a public street qualifying under 1, above.
  - 3. Private Access Easement. A private access easement of not less than 20 feet where the access easement connects the property to a public street and the easement is improved to the minimum standards of this Ordinance.
- B. Lots Abutting a Partial Street. Development of property abutting an existing public street which does not meet the minimum right-of-way standards in Section 2.202 shall provide sufficient yard setback equal to the minimum yard requirements of the zoning district, plus, the additional land required to meet the minimum right-of-way width or the required right-of-way shall be dedicated prior to development permit approval.

#### **2.201.05 Structures to be on a Lot**

- A. All structures and uses shall be entirely situated on a single lot. Nothing in this provision permits the placement of buildings on an easement.
- B. Zero Lot Line. Buildings which are attached at a common property line, but which meet all requirements of the Uniform Building Code as separate buildings, shall be considered separate.
- C. Duplexes, condominiums, townhomes, and other structures allowed under the Unit Ownership law (ORS 91.400 et seq.) shall be exempt from this requirement.

#### **2.201.06 Division or Alteration of Lots**

In addition to any partitioning or subdivision requirements in the Ordinance, no lot held under separate ownership shall be divided or altered so that it does not meet the requirements in this Ordinance. If a lot does not meet such requirements at the time this Ordinance is adopted, it shall not be divided or altered in such a manner that the lot is less in conformity with these regulations in any respect.

2.202 GENERAL EXCEPTIONS

**2.202.01 Building Height Limitations**

Projections such as chimneys, spires, domes, elevator shaft housing, towers, aerials, flagpoles, and other similar features not used for human occupancy are not subject to the building height limitations of the underlying zone.

**2.202.02 Additions to Existing Structures**

Additions to the primary structure which do not comply with yard setback requirements of the underlying zone shall be allowed, provided the setback distance will not be decreased by the addition, and, the addition conforms to all other provisions of the zoning district.

**2.202.03 Public Dedications**

Setback restrictions of this Ordinance shall not apply to existing structures whose setback is reduced by a public dedication. Additions to such structures shall be allowed subject to Subsection 2.202.03.

2.203 PERMITTED USES GENERALLY

**2.203.01 Permitted Uses**

The following uses and activities are permitted in all zones:

- A. Utility Facilities. Placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains, and detention basins within rights-of-ways by public agencies and utility companies for telephone, TV cable, or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, wastewater, sewage and rainwater.
- B. Railroad Tracks. Railroad tracks and related structures and facilities located within rights-of-ways controlled by railroad companies.
- C. Street Improvements. Surfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, transit stops, landscaping and related structures and facilities located within rights-of-ways controlled by a public agency.
- D. Public Right-of-way Expansion. Expansion of public right-of-way and widening or adding improvements within the right-of-way, provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan.

**2.203.02 Permitted Residential Accessory Structures and Uses**

The following accessory uses shall be permitted subject to the following limitations and requirements:

- A. Accessory Structures and Uses. The following accessory structures and uses are permitted on a lot in any zone in conjunction with a permitted dwelling or manufactured home and subject to setback requirements under the zone:
  - 1. Decks and patios (open, covered or enclosed) are subject to setback provisions under 2.308.
  - 2. Storage building for fire wood, yard maintenance equipment or tools, or, personal property not used in conjunction with any commercial or industrial business other than a home occupation.
  - 3. Green house or hobby shop.

4. Swimming pools, hot tubs, and saunas.
  5. Pets, including outdoor shelters or runs.
  6. Fall-out shelters.
  7. Garages and carports.
  8. Rooms for 1 or 2 boarders residing in the dwelling.
  9. Additional kitchens in a dwelling provided all kitchens in the dwelling unit are used by only one family.
- B. Fences. Fences are a permitted use in all zones subject to the requirements in Section 2.308.
- C. Residential Office. One manager's office of 200 square feet or less for rental of dwellings is a permitted accessory use in the residential zones, provided the office is located in the building containing dwelling units.
- D. Agricultural Uses. Gardens, orchards, crop cultivation and the keeping of livestock and poultry primarily for personal use is a permitted use accessory to a dwelling in residential zones, except that the sale of produce, livestock and poultry on site are prohibited.

**2.203.03 Permitted Non-residential Accessory Structures and Uses**

- A. Retail Space. Retail sales or offices in a building in conjunction with a use in any industrial zone provided:
1. In the I zone, the sales or office area shall not occupy more than 40 percent of the area in the industrial use. In the EI zone, the retail sales shall not occupy more than 30 percent of the area of the industrial use. In the EI zone, the office may occupy up to 25 percent of the area of the industrial use as an allowed accessory use, and may occupy up to 40 percent of the area of the industrial use if approved as a conditional use (Section 3.107). The sales or office area shall not occupy more than 40 percent of the area of the industrial use.
  2. Development requirements in Section 2.3 and Section 2.4 shall apply to the sales or office area.



3. The accessory use shall be located on the same lot as the primary use.
- B. Mobile Classrooms. Mobile classrooms are a permitted accessory use in conjunction with elementary and secondary schools.
- C. Accessory buildings in conjunction with any commercial or industrial business and (in compliance with setback and size limitations).
- D. Fences are a permitted use in all zones subject to the requirements in Section 2.308.

**2.203.04 Permitted Temporary Uses**

- A. Temporary Construction Facilities. Mobile offices, temporary power equipment and temporary structures to house personnel and store equipment during construction, provided the structures are not used as dwellings.
- B. Yard Sales and Auctions. Yard sales in any residential zone, and auctions in Commercial and any Industrial zones, provided there are not more than three (3) sales in a calendar year with each sale not to exceed three (3) consecutive days. Merchandise and signs shall remain on private property.

2.204 NONCONFORMING USES

**2.204.01 Continuation**

A nonconforming use may be continued although not in conformity with the regulations for the zone in which the use is located.

**2.204.02 Discontinuation**

If a nonconforming use is discontinued for a period of more than six consecutive months, the use shall not be resumed unless the resumed use conforms with the requirements of the ordinance.

**2.204.03 Restoration**

If a nonconforming use is damaged or destroyed by fire, other casualty or natural disaster, such use may be restored or replaced provided physical restoration or replacement is lawfully commenced within one year of the damage or destruction.

**2.204.04 Alteration and Change of Use**

- A. The alteration of any nonconforming use when necessary to comply with any lawful requirement for alteration of the use or structure shall be permitted, subject to all other laws, ordinances and regulations.
- B. Alterations or changes of a nonconforming use or structure may be permitted to reasonably continue the use. Such alterations or changes are subject to a Type I Minor Variance procedure and shall comply with the following criteria:
  - 1. The change in the use, structure or physical improvements will have no greater adverse impact to the neighborhood than the existing use, structure or physical improvements.
  - 2. Any alteration or change shall not increase the nonconformance of the subject use or structure.

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2.301 GENERAL PROVISIONS

**2.301.01 Purpose**

The purpose of this Section is to carry out the Comprehensive Plan with respect to development standards and policies and promote and maintain healthy environments and minimize development impacts upon surrounding properties and neighborhoods.

**2.301.02 Application of Standards**

- A. Application. The standards set forth in Section 2.3 shall apply to partitions; subdivisions; commercial and industrial development; public and non-commercial development; single family dwellings, duplexes and multi-family structures. These regulations shall apply in all zones.
- B. Modification to Standards. The application of these standards to a particular development shall be modified as follows:
  - 1. Development standards which are unique to a particular use, or special use, shall be set forth within the district or in Section 2.4.
  - 2. Those development standards which are unique to a particular district shall be set forth in the Section governing that district.

**2.301.03 Application of Public Facility Standards**

Standards for the provision and utilization of public facilities or services available within the City of Donald shall apply to all land developments in accordance with the following table of reference. No development permit, including building permit, shall be approved or issued unless the following improvements are provided prior to occupancy or operation, the improvement is specifically waived by the Public Works Department due to existing improvements or circumstances within the area, or unless future provision is assured in accordance with Subsection 3.202.01.

Public Facilities Improvement Requirements Table

<b>LAND USE</b>	<b>FIRE HYDRANT</b>	<b>STREET IMPROVEMENT</b>	<b>WATER HOOKUP</b>	<b>SEWER HOOKUP</b>	<b>STORM DRAIN</b>
SFD/Duplex	No	C-2	Yes	Yes	Yes
MFD	Yes	Yes	Yes	Yes	Yes
New Public, Commercial or Industrial	Yes	Yes	Yes	Yes	Yes
Public, Commercial or Industrial Expansion	C-1	C-3	Yes	Yes	Yes
Partition, Subdivision, MHP	Yes	Yes	Yes	Yes	Yes

Legend: No = Not required Yes = Required C = Conditional, as noted:

- C-1. Fire Hydrants for Commercial or Industrial Expansions: One or more fire hydrants are required when the total floor area of a new or expanded building exceeds 2,500 square feet, or the proposed use is classified as Hazardous (H) in the Uniform Building Code or Uniform Fire Code.
- C-2. Street Improvements for Single Family Dwellings: New single family dwellings which require a street extension must provide street improvements to City street standards; otherwise, street improvements are not required.
- C-3. Street Improvements for Commercial or Industrial Expansions: Street access permits must obtain access permits from the Marion County Public Works Department.

MFD = Multi-family dwelling (3 or more units); MHP = Manufactured home park; SFD = Single family dwelling

## 2.302 STREET STANDARDS

### 2.302.01 Purpose

The purpose of the street standards area to provide for safe, efficient, and convenient vehicular movement in the City; to provide adequate access to all proposed developments; and to provide adequate area in all public rights-of-way for sidewalks, sanitary sewers, storm sewers, water lines, power lines and other utilities commonly and appropriately placed in such rights-of-way; and to provide improvement standards for dedicated but unimproved or partially improved rights-of-way.

### 2.302.02 Scope

The provisions of this Section shall be applicable for the following:

- A. Land Divisions. The creation, dedication or construction of all new public or private streets in all subdivisions, partitions or other developments in the City.
- B. Street Expansion. The extension or widening of existing public or private street rights-of-way, easements, or street improvements including those which may be proposed by an individual or the City, or which may be required by the City in association with other development approvals.
- C. Utility Improvements. The construction or modification of any utilities or sidewalks in public rights-of-way or private street easements.
- D. Exceptions. Provisions of this Section do not apply in existing developed areas of the City. Improvements in these areas shall be based on standards adopted by the Department of Public Works.

### 2.302.03 General Provisions

The following provisions shall apply to the dedication, construction, improvement or other development of all public streets in the City of Donald:

- A. General Requirement. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets.
- B. Continuation of Street. Development proposals shall provide for the continuation of, and connection to, existing principal streets where

necessary to promote appropriate traffic circulation in the vicinity of the development.

- C. **Alignment.** All streets other than minor streets or cul-de-sacs, as far as practical, shall be in alignment with existing streets by continuation of the existing centerlines. The staggering of street alignments resulting in "T" intersections shall, wherever practical, meet with the approval of the City Engineer and minimally acceptable traffic safety standards or Transportation System Plan of the City, where applicable.
- D. **Future extension of streets.** When it appears possible to continue a street, bicycle path and/or pedestrian accessway into a future subdivision, adjacent acreage or area attractors such as schools and shopping centers, streets, bicycle paths and/or pedestrian accessways shall be platted to a boundary of the subdivision. The street may be platted without a turnaround unless the Public Works Department or local Fire District finds a turnaround is necessary for reasons of traffic safety.
- E. **Intersection angles.** Streets shall be laid out to intersect at angles as near to right angles as practical, except where topography requires lesser angles. Intersections of less than 60 degrees shall require special intersection designs and approval of Public Works Department.
- F. **Existing Streets.** Whenever existing public streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision, partitioning, or development.
- G. **Cul-de-sacs.** The City discourages the use of cul-de-sacs. When cul-de-sacs are necessary, the maximum length shall be 800 feet. Cul-de-sacs over 400 feet in length shall provide accessways to provide connectivity to adjacent streets and uses, unless physical constraints preclude a pedestrian/bicycle accessway.
- H. **Street Names.** Street names and numbers shall conform to the established standards and procedures in the City.
- I. **Alleys.** Alleys are encouraged in residential zones and shall be provided in all commercial and industrial zones unless other permanent provisions for access to off-street parking and loading facilities are provided.
- J. **Clear Vision Areas.** Clear vision areas shall be maintained on corner lots at the intersection of public streets and at the intersections of a public street with a private street, alley or private access easement, in compliance with Subsection 2.308.08.



- K. Lots Abutting a Partial Street. Development of property abutting an existing public street which does not meet the minimum right-of-way standards in Section 2.302 shall provide sufficient yard setback equal to the minimum yard requirements of the applicable zone, plus, the additional land required to meet the minimum right-of-way width, also known as a "special setback" or the required right-of-way required shall be dedicated at the time of development.

**2.302.04 General Right-of-Way and Improvement Widths**

The following standards are general criteria for public streets in the City of Donald. These standards shall be the minimum requirements for all streets, except where modifications are permitted under Subsection 2.202.05.

**STREET STANDARDS**

<b>SERVICE AREA (a),(b),(c),(d)</b>	<b>IMPROVEMENT WIDTH CURB/CURB</b>	<b>FULL HEIGHT CURB (f),(g)</b>	<b>SIDEWALK (e)</b>	<b>TOTAL RIGHT- OF-WAY WIDTH</b>
<b>PRIVATE STREET</b> (serving no more than 4 d/u)	20 feet	No curbs	No sidewalks	25 feet
<b>LOCAL STREET I</b> Up to 19 d/u or serving 190 ADT or 79,999 sq. ft.	Parking two sides: 30 feet	6" each side (1 foot total)	5 foot curbline Two sides	60 feet
<b>LOCAL STREET II</b> 20 to 79 d/u or 200 to 790 ADT or 79,999 to 319,999 sq. ft.	Parking two sides: 32 feet	6" each side (1 foot total)	5 foot curbline Two sides	60 feet
<b>LOCAL STREET III</b> 80 or more d/u or 800 or more ADT or more than 320,000 sq. ft.	Parking two sides: 34 feet	6" each side (1 foot total)	5 foot curbline Two sides	60 feet
<b>CUL-DE-SAC</b> Max. length = 800 feet or less than 450 ADT or less than 183,999 sq. ft.	Width as above; Min. Curb Radius: 38 feet	6" each side (1 foot total)	5 foot curbline for entire cul-de-sac	Width as above; Min. ROW Radius: 45 feet
<b>COLLECTOR</b>	36 feet	(i)	(i)	68 feet (i)
<b>MINOR ARTERIAL</b>	46 feet	(i)	(i)	68 feet (i)
<b>MAJOR ARTERIAL</b>	46 feet	(i)	(i)	68 feet (i)

<p>(a) ADT = Average Daily Trips (ITE, Trip Generation Manual)</p> <p>(b) Trip Generation Rater for SFD = 10 ADT</p> <p>(c) Minimum Lot Size = 5,000 sq. ft.; Duplex = 7,000 sq. ft.</p> <p>(d) Calculated per street entrance; use largest number.</p> <p>(e) Required width around signs, mailboxes, utility poles, etc.</p>	<p>(f) Full curb height between driveways.</p> <p>(g) Max. 2 weep holes through curb face per lot.</p> <p>(h) Additional easements may be necessary.</p> <p>(i) Some collector and arterial streets will need to be evaluated on an individual basis, subject to city engineer and public works approval.</p>
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**2.302.05 Modification of Right-of-Way and Improvement Width**

The City may allow modification to the public street standards of Subsection 2.302.04, when the following criteria are satisfied:

- A. Modification Permitted. The modification is necessary to provide design flexibility where:
  1. Unusual topographic conditions require a reduced width or grade separation of improved surfaces; or
  2. Parcel shape or configuration precludes accessing a proposed development with a street which meets the full standards of Section 2.302.04; or
  3. A modification is necessary to preserve trees or other natural features determined by the Planning Commission to be significant to the aesthetic character of the area.
- B. Vehicular Access Maintained. Modification of the standards shall only be approved if the City Engineer finds that the specific design proposed provides adequate vehicular access based on anticipated traffic volumes.

**2.302.06 Construction Specifications**

Construction specifications for all public streets shall comply with the standards of the most recently adopted public works/street standards of the City of Donald.

**2.302.07 Private Streets**

Streets and other right-of-ways that are not dedicated for public use shall comply with the following:

- A. Width. Private streets shall have a minimum easement width of 25 feet and a minimum paved width of 20 feet.
- B. Construction Standards. All private streets serving more than two dwelling units shall be constructed in compliance with City private street standards Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, home owners association, or other instrument acceptable to the City. Unless otherwise required by the City Engineer, the private street shall include easements for public and private utilities.

Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, home owners association, or other instrument acceptable to the City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.
- C. Turn-around. Private streets serving more than one ownership shall provide a turn-around if in excess of 250 feet and having only one outlet. Turn-arounds shall be either a circular turn-around with a minimum paved radius of 35 feet, or a "tee" or "hammerhead" turn-around with a minimum paved dimension across the "tee" of 70 feet and shall be subject to Fire District review and approval.
- D. Public Dedication. Any private street that is designed, or has the potential capacity, as a collector or an arterial street shall be dedicated as a public right-of-way.

**2.302.08 Private Access Easements**

A private access easement created as the result of an approved partitioning shall conform to the following.

- A. Width. Private access easements shall only be allowed where the applicable criteria of Section 2.302.04 are satisfied. The easement shall comply with the following standards:
  - 1. Minimum width: 25 feet
  - 2. Minimum paved width: 20 feet
  - 3. Maximum length: 300 feet

4. No more than five (5) dwelling units shall have their sole access to the easement
- B. **Maintenance.** Provision for the maintenance of the street shall be provided in the form of a maintenance agreement, home owners association, or other instrument acceptable to the City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.
  - C. **Turn-around.** A turn-around shall be required for any access easement which is the sole access and which is either in excess of 150 feet or which serves more than two dwellings. The turn-around shall be either a circular turn-around with a minimum paved radius of 35 feet, or a "tee" or a "hammerhead" turn-around with a minimum paved dimension across the "tee" of 70 feet and shall be subject to Fire District review and approval.
  - D. **Fire Lanes.** All private access easements serving as the sole access for more than two (2) residences shall be designated as fire lanes and signed for "no parking."
  - E. The access easement shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Ordinance.

2.303 OFF-STREET PARKING AND LOADING

**2.303.01 Purpose**

The purpose of this Section is to provide adequate areas for the parking, maneuvering, loading and unloading of vehicles for all land uses in the City.

**2.303.02 Scope**

The provisions of this Section shall apply to the following types of development:

- A. New Building. Any new building or structure erected after the effective date of this Ordinance.
- B. Site Development Review under Subsection 3.106.
- C. Change in Use. A change in the use or occupancy of a building or structure which would intensify the use of the property by increasing vehicular traffic to the site or additional parking spaces or off-street loading areas under the provisions of this Section by more than twenty (20) percent. Applicant shall be required to submit to the Manager, or designee, information demonstrating the development, change, or remodel shall not intensify the use of the property by more than twenty (20) percent and is subject to Manager, or designee, review and approval, this Section, and the Institute of Transportation Engineers (ITE) Trip Generation Manual (latest edition).

**2.303.03 General Provisions Off-Street Parking and Loading**

- A. Owner Responsibility. The provision and maintenance of off-street parking and loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street parking and loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this Ordinance.
- B. Additional Parking Required Prior to Occupancy. Should the owner or occupant of any lot or building change the use to which the lot or building is put, thereby increasing off-street parking and loading requirements, the additional parking and loading areas shall be installed prior to occupancy of the building.

- C. Interpretation. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Manager, or designee, based upon the requirements of comparable listed uses.
- D. Combined Uses. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately, unless a reduction is approved by the Manager, or designee, for shared parking.
- E. Use of Parking Spaces. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons or employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the use.

**2.303.04 Location and Use Provisions**

Off-street parking and loading areas shall be provided on the same lot with the main building or structure or use.

- A. Accessory Parking Use, Non-residential. Parking of vehicles in a structure, or outdoors, is a permitted accessory or secondary use in non-residential zones provided all of the vehicles are owned by the owner or lessee of the lot.
- B. Accessory Parking Use, Residential. Parking of vehicles in a structure or outdoors is a permitted accessory use in conjunction with a dwelling in any zone provided:
  - 1. All of the vehicles are owned by the owner or lessee of the lot.
  - 2. Vehicles parked on a lot in a residential zone shall be for the personal use of the occupants of the dwelling.
  - 3. One vehicle used in conjunction with a home occupation or other employment may be parked on the lot.

**2.303.05 Joint Use**

Parking area may be used for a loading area during those times when the parking area is not needed or used. Parking areas may be shared subject to Manager, or designee, approval for public, commercial and industrial uses where hours of operation or use are staggered such that peak demand periods do not occur

simultaneously. Such joint use shall not be approved unless satisfactory legal evidence is presented which demonstrates the access and parking rights of parties.

**2.303.06 Off-Street Vehicle Parking Requirements**

- A. Number of Spaces. Off-street parking shall be provided in the amount not less than listed on the following chart.
- B. Maximum Number of Spaces. The number of minimum required parking spaces shall not be increased by more than 50%.

<b>LAND USE ACTIVITY</b>	<b>SPACES</b>	<b>HOW MEASURED*</b>
All dwelling types	2	Per dwelling unit
Hotel, motel	1	Per guest room
Club, lodge		Combination of heaviest uses being conducted: hotel, restaurant, etc.
Hospital, nursing home, convalescent home	1	Per 2 beds
Churches, auditorium, stadium, theater	1	Per 4 seats or every 8 feet of bench length
Elementary, junior high school	2	Per classroom
High school	1 + 1	Per classroom + per 10 students
Bowling alley, skating rink, community center	1	Per 200 square feet
Retail store	1	Per 300 square feet
Service repair center; retail store handling bulky merchandise (e.g. furniture)	1	Per 900 square feet
Bank, offices, medical clinic	1	Per 300 square feet
Eating and drinking establishment	1	Per 250 square feet
Wholesale establishment	1 + 1	Per 1,000 square feet + Per 700 square feet of retail
Government offices	1	Per 600 square feet
Industrial, manufacturing, processing (0 - 24,999 sf)	1	Per 700 square feet
Industrial, manufacturing, processing (25,000 - 49,999 sf)	1	Per 800 square feet
Industrial, manufacturing, processing (50,000 - 79,999 sf)	1	Per 1,000 square feet
Industrial, manufacturing, processing (80,000 - 199,999 sf)	1	Per 2,000 square feet

Industrial, manufacturing, processing (200,000 sf and over)	1	Per 3,000 square feet
Warehousing and storage terminals (0 to 49,999 square feet)	1	Per 2,000 square feet
Warehousing and storage terminals (50,000 square feet and over)	1	Per 5,000 square feet

\* Square footage = Gross floor area.

### **2.303.07 Standards for Disabled Person Parking Spaces**

The number of spaces shall comply with the Oregon Structural Specialty Code. Striping and signing of the handicap space(s) shall conform with the Oregon Transportation Commission's standards.

### **2.303.10 Commercial and Industrial Off-Street Loading Requirements**

All commercial or industrial buildings shall require a minimum loading space of 12 feet wide, 30 feet long, and 14 feet high in the following amount: for buildings containing over 5,000 square feet of gross floor area, 1 space; for each additional 40,000 square feet of gross floor area, or any portion thereof, 1 space.

### **2.303.11 Parking and Loading Area Development Requirements**

All Parking and loading areas shall be developed and maintained as follows:

- A. Surfacing. All driveways, parking and loading areas shall have a durable, hard, dustless surface or other permeable paving such as cobblestone, masonry or grasscrete. These areas shall be improved prior to occupancy of the primary building.
- B. Parking Spaces. Parking spaces shall be a minimum 9 feet wide and 18 feet in length.
- C. Driveways. The following driveway dimensions shall apply:
  - 1. Without adjacent parking:
    - a. Single family residence: 12 feet
    - b. One-way: 12 feet
    - c. Two-way: 22 feet



2.	With adjacent parking:	
	<u>Parking Angle</u>	<u>Driveway Width</u>
	0 to 40	12 feet
	41 to 45	13 feet
	46 to 55	15 feet
	56 to 70	18 feet
	71 to 90	24 feet

- D. Screening. Parking or loading area within or abutting a residential zone shall be screened from all residential properties with a fence or wall from (four) 4 feet to seven (7) feet in height.
- E. Lighting. All lighting shall be directed entirely onto the loading or parking area and away from any residential use. The lighting shall not cast a glare or reflection onto the public rights-of-way.
- F. Traffic Flow. Off-street parking access shall be designed to allow flow of traffic, provide maximum safety of traffic access and egress, and the maximum safety of pedestrians and vehicular traffic.
- G. Entrance/Exits. Service drives and driveway exits shall have a minimum vision clearance area and separation of 15 feet from the intersection of the street and driveway.
  - 1. General. Parking facilities containing more than four spaces shall be accessed by a driveway and prohibited from backing movement or otherwise maneuvering within a street right of way, unless otherwise permitted in this ordinance.
  - 2. Residential. No more than two parking spaces may back onto a public street other than an alley.
- H. Registration. Storage and parking in driveways and loading areas shall be limited to currently licensed and insured vehicles that may operate on the public roads and streets of the State.

## 2.304 STORM DRAINAGE

### **2.304.01 Purpose**

To provide for the drainage of surface water from all residential, commercial and industrial development; to minimize erosion; to reduce degradation of water quality due to sediments and pollutants in storm water runoff.

### **2.304.02 Scope**

The provisions of this Section shall apply to all new residential land partitions and subdivisions, multi-family developments (3 or more units), commercial developments, and industrial development; and to the reconstruction or expansion of such developments.

### **2.304.03 Plan for Storm Drainage and Erosion Control**

No construction of any facilities in a development included in Subsection 2.301.02 shall be permitted until a storm drainage and erosion control plan for the project is prepared by a professional engineer, and, approved by the City. This plan shall contain at a minimum:

- A. Run-off. Minimize the amount of runoff, siltation, and pollution created from the development both during and after construction.
- B. Facilities. Plans for the construction of storm sewers, open drainage channels and other facilities which depict line sizes, profiles, construction specifications and other such information as is necessary for the City to review the adequacy of the storm drainage plans.
- C. Engineering Calculations. Calculations used by the engineer in sizing storm drainage facilities.

### **2.304.04 General Standards**

- A. Requirements. All development shall be planned, designed, constructed and maintained to:
  - 1. Protect and preserve existing natural drainage channels to the maximum practicable extent;
  - 2. Provide a system by which water within the development will be controlled without causing damage or harm to the natural environment, or to property or persons within the drainage basin;

3. Assure that waters drained from the development are substantially free of pollutants, through such construction and drainage techniques as sedimentation ponds, reseeded, phasing of grading;
  4. Assure that waters are drained from the development in such a manner that will not cause erosion to any greater extent than would occur in the absence of development;
  5. Provide dry wells, bio-swales, or similar methods, as necessary to supplement storm drainage systems;
  6. Avoid placement of surface detention or retention facilities in road rights-of-way.
- B. Easements. Adequate easements for storm drainage purposes shall be provided to the City. This shall not imply maintenance by the City.
- C. Channel Obstructions. Channel obstructions are not allowed except as approved for the creation of detention or retention facilities approved under the provisions of this Ordinance.
- D. Inspection Required. Prior to acceptance of a storm sewer system by the City, the storm sewers shall be flushed and inspected by the City. All costs shall be borne by the developer.

2.305 UTILITY LINES AND FACILITIES

**2.305.01 Purpose**

To provide adequate services and facilities appropriate to the scale and type of development.

**2.305.02 Standards**

- A. Impact. The location, design, installation and maintenance of all utility lines and facilities shall be carried out with minimum feasible disturbances of soil and site.
- B. Water. Development requiring water service shall install water facilities and grant necessary easements pursuant to the requirements of the City.
- C. Private Utilities. All development which has a need for electricity, gas and communications services shall install them pursuant to the requirements of the district or company serving the development. Except where otherwise prohibited by the utility district or company, all such facilities shall be underground.
- D. Sanitary Sewers. All development which has a need for public/private sanitary sewers shall install the facilities pursuant to the requirements of the city. Installation of such facilities shall be coordinated with the extension of necessary water services and storm drainage facilities.
- E. Street Lights. When required, installation of street lights shall be pursuant to the requirements of the city and the company serving the development.
- F. Easements. Easements shall be provided along property lines as deemed necessary by the City, special districts, and utility companies. Easements for special purpose uses shall be of a width deemed appropriate by the responsible agency. Such easements shall be designated on the final plat of all subdivisions and partitions.

2.306 SITE AND LANDSCAPING DESIGN

**2.306.01 Purpose**

- A. Landscaping Guidelines. To guide the planting and maintenance of landscaping materials.
- B. Appearance. To enhance the appearance of the City, provide areas for outdoor recreation and to:
  - 1. Provide shade and windbreaks where appropriate to conserve energy in building and site design;
  - 2. Buffer and screen conflicting land uses;
  - 3. Provide for the landscaping of parking areas to facilitate vehicular movement and break up large areas of impervious surface.
  - 4. Promote public safety through appropriate design principles.
- C. Erosion control. To prevent or reduce erosion potential on steep terrain by providing appropriate landscape materials.

**2.306.02 Scope**

All construction, expansion, or redevelopment of structures or parking lots for commercial, multi-family, or industrial uses shall be subject to the landscaping requirements of this Section. No building or occupancy permit shall be issued for new construction or for additions to existing buildings without compliance with this Section.

**2.306.03 General Provisions**

- A. Landscaped Area. A "landscaped area" must be planted in lawn, ground cover plants, shrubs, annuals, perennials or trees, or desirable native vegetation, or be used for other landscape elements, provided a minimum of 30% of the landscaped area is in vegetative cover. The remaining 70% may be covered with unvegetated areas of bark chips, rock, stone, or water features.
- B. Location. Landscaped areas may include landscaping around buildings; in open spaces and outdoor recreation areas; in islands and perimeter planting areas in parking and loading areas; and in areas devoted to

buffering and screening as required in this Section and elsewhere in this Ordinance.

- C. Setback Areas. All required yards adjacent to a street shall be landscaped, save that portion used for access and off-street parking.
- D. Planting Height. No sight-obscuring plantings exceeding thirty (30) inches in height shall be located within any required clear-vision area as defined in Section 1.2 of this Ordinance.
- E. Plant Materials. Plant materials shall not cause a hazard. Landscape plant materials over walks, pedestrian paths and seating areas shall be pruned to a minimum height of 8 feet and to a minimum height of 15 feet over streets and vehicular traffic areas.
- F. Utility Interference. Landscape plant materials shall be selected which do not generally interfere with utilities above or below ground.
- G. Re-planting. Trees or shrubbery which die-off within one year of planting shall be replaced with a new plant.
- H. Maintenance. Landscaping shall be continually maintained. Appropriate methods of care and maintenance of landscaped plant material shall be provided by the owner of the property.
- I. Installation. All landscaping shall be installed prior to issuance of an occupancy permit, or shall require bonding of the landscaping.

**2.306.04 Screening and Buffering**

- A. Screening. Screening shall be used to eliminate or reduce the visual impacts of the following uses:
  - 1. Commercial and industrial uses when abutting residential uses.
  - 2. Industrial uses when abutting commercial uses.
  - 3. Service areas and facilities, including garbage and waste disposal containers, recycling bins, and loading areas.
  - 4. Outdoor storage areas.

5. Parking areas for 20 or more vehicles for multi-family developments, or 30 or more vehicles for commercial or industrial uses.
  6. At and above-grade electrical and mechanical equipment, such as transformers, heat pumps, and air conditioners.
- B. Screening Methods. Screening may be accomplished by the use of sight-obscuring plant materials (generally evergreens), earth berms, walls, fences, building parapets, building placement or other design techniques.
- C. Buffering. Buffering shall be used to mitigate adverse visual impacts, dust, noise or pollution, and to provide for compatibility between dissimilar adjoining uses. Where buffering is determined to be necessary, one of the following buffering alternatives shall be employed:
1. Planting Area: Width not less than 15 feet, planted with either one row of trees staggered and spaced not more than fifteen feet apart; or, at least one row of shrubs forming a continuous hedge at least 5 feet in height within one year of planting.
  2. Berm Plus Planting Area. Width not less than 10 feet, with the combined total height of the berm and hedge not less than 5 feet.
  3. Wall Plus Planting Area. Width must not be less than 5 feet with a masonry wall or fence not less than 5 feet in height and lawn, shrubs or ground cover covering the remaining area.
  4. Other approved methods which produce an adequate buffer considering the nature of the impacts to be mitigated.

**2.306.05 Site Plan Requirements**

Where required as part of a land use action, the submitted landscaping plan shall include the following:

- A. Existing natural and vegetative features of the property.
- B. The location of existing and proposed structures.
- C. The extent and location of all major landscaping features including, but not limited to, planters, planting strips, vegetative barriers, yard areas, pathways, benches, irrigation methods, and similar items.

2.307 DEVELOPMENT STANDARDS FOR LAND DIVISIONS

**2.307.01 Purpose**

To provide for the orderly, safe, efficient and livable development of land within the City of Donald.

**2.307.02 Scope**

Application. The provisions of this Section shall apply to all subdivisions and partitions within the City of Donald.

**2.307.03 Standards for Lots or Parcels**

- A. Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.
- B. Access. All lots and parcels created after the effective date of this Ordinance shall provide a minimum frontage, on an existing or proposed public street, equal to the minimum lot width required by the underlying zone. The following exceptions shall apply:
  - 1. Residential lots or parcels may be accessed via a private street or partition access easement developed in accordance with the provisions of Section 2.302 when the City finds that public street is not necessary to provide for the future development of adjoining property.
  - 2. Commercial or Industrial uses located in a campus or park-like development may be accessed via private streets when developed in accordance with Subsection 2.302.08.
  - 3. Cul-de-sac lots shall have a minimum frontage of 25 feet.
  - 4. Flag lots, as permitted in Subsection 2.307.03.C.
- C. Flag Lots. Flag lots shall only be permitted if it is the only reasonable method by which the rear portion of a lot being unusually deep or having an unusual configuration may be accessed. If a flag-lot is permitted, the following standards shall be met:



1. The access strip shall not be less than 20 feet wide. The access strip shall be improved with a minimum 12 foot wide paved driveway.
  2. The access strip shall not be included in the calculation of lot area for purposes of determining compliance with any minimum lot size provision of this Ordinance.
  3. Flag lots located side by side shall share a common driveway. This requirement shall be placed in the deed record of each parcel and noted on the final plat.
- D. Through Lots. Through lots are discouraged unless essential to provide separation of residential development from major traffic arteries, adjacent non-residential activities, or to overcome specific site disadvantages.
- E. Lot Lines. The side lines of lots, as far as practicable, shall run at right angles to the right-of-way line of the street upon which the lots face. The rear lot line shall be no less than 1/2 the dimension of the front lot line.
- F. Utility Easements. Utility easements shall be provided on lot areas where necessary to accommodate public utilities.

#### **2.307.04 Additional Design Standards for Subdivisions**

- A. Standards for Blocks. Blocks should not exceed 600 feet in length between street lines, except blocks adjacent to arterial streets, or unless the previous adjacent development pattern or topographical conditions justify a variation. The recommended minimum distance between intersections on arterial streets is 1,800 feet.
- B. Traffic Circulation. The proposed subdivision shall be laid out to provide safe, convenient, and direct vehicle, bicycle and pedestrian access to nearby residential areas, neighborhood activity centers such as schools and parks, commercial areas, and industrial areas; and to provide safe convenient and direct traffic circulation. At a minimum, "nearby" is interpreted to mean uses within 1/4 mile which can be reasonably expected to be used by pedestrians, and uses within 1 mile of the subdivision boundary which can reasonably expected to be used by bicyclist.

- C. Connectivity. To achieve the objective in B., above, the City may require the following:
  - 1. Stub Streets: Where the potential exists for additional residential development on adjacent property.
  - 2. Pedestrian/Bicycle Accessways: Public accessways to provide a direct connection to cul-de-sac streets and to pass through oddly shaped or unusually long blocks.
- D. Design Standards for Pedestrian/Bicycle Accessways. Such accessways shall meet the following design standards:
  - 1. Minimum dedicated width: 15 feet
  - 2. Minimum improved width: 10 feet
  - 3. The access way shall be maintained by a homeowners association or other mechanism acceptable to the City.
  - 4. The accessway shall be designed and signed to prohibit motor vehicle traffic.

### **2.307.05 Improvement Requirements - Partitions**

During the review of partition proposals, the City shall require, as a condition of approval, the following improvements:

- A. Private Access. Private driveways serving flag lots, or private streets, shall be surfaced per the requirements of this Code.
- B. Street Frontage Improvements. The following improvements shall be required:
  - 1. Public streets upon which the property fronts to public standards, including: surfacing from center line to curb, installation of curbing, storm sewers, sanitary sewers, water lines and other necessary public utilities.
  - 2. Sidewalks, meeting City standards, along public street frontage.
  - 3. The installation of storm sewers, sanitary sewers, water lines and other utilities necessary to serve lots accessing off of the new street.

- C. Public Facilities. Prior to recording the final partition plat, the developer shall submit engineering plans to the City for review. The plans shall address the improvements required by this Ordinance and any conditions of approval, and shall conform with City Public Works Design Standards. The plans shall be approved by the City prior to recording of the final partition plat.
- D. Completion Requirements. All required improvements shall be completed prior to the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to the City prior to the approval of the final plat of the partition.

**2.307.05 Improvement Requirements - Subdivisions**

The following improvements shall be required for all subdivisions:

- A. Frontage Improvements. Street improvements to full City Standards shall be required for all public streets on which a proposed subdivision fronts in accordance with Section 2.302 of this Code. Such improvements shall be designed to match with existing improved surfaces for a reasonable distance beyond the frontage of the property. Additional frontage improvements shall include: sidewalks, curbing, storm sewer, sanitary sewer, water lines, other public utilities as necessary, and such other improvements as the City shall determine to be reasonably necessary to serve the development or the immediate neighborhood.
- B. Project Streets. All public or private streets within the subdivision shall be constructed as required by the provisions of Section 2.302.
- C. Monuments. Upon completion of street improvements, centerline monuments shall be established and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street center lines.
- D. Bench Marks. Elevation bench marks shall be set at intervals established by the City Engineer. The bench marks shall consist of a brass cap set in a curb or other immovable structure.
- E. Surface Drainage and Storm Sewer System. Drainage facilities shall be provided within the subdivision and to connect the subdivision drainage to drainage-ways or to storm sewers outside the subdivision. Design of drainage within the subdivision shall take into account the capacity and

grade necessary to maintain unrestricted flow from areas draining through the subdivision and to allow extension of the system to serve such areas.

- F. Sanitary Sewers. Sanitary sewer shall be installed to serve the subdivision and to connect the subdivision to existing mains both on and off the property being subdivided.

If the required sewer facilities will, without further sewer construction, directly serve property outside the subdivision, the Commission may recommend to the City Council construction as an assessment project with such arrangement with the subdivider as is equitable to assure financing the subdivider's share of the construction.

The City may require that the subdivider construct sewage lines of a size in excess of that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is ultimately developed. The City may also require that the construction take place as an assessment project with such arrangement with the subdivider as is desirable to assure his share of the construction.

- G. Water System. Water lines with valves and fire hydrants serving the subdivision and connecting the subdivision to the City mains shall be installed. The design shall take into account provisions for extension beyond the subdivision to adequately grid the City system and to serve the area within which the development is located when the area is ultimately developed. However, the City will not expect the developer to pay for the extra pipe material cost of mains exceeding ten inches in size.
- H. Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian ways within the subdivision. The City may defer sidewalk construction until the dwellings or structures fronting the sidewalk are constructed. Any required off-site sidewalks (e.g. pedestrian walkways) or sidewalks fronting public property shall not be deferred.
- I. Street Lights. The installation of street lights is required at locations and of a type required by City standards.
- J. Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the city and shall be of a type required by City standards. Street signs shall be installed prior to obtaining building permits.

- K. **Public Works Requirements.** Facility improvements shall conform to the requirements and specifications of the Donald Public Works Department.
- L. **Curb Cuts.** Curb cuts and driveway installations, excluding common drives, are not required of the subdivider, but if installed, shall be according to the City standards.
- M. **Financial Requirements.** All improvements required under this Section shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the subdivision.

### **2.307.07 Improvement Procedures**

In addition to other requirements, improvements installed by a developer for any land division, either as a requirement of these regulations or at his own option, shall conform to the requirements of this Ordinance and improvement standards and specifications adopted by the City, and shall be installed in accordance with the following procedure:

- A. **Plan Review.** Improvement work shall not commence until plans have been checked for adequacy and approved by the City. Plans shall be prepared in accordance with requirements of the City.
- B. **Notification.** Improvement work shall not commence until the City has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City has been notified.
- C. **Inspection.** Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and the Director of Public Works. The City may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.
- D. **Underground Facilities.** All underground utilities, sanitary sewers, and storm drains installed in streets by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.
- E. **Final Engineering Plans.** Upon completion of the public improvements and prior to final acceptance of the improvements by the City, the developer shall provide certified as-built drawings of all public utility

improvements to the City. As-built conditions and information shall be reflected on one set of mylar base as-built drawings. The as-built drawings shall be submitted to the City Engineer by the Developer's engineer.

2.308 YARD AND LOT STANDARDS

**2.308.01 Lot Coverage, Generally**

Specific standards for lot size or area, for lot dimensions, and for lot coverage are set forth in the applicable zone. Where a standard for lot coverage is expressed as a percentage, such standard means the percentage of total lot area covered by buildings and by roofed but unenclosed structures, whether or not attached to buildings. Covered structures less than five feet in height and having less than 20 square feet of gross floor area shall not be included in calculating lot coverage.

**2.308.02 Yards and Yard Area, Generally**

- A. Yards Apply Only to One Building. No required yard or other open space for any building or structure shall be considered as providing a yard or open space for any other building, nor shall any yard or other required space on an adjoining lot be considered as providing a yard or open space on the lot whereon the building is to be erected.
- B. Yards to be Unobstructed. A "required yard" is the minimum required setback area between a structure and a lot line, whether or not additional open space is actually provided between the structure and the lot line. Every required yard or setback area shall be open and unobstructed by buildings, or structures from the ground to the sky except for those exceptions permitted in this Section.
- C. Yard Areas not to be Reduced. No lot shall be so reduced or diminished that the required yards or other open space shall be smaller than prescribed by this zoning ordinance.

**2.308.03 Separation of Lot or Yard Areas**

- A. Reduction in Lot Area. No portion of a lot necessary to provide the required area per dwelling unit shall be separated in ownership.
- B. Separation of Required Yards. No required yard or other open space around an existing building shall be separated in ownership from the lot upon which the building is located.

**2.308.04 No Parking in Front Yard, Yards Adjacent to a Street**

- A. Yard Parking Restrictions. Exclusive of driveways, no parking shall be allowed within the required front yard area or yards located adjacent to a

street. The side yard and rear yard areas may be used for parking of vehicles unless otherwise prohibited.

- B. Storage Restrictions. The yard areas adjacent to a street shall not be used for the permanent storage of utility trailers, house or vacation trailers, boats, or other similar vehicles, unless the storage area is screened by a six foot sight-obscuring fence, wall or hedge. The enclosure shall comply with the provisions regarding the location for fences and maintaining a clear vision area.

**2.308.05 Front Yard Projections**

Planter boxes, chimneys and flues, steps, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, and other ornamental features of not more than two feet, from main buildings, uncovered porches and covered but unenclosed porches when not more than one story high and which do not extend more than ten feet beyond the front walls of the building are exempt from the front yard setback provisions.

**2.308.06 Side Yard Projections**

- A. Building Features. Cornices, eaves, gutters and fire escapes when not prohibitive by any other code or ordinance, may project into a required side yard not more than one-third of the width of the side yard, nor more than four feet in any case.
- B. Architectural Features. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels and ornamental features may project up to 1 1/2 feet into a required side yard, provided, however, chimneys and flues shall not exceed six feet in width.
- C. Decks and Patios. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the side yard property line when they are three feet or less in height from ground level.

**2.308.07 Rear Yard Projections**

- A. Architectural Features. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, gutters and other ornamental features, may project up to 1 1/2 feet into a required rear yard, provided, however, chimneys and flues shall not exceed six feet in width.



- B. Building Features. A fire escape, balcony, outside stairway, cornice or other unenclosed, unroofed projections may project not more than 5 feet into a required rear yard and set back at least 6 feet from any property line.
- C. Steps and Porches. Planter boxes, steps, uncovered porches, covered but unenclosed porches, including covered patios when not more than one story high, which are not more than four feet above grade, are exempt from the minimum rear yard depth requirements.
- D. Setbacks. No permitted projection into a required rear yard shall extend within ten feet of the center line of an alley or of a rear lot line if no alley exists.
- E. Decks and Patios. Uncovered decks and patios attached to the main building when measured directly beneath the outside edge of the deck or patio may be extended to the rear yard property line when they are three feet or less in height from ground level.

**2.308.08 Clear Vision Area**

A clear vision area shall be maintained where streets and private points of access intersect. The clear vision area shall conform with the following:

- A. Driveways, Alleys and Private Drives. A clear vision area at the intersection of a public street and a driveway shall be the triangular area established according to the following procedure:
  1. A line extending 20 feet from the intersection along the public street right-of-way;
  2. A line extending 20 feet from the intersection along the driveway;
  3. A third line that creates the triangular clear vision area by connecting the ends of the lines described in (a) and (b), above.
- B. Corner Lots. Any corner lot shall have a minimum of 20 feet per leg.
- C. Street-Driveway. The clear vision area from a street-driveway intersection shall be 10 feet along the driveway and 30 feet along the street right of way at the point of intersection with the driveway.
- D. Prohibited Development. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 36 inches in height, measured from the top of the curb or, where no curb

exist, from the established street centerline grade, except that the following may be allowed in the clear vision area:

1. Trees, provided all branches and foliage are removed to a height of eight feet above grade;
2. Telephone, power, and cable television poles; and
3. Telephone switch boxes provided they are less than ten inches wide at the widest dimension.

## **2.308.09 Fences, Walls and Hedges**

### **A. Residential, Public and Semi-Public Uses**

1. Height, location: Fences, walls and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision area. A fence, wall, or hedge may not exceed six (6) feet in height without approval of a variance. Fences and walls shall not exceed a height of four feet along, and within, 10 feet of any property line adjacent to the street and containing a street access. Fences and walls may be subject to a building permit application, in compliance with Marion County standards.
2. Construction material: Fences or walls constructed of unsafe materials, including, but not limited to barbed wire, electric fencing, broken glass, and spikes shall be prohibited.
3. Swimming pool requirements: Swimming pools shall be enclosed by a locking fence of six feet in height. The dwelling may be used to meet part of the enclosure requirement.
4. An entrance wall to a subdivision or other residential development shall be permitted provided the wall or gate does not exceed six feet in height nor violate provisions of the clear vision area.

### **B. Commercial and Industrial Uses**

1. Height, location: Fences, walls and hedges may be located in any required yard or along the edge of any yard, subject to the maintenance of clear-vision area. A fence, wall, or hedge may not exceed 12 feet in height without approval of a variance. Fences and

walls may be subject to a building permit application, in compliance with Marion County standards.

2. Construction material: Electric and barbed wire fencing shall be permitted in the C, I, EI and P zones. Barbed wire fencing shall be angled inward.

2.309 ACCESSORY STRUCTURES

**2.309.01 Accessory Structures to a Single Family Dwelling and Duplex**

For accessory structures to single family dwelling and duplex uses on an individual lot:

- A. Location and Number. Accessory structures shall be located within the rear yard. A maximum number of two are permitted.
- B. Height. The maximum height shall be 25 feet, provided, the structure does not exceed the height of the primary building.
- C. Property Setbacks. When a wall adjacent to a property line is nine feet or less in height, the minimum setback shall be two feet. For each one foot increase in the wall height above nine feet, the setback shall increase one additional foot. The minimum setback adjacent to an alley shall be one foot.
- D. Building Separation. An accessory structure shall be separated from the primary buildings by a minimum of 6 feet. A covered walkway, which contains no habitable space, may connect the two buildings without violation of the setback requirements. Accessory structures less than 6 feet from the primary structure or connected by a fully enclosed walkway will be considered as part of the primary structure and subject to the setback requirements of the primary structure.
- E. Building Size and Lot Coverage. Accessory structure(s), in combination with the primary structure, shall not exceed the maximum lot coverage limitation of the underlying zone

**2.309.02 Accessory Dwelling Unit in the R-7 zone subject to the following criteria:**

- A. One Accessory Dwelling Unit per legal building lot is allowed as a subordinate use in conjunction with any single-family dwelling;
- B. Either the primary residence or the Accessory Dwelling Unit must be occupied by the owners of the property. In addition, the Accessory Dwelling Unit shall not be subdivided or otherwise segregated in ownership from the main building. The property owner(s) shall sign an affidavit affirming that the property owner(s) will occupy the main building or the Accessory Dwelling Unit as their principal residence for at least six months every year. The property owner(s) shall sign a covenant agreeing to the conditions of this section that shall be recorded with the

Marion County Clerk's office. The form of the affidavit and covenant shall be specified by the Manager, or designee.

- C. The total number of occupants in both the primary residence and the Accessory Dwelling Unit combined may not exceed the maximum number established by the definition of "family" in this ordinance.
- D. The total number of occupants in both the primary residence and the Accessory Dwelling Unit combined may not exceed the maximum number established by the definition of "family" in this ordinance.
- E. The Accessory Dwelling Unit shall not contain less than 300 square feet and not more than 800 square feet, excluding any related garage area; provided that if the accessory unit is completely located on a single floor, the Manager, or designee, may allow increased size in order to efficiently use all floor area, so long as all other standards set forth in this section are met;
- F. The square footage of the Accessory Dwelling Unit, excluding any garage area, shall not exceed 40 percent of the total square footage of the primary residence and Accessory Dwelling Unit combined, excluding any garage area. This percentage shall apply to both attached and detached Accessory Dwelling Units. Where the Manager, or designee, allows increased size per subsection E, the square footage shall not exceed 50 percent of the total square footage of the primary residence and Accessory Dwelling Unit combined, excluding any garage area;
- G. There shall be one (1) off-street parking space in a carport, garage, or designated space provided for the Accessory Dwelling Unit in addition to that, which exists on the site for the primary dwelling;
- H. Accessory Dwelling Units shall be located only in the same building as the principal residence, unless the lot is at least 8,500 square feet in area or unless the Accessory Dwelling Unit will replace a detached, preexisting structure of at least 400 square feet. Where lots contain at least 8,500 square feet or there is a detached, preexisting structure of at least 400 square feet, the accessory dwelling may be part of the principal structure or located in a detached structure;
- I. Accessory Dwelling Units shall be designed and finished to maintain the appearance of the main building of the single-family residence. If the accessory unit extends beyond the current footprint of the primary dwelling, such an addition shall be consistent with the existing roof pitch, siding, and windows. If an accessory unit is detached from the main building it must also be consistent with the existing roof pitch, siding, and

windows. In addition, only one entrance to the main building will be permitted in the front of the principal residence. A separate entrance for the Accessory building shall be located off either the side or rear of the building;

- J. The Accessory Dwelling Unit shall meet all technical code standards including building, electrical, fire, plumbing, and other applicable code requirements.

### **2.309.03 Multi-Family, Commercial, Industrial Structures**

For multi-family, public, semi-public, commercial and industrial uses:

- A. Location and Number. Accessory structures may be located within any yard area. There is no limit to the number of permitted structures.
- B. Height. The accessory structure shall comply with the height limitations of the underlying zone.
- C. Property Setbacks. Accessory structures shall comply with the setbacks for the primary building in the underlying zone.
- D. Building Separation. Accessory structure shall be separated from the primary buildings by a minimum of 10 feet.
- E. Building Size and Lot Coverage. There is no limit to the size of the accessory structure provided the structure and all buildings on the property comply with the applicable lot coverage limitations.

## 2.310 SIGNS

### 2.310.01 Purpose

The purpose of these sign regulations is to provide equitable signage rights, reduce signage conflicts, promote traffic and pedestrian safety, increase the aesthetic value and economic viability of the city, all by clarifying and regulating the location, size, type and number of signs and related matters, in a content-neutral manner.

### 2.310.02 Definitions

For the purposes of Section 2.310, the following definitions shall apply:

Alteration or Altered: Any change in the size, shape, method of illumination, position, location, construction, or supporting structure of a sign. A change in sign copy or sign face alone shall not be considered an alteration.

Area: The area of a sign shall be the entire area within any type of perimeter or border which encloses the outer limits of any writing, representation, emblem, figure, or character. If the sign is enclosed in a frame or cabinet, the area is based on the inner dimensions of the frame or cabinet surrounding the sign face. When a sign is on a base material and attached without a frame, such as a wood board or plexiglass panel, the dimensions of the base material are to be used. The area of a sign having no such perimeter, border, or base material shall be computed by enclosing the entire area within a parallelogram or a triangle of the smallest size sufficient to cover the entire message of the sign and computing the area of the parallelogram or a triangle. For the purpose of computing the number of signs, all writing included within such a border shall be considered one sign, except for multi-faced signs on a single sign structure, which shall be counted as one sign per structure. The area of multi-faced signs shall be calculated by including only one-half the total area of all sign faces.

Awning: A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for the supporting framework.

Building Face: The single wall surface of a building facing a given direction.

Canopy Sign: A sign hanging from a canopy or eve, at any angle relative to the adjacent wall.

Construct: Build, erect, attach, hang, place, suspend, paint in new or different word, affix, or otherwise bring into being.

Finish Ground Level: The average elevation of the ground (excluding mounds or berms, etc. located only in the immediate area of the sign) adjoining the structure or building upon which the sign is erected, or the curb height of the closest street, whichever is the lowest.

Flashing Sign: A sign any part of which pulsates or blinks on and off, except time and temperature signs and message signs allowed by conditional use.

Free-Standing Sign: A sign supported by one or more uprights, poles or braces placed in or upon the ground, or a sign supported by any structure primarily for the display and support of the sign.

Height: Height is measured from the grade of the curb line lowest to the base of the sign to the highest point of the sign. In the absence of a curb line, the edge of the street pavement shall be used. In the absence of a street pavement, the ground level shall be used to measure the height.

Incidental Signs: A sign which is normally incidental to the allowed use of the property, but can contain any message or content.

Indirect Illumination: A source of illumination directed toward such signs so that the beam of light falls upon the exterior surface of the sign.

Internal Illumination: A source of illumination from within a sign.

Message Sign: A sign which can display and change various messages electronically, including but not limited to time and temperature signs.

Nonconforming Sign: Any sign which lawfully exists prior to the effective date of this chapter but, which due to the requirements adopted herein, no longer complies with the height, area and placement regulations or other provisions of these regulations.

Owner: As used in these regulations, "owner" means owner or lessee of the sign. If the owner or lessee of the sign cannot be determined, then "owner" means owner or purchaser of the land, on which the sign is placed.

Portable Sign: Any sign that is not originally designed to be permanently affixed to a building, structure, or the ground. A sign originally designed, regardless of its current modification, to be moved from place to place.

These signs primarily include, but are not limited to, A-frame or sandwich board



signs, signs attached to wood or metal frames and designed to be self supporting and movable, and also including trailer reader boards. Portable signs are not to be considered temporary signs as defined and used in this chapter.

Projecting Signs: A sign the face of which is not parallel to the wall on which it is mounted, projecting more than 12 inches from a structure.

Real Estate Sign: A sign for the purpose of rent, lease, sale, etc. of real property, building opportunities, or building space.

Roof Line: Either the eaves of the roof or the top of the parapet, at the exterior wall. (A "mansard roof" is below the top of a parapet and is considered a wall for sign purposes.)

Roof Sign: A sign or any portion of which is displayed above the highest point of the roof, whether or not the sign also is a wall sign.

Rotating/Revolving Sign: A sign, all or a portion of which, moves in some manner.

Sign: Any writing, including letter, word, or numeral; pictorial presentation, including mural, illustration or decoration; emblem, including device, symbol or trademark; flag, including banner or pennant; or any other device, figure or similar thing which is a structure or any part thereof, or is attached to, painted on, or in any other manner represented on a building or structure or device; and is used to announce, direct attention to, or advertise; and is visible from any public right-of-way.

Sign Face: Surface of a sign containing the message. The sign face shall be measured as set forth in the definition for "Sign Area."

Temporary Sign: A sign not permanently affixed to a structure on a property. These signs primarily include, but are not limited to, canvas, cloth, or paper banners or posters hung on a building wall or on a permanent pole such as on a freestanding sign support.

Wall Sign: A sign attached to, erected against or painted on a wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to the face of said wall and not projecting more than 12 inches. A sign painted on an awning in which the face of the sign is approximately parallel to and within 3.5 feet of the wall shall also be considered a wall sign.

### **2.310.03 General Provisions**

- A. Conflicting Standards. Signs shall be allowed subject to the provisions of this section, except when these provisions conflict with the specific standards for signs in the subject zone.
- B. Uniform Sign Code. All signs shall comply with the provisions of the Uniform Sign Code of the Uniform Building Code.
- C. Sign Clearances. A minimum of 8 feet above sidewalks and 15 feet above driveways shall be provided under freestanding or wallmounted signs.

### **2.310.04 Signs Generally Permitted**

The following signs and sign work are permitted in all zones. These signs shall not require a permit, and shall not be included when determining compliance with total allowed area:

- A. Painting, change of sign face or copy and maintenance of signs legally existing on the effective date of this ordinance. If structural changes are made, or there is a change of use, the sign shall conform to these regulations.
- B. Temporary signs that do not exceed 4 in number and a total of 40 square feet in area. No lot may display temporary signs for more than 90 days within a calendar year. This restriction applies to all signs displayed during that period.
- C. Real estate signs not exceeding 6 square feet, which advertise the sale, rental or lease of premises upon which the sign is located. Real estate signs may be used up to two years without a permit.
- D. Signs posted by or under governmental authority including legal notices, traffic, danger, no trespassing, emergency and signs related to public services or safety and civic events.
- E. Incidental signs that do not exceed 8 square feet in area.
- F. Flags on permanent flag poles that are designed to allow raising and lowering of the flags.
- G. Signs within a building.
- H. Signs painted or hung on the inside of a window.
- I. One residential nameplate with a maximum area of 2 square feet.

## **2.310.05 Prohibited Signs**

The following signs are prohibited:

- A. Roof signs.
- B. Signs that emit odor, visible matter, or sound, however an intercom system for customers remaining in their vehicles, such as used in banks and "drive through" restaurants, shall be allowed.
- C. Signs that use or employ side guy lines of any type.
- D. Signs that obstruct any fire escape, required exit, window or door opening used for egress.
- E. Signs closer than 24 inches horizontally or vertically from any overhead power line or public utility guy wire.
- F. The use of a vehicle or trailer parked on a public right-of-way or public property, or on private property so as to be visible from a public right-of-way which has attached thereto or located thereon any sign or advertising device for the basic purpose of advertising products or directing people to a business or activity located on the same or nearby premises. This provision applies where the primary purpose of a vehicle is for advertising purposes and is not intended to prohibit any form of a vehicular sign, such as a sign attached to a motor vehicle which is primarily used for business purposes.
- G. Rotating/revolving signs.
- H. Flashing signs.
- I. Signs that obstruct required vision clearance area or obstruct a vehicle driver's view of official traffic control signs and approaching or merging traffic, or which present a traffic hazard.
- J. Signs that interfere with, imitate, or resemble an official traffic control sign, signal, emergency lights, or appears to direct traffic, such as a beacon light.
- K. Signs attached to any pole, post, utility pole or placed on its own stake and placed into the ground in the public right-of-way.
- L. Message signs.
- M. Signs on unimproved property, unless allowed as a temporary sign.

### **2.310.06 Residential Signs**

The following regulations apply to signs for residential uses:

- A. Maximum Number. Any combination of wall, canopy or freestanding signs not exceeding the sign area and height limitations of this section.
- B. Maximum total sign area for property on which the building or buildings are located:
  - 1. Single-family and two-family (duplex) dwelling - 6 square feet provided total sign area on a freestanding sign shall be limited to a maximum of 4 square feet.
  - 2. Multiple family dwelling - 24 square feet provided total sign area on a freestanding sign shall be limited to a maximum of 18 square feet.
- C. Maximum Sign Height:
  - 1. Wall or canopy sign - 4 feet.
  - 2. Freestanding sign - 4 feet.
- D. Location:
  - 1. Wall, canopy or window sign shall be set back from the property lines of the lot on which it is located the same distance as the building containing the permitted use. A sign flush with the fence (not a projecting sign) shall meet the standards for fences.
  - 2. Freestanding sign shall be placed where fences are allowed.
- E. Illumination. Signs may only be indirectly illuminated and shall not be illuminated between the hours of 11 :00 p.m. and 6:00 a.m.

### **2.310.07 Commercial and Industrial Signs**

- A. Total allowed area. Total allowed area of 40 square feet per sign, except freestanding signs, which may be 60 square feet per sign.
- B. Type, maximum number and size of signs. One freestanding or projecting sign per street frontage, and a total of no more than two wall or canopy signs.
- C. Maximum sign height:

1. Wall and canopy signs shall not project above the parapet or roof eaves.
2. Freestanding Signs - maximum total height of 15 feet.
3. Projecting Signs. The maximum vertical height of a projecting sign shall be 4 feet, provided the sign shall not project above the roof line at the wall, or top of the parapet wall.

D. Location:

1. Wall signs may project up to 12 inches from the building.
2. Freestanding Signs. No limitation, except the sign shall not project over a right-of-way and shall comply with requirements for vision clearance areas and special street setbacks.
3. Projecting Sign. Maximum sign projection shall be 5 feet.

- E. Portable Sign. In addition to signs permitted under this section, each business may display a portable sign. The sign shall be limited to a maximum height of 5 feet, with a maximum sign area of 10 square feet. The sign shall be located entirely on private property and shall be displayed only during business hours.

**2.310.08 Review Procedures**

- A. Permit Required. No property owner, lessee or contractor shall construct or alter any sign without first obtaining a sign permit. Owners of conforming or nonconforming signs existing as of the date of adoption of this ordinance are not required to obtain a permit. Permit fees shall be established from time to time by City Council resolution.
- B. Application Requirements. An application for a sign permit shall be made on a form prescribed by the City. The application shall include a sketch drawn to scale indicating the proposed sign and identifying existing signs on the premises, the sign's location, graphic design, structural and mechanical design and engineering data which ensures its structural stability. The application shall also contain the names and address of the sign company, person authorizing erection of the sign and the owner of the subject property.

The city shall issue a permit for a sign unless the sign is in violation of the provisions of these regulations or other provisions of this ordinance. Sign permits mistakenly issued in violation of these regulations or other

provisions of this ordinance are void. The city may revoke a sign permit if the city finds that there was a material and misleading false statement of fact in the application for the permit.

- C. Design, Construction, and Maintenance. All signs shall be designed, constructed, and maintained according to the following standards:
1. All signs shall comply with the applicable provisions of the Uniform Building Code. The issuance of a sign permit under these regulations does not relieve the applicant of complying with all other permit requirements.
  2. Except for banners, flags, temporary signs, and window signs conforming to the requirements of these regulations, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or other structure by direct attachment to a rigid wall, frame, or structure.
  3. All signs shall be maintained in a good structural condition and readable at all times.
  4. The property owner shall be responsible for its erection and maintenance and its compliance with the provisions of these regulations or other laws or ordinances regulating signs.

### **2.310.09 Nonconforming Signs**

- A. Alteration of Nonconforming Sign Faces. When a nonconforming sign face is damaged or destroyed by fire, flood, wind, or other calamity or act of nature, such sign face may be restored to its original condition provided such work is completed within 60 days of such calamity. A sign structure or support mechanisms so damaged shall not be replaced except in conformance with the provisions of these regulations.
- B. Abandoned Signs. All signs for a business shall be removed within 60 days after that business ceases to operate on a regular basis, and the entire sign structure or structures shall be removed within 6 months of such cessation of operation. Illegal and abandoned signs that are not removed or are erected in violation of this ordinance may be removed by the City of Donald following notice to the property owner. The property owner will be assessed the cost of sign removal if the owner fails to remove the nonconforming, illegal or abandoned sign and the city exercises its authority under this provision.

**2.310.10**

**Variances:** Any allowance for signs not complying with the standards set forth in these regulations shall be by variance. Variances to this Section shall be processed according to the procedures in Section 3.108 except that the following criteria shall be used to review and decide sign variance applications:

- A. There are unique circumstances or conditions of the lot, building or traffic pattern such that the existing sign regulations create an undue hardship;
- B. The requested variance is consistent with Section 2.310.01;
- C. The granting of the variance compensates for those circumstances in a manner equitable with other property owners and is not a special privilege to any other business. The variance requested shall be the minimum necessary to compensate for those conditions and achieve the purpose of this section;
- D. The granting of the variance shall not decrease traffic safety nor detrimentally affect any other identified items of public welfare;
- E. The variance will not result in a special advertising advantage in relation to neighboring businesses or businesses of a similar nature. The desire to match standard sign sizes (for example, chain store signs) shall not be listed or considered as a reason for a variance; and
- F. The variance request shall not be the result of a self-imposed condition or hardship.

**SECTION 2.4 - SUPPLEMENTAL STANDARDS FOR SPECIAL USES**

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## GENERAL PROVISIONS

- A. Application. Special uses are subject to specific development standards. These standards are non-discretionary so that special review of a proposed development is not required. The standards contained in this Section apply where a special use is identified as a permitted use. If the special use is listed as a conditional use, the standards contained in this Section shall be considered guidelines and may be modified or eliminated. The special use standards do not automatically apply unless the subsection number is referenced following the use title (e.g. Manufactured Home Park, Section 2.405).
  
- B. Development Requirements. Unless specifically modified by the provisions of this Section, special uses are still subject to the development requirements of the underlying zone. Where the special use standard imposes a standard higher, the special use standard shall apply.

## MANUFACTURED HOMES

Where permitted as a special use, manufactured homes located on individual lots outside of a mobile home park shall meet the following requirements:

- A. Construction Date. The manufactured home shall have been manufactured after June 15, 1976, and exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards.
- B. Minimum Area. The manufactured home shall be multi-sectional with a minimum area of 1,000 square feet of livable area.
- C. Foundation. The manufactured home shall be placed on an excavated and back-filled foundation, enclosed at the perimeter with either concrete, concrete block, brick, stone, pressure treated wood, or combination thereof. No more than 18 inches of the enclosing material may be exposed above grade. Where the building site has a sloped grade, no more than 24 inches of the enclosing material shall be exposed on the downhill side of the home. If the manufactured home is placed on a basement the 18-inch and/or 24 inch limitation shall not apply.
- D. Roof. The manufactured home roof shall have a nominal pitch of 3 feet for each 12 feet in width.
- E. Exterior Material. The manufactured home shall have an exterior that is residential in appearance.
- F. Garage. The manufactured home shall have a garage with exterior material that is residential in appearance, or, a carport with a concrete parking surface. The garage or carport shall be placed on the property within 60 days of occupancy of the manufactured home. All garages or carports shall contain a minimum of 240 square feet of area. Garages and/or carports shall be constructed to include a roof pitch similar to the primary dwelling(s), and shall be constructed to include exterior siding and paint to match the primary dwelling(s).
- G. Energy Efficiency. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the Oregon Building Code, as defined in ORS 455.010

- H. Lot Development Standards. The manufactured home shall meet all applicable development standards, such as setbacks and height limitations, in the Donald Zoning Ordinance.
- I. Equipment Removal: The tongue, axles, wheels and traveling lights shall be removed from the manufactured home.

2.403 MANUFACTURED HOME PARKS

**2.403.01 General Requirements**

- A. Minimum Area. The minimum area for a manufactured home park shall be three acres.
- B. Density. The number of manufactured home spaces shall comply with the density regulations of the underlying zone.

**2.403.02 Design Standards**

Manufactured home parks are subject to the minimum standards and conditions set forth in this section.

- A. Type of Manufactured Home Permitted. Only those manufactured homes used as permanent residences, manufactured after June 15, 1976, which exhibit the Oregon Department of Commerce "Insignia of Compliance" that indicates conformance with Housing and Urban Development (HUD) standards shall be permitted.
- B. Garage, Carport, Storage. Each manufactured home shall have a garage, carport or enclosed storage area. The garage, carport or enclosed storage area may either be located on the manufactured home space or in an area within the park specifically designed for such use. Garages and/or carports shall be constructed to include a roof pitch similar to the primary dwelling(s), and shall be constructed to include exterior siding and paint to match the primary dwelling(s).
- C. Additions to Manufactured Homes. Carports, cabanas, ramadas, and other accessory structures which are attached to a manufactured home shall conform to building code requirements. These additions and structures shall be considered as a part of the manufactured home for determining the lot coverage, setbacks and other requirements.
- D. Manufactured Home Space. The minimum area shall be 3,000 square feet with a minimum space width of 40 feet. Spaces within 15 feet of the boundary of a manufactured home park shall contain a minimum of 4,000 square feet. The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping or by permanent markers.
- E. Manufactured Home Space Coverage. No more than 50% of a space shall be occupied by the manufactured home and any accessory structures.

- F. Separations and Setbacks. Building separations and setbacks from the park boundary for mobile homes, accessory structures, and buildings shall be as follows:
1. General park development. Setbacks for structures other than a manufactured homes, carports and related accessory buildings shall comply with the minimum residential setbacks in the underlying zone.
  2. Manufactured homes:
    - a. Front: 5 feet minimum to the sidewalk; 8 feet minimum to the curb.
    - b. Side and rear: 10 feet minimum to any adjacent manufactured home; 6 feet minimum to any adjacent non-residential structure.
    - c. Park Boundary. Manufactured homes on the periphery of a manufactured home park shall maintain the same setbacks as required for the rear yard in the underlying zone.
  3. Accessory structures:
    - a. Front: 5 feet minimum to the sidewalk; 8 feet minimum to the curb.
    - b. Side and rear: 6 feet minimum to any adjacent manufactured home, or, adjacent non-residential structure.
    - c. Park Boundary. Accessory structures on the periphery of a manufactured home park shall maintain the same rear yard setbacks for accessory structures in the underlying zone.
  4. Carports:
    - a. Front: Comply with dwelling setback requirements
    - b. Side and rear: Carports attached to, or within 3 feet of, the manufactured home shall comply with the setbacks for the manufactured home. Otherwise, the setback provisions for accessory structures shall apply.

- c. Connecting Garages. When a double carport or garage is built to serve two adjacent manufactured homes, a minimum 6 foot separation shall be required between the double carport and any adjacent structure, manufactured home, or accessory structure. Alternatively, a 1-hour fire separation may be provided through the center of the double carport.
  
- G. Parking. Two automobile parking spaces shall be required for each manufactured home space. Parking spaces may be designed end-to-end, side-to-side, or provided in off-street parking areas. Parking shall comply with Chapter 2.3 of the Donald Development Ordinance.
  
- H. On-site Storage. Outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the park management shall be screened with a 6 foot sight-obscuring fence, wall or hedge.

### **2.403.03 Park Development Requirements**

- A. Park Street Standards. Park streets shall be located on park property and shall be maintained by the park owner. The streets shall conform to the following:
  - 1. Width. The park street shall be a minimum of 20 feet in width. If parking is allowed on either side of the street, the minimum width shall be increased by 7 feet for each side of the street on which parking is allowed.
  - 2. Paving. Park streets shall be paved with Portland cement, concrete, or asphalt concrete and designed and constructed to adequately support traffic loads and provide adequate drainage, and shall comply with Donald public works design standards
  - 3. Dead-end Streets. Dead-end park streets over 150 feet in length shall have a cul-de-sac bulb with 35-foot curb radius. No dead-end street shall exceed 500 feet in length.
  - 4. Curbs. Concrete curbs shall be required. Rolled curbs which comply with ADA requirement shall be acceptable.
  - 5. Connection to Public Street. The street system shall have direct connection to a public street.

6. A reciprocal access and maintenance, approved by the Manager, or designee, shall be required prior to occupancy permit approvals.
- B. Street Names and Addresses. Each park street shall be named and each manufactured home space shall be numbered off the park street. Evidence of review and approval by the Fire District and Postal Service shall be required.
- C. Driveways. Each manufactured home space shall have direct access to a park street or a public street. The driveway shall be an unobstructed area, not less than 10 feet in width and shall be constructed in compliance with Chapter 2.3 of the Donald Development Ordinance.
- D. Walks. Walks shall connect the spaces to park buildings, public streets or park street. The walks shall be hard-surfaced, well-drained and a minimum 5 feet in width. A walk on one side of the street is acceptable.
- E. Buffering. The perimeter of the park shall be screened. At a minimum, the screening and buffering design shall comply with the standards in Section 2.306 and shall be installed prior to completion of the park.
- F. Fire Hydrants. Fire hydrants shall be required within the park on park streets or on a public street in conformance with the design and capacity requirements of the fire district.
- G. Lighting. Park streets and walkways designed for the general use of the park residents shall be lighted during the hours of darkness. Such lighting shall be under control of the park management.
- H. Water and Sewer. All spaces shall be served by a public water and sewer system and comply with Public Works standards.
- I. Storm Drainage. All spaces shall be provided with adequate storm drainage and connected to the storm drainage system if such system is available. Where a connection will be made to a public storm drainage facility, it shall be approved by the City. Where connection to a public storm drainage system is not possible, an on-site storm water detention system may be required.
- J. Garbage Service. Garbage service shall be provided to all residents of the park either in the form of individual curb-side service or the use of waste disposal containers. Where used, waste containers must be screened, and, sized and located to accommodate the expected service requirements.

- K. Recreational Vehicles. Only manufactured homes may be placed upon manufactured home park spaces. The owner and management shall be held responsible for all alterations and additions to the mobile home park, and shall make certain that all permits and inspections are obtained from the proper authorities.
  - a) Prior to the placement of any unit in a mobile home park, a building permit shall be obtained from Marion County through the City of Donald.
  - b) All units shall be installed in accordance with the Oregon Manufactured Dwelling Installation Specialty Code. All units shall bear an Oregon insignia of compliance or a Housing and Urban Development Certification Label.
  
- L. Building Height, Location, and Lot Coverage. Except as modified by this section, all structures within a manufactured home park shall comply with all provisions of the underlying zone in which the park is located.



## HOME OCCUPATIONS

Where permitted as a special use, a home occupation shall meet the following use and development standards:

- A. Operations. The owner/operator of the home occupation shall reside in the home in which the home occupation is conducted. No more than one outside employee shall be permitted per residence.
- B. Compatibility. The home occupation shall be continuously conducted in such a manner as not to create any off premise nuisance, including but not limited to noise, odors, vibration, fumes, smoke, fire hazard, or electronic, electrical, or electromagnetic interference.
- C. Signs. Signs shall be limited to those placed within a window. Window displays and outside signage shall be prohibited.
- D. Location. The home occupation shall be conducted entirely within the dwelling, any attached garage, or in an unattached accessory building.
- E. Area. The total floor area devoted to the home occupation, shall not exceed 500 square feet.
- F. Alterations. Structural alterations are permitted provided they comply with the underlying zone and residential character of the building is not altered.
- G. Parking. The number of required on-site parking spaces shall not be reduced; however, no additional parking is required.
- H. Hours of Operation. Visits by suppliers or customers are limited to the hours of 8:00 a.m. and 8:00 p.m.
- I. Outdoor Storage. Outdoor storage or display of materials, equipment, or merchandise shall be prohibited.
- J. Vehicle Repair. The repair, alteration, painting (including body work), cleaning, detailing or rebuilding of vehicles, including automobiles, motorcycles, tractors and similar mechanized equipment, shall be prohibited.
- K. Day Care Provisions. The provisions in this section do not apply to day care or family day care providers.

- L. License Required. Prior to the commencement of the home occupation, the operator of a home occupation shall obtain a license from the City of Donald.

2.405

USED MERCHANDISE STORES

Where permitted as a special use, used merchandise stores shall meet the following use and development standards:

- A. C Zone. All operations shall be conducted entirely within a building; the outdoor storage or display of merchandise shall be prohibited.
- B. I Zone. All operations shall be conducted entirely within a building or within a yard fully enclosed by a sight-obscuring fence, wall, or hedge. Materials shall not be stored higher than such fence, wall, or hedge.

**BED AND BREAKFAST**

Where permitted as a conditional use, bed and breakfasts shall meet the following use and development standards:

- A. Operations. The owner/operator of the home occupation shall reside in the home in which the home occupation is conducted. No more than one outside employee shall be permitted per residence.
- B. Parking. The number of required on-site parking spaces shall not be reduced; and one (1) additional on-site parking space shall be required per bed and breakfast unit.
- C. Units. No more than two (2) bed and breakfast units shall be permitted per legal lot.

2.407

MEDICAL MARIJUANA DISPENSARIES AND COMMERCIAL MARIJUANA RETAIL STORE

Where permitted as a special use, medical marijuana dispensaries shall meet the following use and development standards:

A. Buffers

1. As ~~established-regulated~~ by the Oregon Health Authority (OHA) and/or Oregon Liquor Control Commission (OLCC) (~~OAR 333-008~~). Business owner/applicant shall provide the City a current copy of all necessary Evidence of OHA and/or OLCC permits approval shall be on file at the City of Donald at all times.

2. May not abut a residential zone, a public zone, or a church. “Abut” for this section shall include properties directly across a public-right-of-way from a residential zone, a public zone, or a church.

B. Use. The use must be located within a permanent, enclosed structure.

C. Hours of operation. Shall be limited to between the hours of 8am to 7pm.

D. Drive through windows are prohibited.

E. Shall be subject to a Conditional Use permit approval, ~~subject to~~ (DDO 3.107).

2.408 MARIJUANA GROW SITE OR PROCESSING SITE

Where permitted as a conditional use, marijuana grow or processing sites shall meet the following use and development standards:

A. Buffers

1. As regulated by the Oregon Health Authority (OHA) and/or Oregon Liquor Control Commission (OLCC). Business owner/applicant shall provide the City a current copy of all necessary OHA and/or OLCC permits.

2. May not abut a residential zone, a public zone, or a church. “Abut” for this section shall include properties directly across a public-right-of-way from a residential zone, a public zone, or a church.

B. Use. The use must be located within a permanent, enclosed structure.

C. Drive through windows are prohibited.

D. Shall be subject to a Conditional Use permit approval (DDO 3.107).

SECTION 3.1 - APPLICATION REQUIREMENTS  
AND REVIEW PROCEDURES

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### 3.101 SUMMARY OF APPLICATION TYPES AND REVIEW PROCEDURES

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

#### **3.101.01 Type I Action**

Type I actions are administrative reviews processed by the City staff. The review standards are generally clear and objective and allow little or no discretion. Conditions may be placed on the decision and notice is sent to the applicant and property owners within the required notice area. Appeal is to the Planning Commission. The following actions are processed under the Type I procedure:

- A. Minor Variance
- B. Lot Line Adjustment
- C. Partitions

#### **3.101.02 Type II Actions**

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Staff has an advisory role. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Site Plan Review
- B. Conditional Use
- C. Major Variance
- D. Subdivision

#### **3.101.03 Type III Actions**

A Type III action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. Staff and the Planning Commission have advisory roles. Public notice is provided and public hearings are held before the Commission and City Council. Section 3.202 lists the notice requirements.

Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Comprehensive Plan Map Amendments (involving 5 or fewer adjacent land ownerships)
- B. Zone Changes (involving 5 or fewer adjacent land ownerships)

**3.101.04 Type IV Actions**

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot apply for a Type IV action; it must be initiated by City staff, Planning Commission, or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure:

- A. Text Amendments to the Comprehensive Plan
- B. Text Amendments to the Development Code
- C. Enactment of new Comprehensive Plan or Development Code text
- D. Comprehensive Plan Map Amendments (involving more than 5 adjacent land ownerships, or, non-adjacent properties)
- E. Zone Changes (involving more than 5 adjacent land ownerships, or, non-adjacent properties)

## LAND USE APPLICATION PROCESS

LAND USE ACTION	TYPE	STAFF	PLANNING COMMISSION	CITY COUNCIL
Minor Variance	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Lot Line Adjustment	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Partition (1)	I	Final Decision	Appeal of Staff Decision	Appeal of Commission Decision
Site Plan Review	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Conditional Use	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Major Variance	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Subdivision (1)	II	Recommendation to Commission	Final Decision	Appeal of Commission Decision
Comprehensive Plan Map Amendment (2)	III	Recommendation to Commission	Recommendation to Council	Final Decision
Zone Change (2)	III	Recommendation to Commission	Recommendation to Council	Final Decision
Text Amendments; Legislative Zone and Plan Map Changes	IV	Recommendation to Commission	Recommendation to Council	Final Decision

- (1) Land divisions may use the expedited review process outlined in the applicable section.
- (2) Involving 5 or fewer adjacent land ownerships.

3.102 GENERAL PROVISIONS

**3.102.01 Scope**

These general provisions apply to all land use actions subject to requirements contained in Section 3.1.

**3.102.02 Conditions of Approval**

Conditions of approval may be imposed to ensure compliance with the applicable decision criteria for a specific request. These conditions may include, but are not limited to, building location, buffering, setbacks, and hours of operation.

**3.102.03 Financial Assurances**

The City may require performance bond or other guarantee acceptable to the City Attorney, to ensure compliance with the conditions of approval, public facility improvements or other requirements.

**3.102.04 Time Limit**

Land use approvals shall be effective for a period of one year from the date of final approval.

**3.102.05 Time Extension**

A time extension may be granted for a period not to exceed six months provided:

- A. The applicant requests the time extension prior to expiration of the time limit.
- B. No changes are made to the approved land use application.
- C. The applicant can show intent to initiate construction on the site within the six month extension period.
- D. There have been no changes in the facts or applicable policies or Ordinance provisions on which the original approval was based.

### 3.103 MINOR VARIANCES

#### **3.103.01 Purpose**

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. A minor variance may be approved for those requests resulting in no more than a 10% change in a quantifiable standard.

#### **3.103.02 Review and Approval Process**

Minor Variance applications shall be reviewed in accordance with the Type I review procedures specified in Section 3.201.

#### **3.103.03 Application and Fee**

An application for a variance shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3.103.04 Applicability**

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Ordinance, except when one or more of the following apply:

- A. The proposed variance would allow a use which is not permitted in the district;
- B. Another procedure and/or criteria is specified in the Ordinance for modifying or waiving the particular requirement or standard;
- C. Modification of the requirement or standard is prohibited within the district; or,
- D. An exception from the requirement or standard is not allowed in the district.

### **3.103.05 Criteria and Procedure**

Staff may grant a minor variance in accordance with the Type I review procedures. Approval of a minor variance shall require compliance with the following:

- A. The intent and purpose behind the specific provision being varied is either clearly inapplicable under the circumstances; OR, the particular proposed development otherwise clearly satisfies the intent and purpose of the provision being varied.
- B. The proposed development will not unreasonably impact adjacent existing or planned uses and development.
- C. The minor variance does not expand or reduce a quantifiable standard by more than 10 percent and is the minimum necessary to achieve the purpose of the minor variance.
- D. There has not been a previous land use action prohibiting an application for a minor variance.

3.104 LOT LINE ADJUSTMENTS

**3.104.01 Area of Application**

A lot line adjustment application is required whenever a property boundary separating two lots or parcels is reconfigured. Lot line adjustments do not create new parcels.

**3.104.02 Validity**

Lot line adjustment approval is valid in perpetuity, upon recording of the new deeds or filing of a surveyed plan.

**3.104.03 Submittal Requirements for Preliminary Review**

- A. Application Process. Applications for partitions shall be submitted on forms provided by the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.
  
- B. Submittal Requirements. Each application shall be accompanied by a preliminary partition plat drawn to scale of not less than one inch equals 50 feet nor more than one inch equals 200 feet, and containing at a minimum, the following:
  - 1. Map number and tax lot or tax account number of subject properties.
  - 2. The boundary lines and approximate area of the subject properties.
  - 3. Dimensions and size in square feet or acres of the subject properties.
  - 4. The approximate location of existing streets, easements or right-of-ways adjacent to, or within, the subject properties, and, existing improvements on the property.
  - 5. The location of the property boundary after the proposed adjustment is completed.

**3.104.04 Process for Preliminary Review**

Lot line adjustments shall be reviewed in accordance with the Type I review procedures specified in Section 3.201.

**3.104.05 Review Criteria**

Approval of a lot line adjustment shall require compliance with the following:

- A. After the adjustment, each parcel shall satisfy the dimensional standards of applicable zoning district, unless a variance from these standards is approved.
- B. Each parcel shall meet the land division standards in Section 2.307.

**3.104.06 Completion of a Lot Line Adjustment**

Within 1 year of the final decision approving the lot line adjustment, the applicant shall either record modified deeds or a lot line adjustment map reflecting the adjustment approval.



3.105 PARTITIONS

**3.105.01 Area of Application**

A partition is required for any land division which creates two or three parcels in a calendar year.

**3.105.02 General Provisions**

- A. Validity. Partition approval is valid in perpetuity, upon recording of the final surveyed plat.
- B. Master Plan. A master plan for development is required for any application which leaves a portion of the subject property capable of further land divisions.

**3.105.03 Submittal Requirements for Preliminary Review**

- A. Application Process. Applications for partitions shall be submitted on forms provided by the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.
- B. Submittal Requirements. Each application shall be accompanied by a preliminary partition plat drawn to scale of not less than one inch equals 50 feet nor more than one inch equals 200 feet, and containing at a minimum, the following:
  - 3. Appropriate identification stating the drawing is a preliminary plan.
  - 2. North point, scale and date.
  - 3. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan.
  - 4. Map number and tax lot or tax account number of subject property.
  - 5. The boundary lines and approximate area of the subject property.
  - 6. Dimensions and size in square feet or acres of all proposed parcels.

7. The approximate location of existing streets, easements or right-of-ways adjacent to, or within, the subject property, and, existing improvements on the property.

#### **3.105.04 Process for Preliminary Review**

Preliminary plats for partitions shall be reviewed in accordance with the Type I review procedures specified in Section 3.201.

#### **3.105.05 Review Criteria**

Approval of a partitioning shall require compliance with the following:

- A. Each parcel shall satisfy the dimensional standards of applicable zoning district, unless a variance from these standards is approved.
- B. Adequate public facilities shall be available to all parcels.
- C. Each parcel shall meet the land division standards in Section 2.307.

#### **3.105.06 Process for Final Plat Approval**

- A. Survey. Within 1 year of the final decision approving a preliminary plat, a final survey of the approved plat shall be recorded.
- B. Final Approval. The City shall sign the final plat if the plat substantially conforms with the approved preliminary plat, and if the conditions of approval are satisfied.
- C. Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees.
- D. Improvements/Bonding. Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney.

#### **3.105.07 Expedited Land Division**

- A. Eligibility. Land designated for residential use, including recreational and open space uses accessory to residential use, is eligible to apply for an

expedited land division process when creating three or less parcels. The expedited land division process may be used in lieu of a Type I process.

B. Exclusion.

1. Property and process exclusions include properties specifically mapped and designated in the Comprehensive Plan or Development Ordinance for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features and not eligible for the construction of dwelling units or accessory buildings.
2. The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of City enabling legislation. Decisions are not subject to the Comprehensive Plan and not eligible for appeal to the Land Use Board of Appeals (LUBA).

C. Complete Application. The City shall review an application and makes a decision on its completeness within 21 days of submittal. Upon determination of an incomplete application, the applicant has 180 days to submit the missing information.

D. Public Notice. Upon submittal of a complete application, the City shall send written notice to affected governmental agencies and property owners within 100 feet of the site proposed for the land division. The notice shall include the following:

1. The deadline for submission of written comments.
2. The time and place where all copies of evidence submitted by the applicant will be available for review.
3. The name, address, and telephone number of the City's staff person available to comment on the application.
4. Summary of the local decision making process for such a decision.
5. Applicable decision criteria.
6. Notification that participants must raise all issues during the written comment period.

- E. Initial Decision. The local government must allow at least 14 days for written comments and shall render a decision within 63 days of a complete application. No public hearing may be held during the initial decision making phase.
- F. Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.
- G. Time Extension.
  - 1. Applicant: If a decision is not made within 63 days, the applicant may seek review by writ of mandamus.
  - 2. City: The City may extend the 63 day period up to 120 days based on the determination that an unexpected or extraordinary increase in applications makes the 63 day period impracticable. Following a 7 day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.
- H. Decision Criteria. Criteria for approving the partition shall be as follows:
  - 1. The criteria established in Section 3.105.05
  - 2. Density. The application must be able to establish at least 80 percent of the allowable density of the applicable residential zone.
  - 3. Street Standards. The application must comply with the most recent City of Donald Transportation Plan or provide evidence of meeting the City's minimum street connectivity standards contained within this Ordinance.
- I. Appeal of Initial Decision. A decision may be appealed to a local hearings officer within 14 days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.
- J. Appeal Fee. Filing an appeal requires a deposit of \$300.00 to cover costs. An appellant faces the possibility of an assessment of \$500.00 for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.

- K. Basis of an Appeal of the Initial Decision. The local appeal is shall based on the following:
1. The failure to meet local substantive and procedural requirements,
  2. Unconstitutionality,
  3. The decision was not within the expedited land division category, or
  4. A party's substantive rights have been substantially prejudiced by an error in procedure of the local government.
- L. Hearings Officer. The appeal of the initial expedited land use decision shall be heard by a City designated hearings officer. The hearings officer may not be a City officer or City employee.
- M. Hearings Officer Notification. Within 7 days of the hearings officer's appointment, the City shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments, of the hearing date before the hearings officer. If a person submitting comments did not appeal, the issues presented by that person are limited to those in their submitted comments.
- N. Appeal Hearing. The hearings officer conducts a hearing that:
1. Follows the Commission proceeding requirements,
  2. Allows the local government's explanation of its decision, and
  3. May consider evidence not previously considered.
- O. Hearings Officer Decision. In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the City, but shall make a written decision on the appeal within 42 days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the 42 day period shall receive no compensation for services as the hearings officer. If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.

- P. Appeal of Hearings Officer Decision. Appeals of the Hearings Officer decision are to the Oregon Court of Appeals.
- Q. Basis of an Appeal of the Hearings Officer Decision. The grounds for review of a hearings officer's decision are limited to:
  - 1. Whether the decision followed the process for an expedited land division and the appellant raised that issue,
  - 2. Unconstitutionality, and
  - 3. Certain bias or interest on the part of the hearings officer or local government.
- R. Process for Final Plat Approval. Final plats for expedited land divisions shall be reviewed consistent with the requirements in Section 3.105.06

### 3.106 SITE DEVELOPMENT REVIEW

#### **3.106.01 Purpose**

The Site Development Review Process is intended to guide future growth and development in accordance with the Development Ordinances; provide an efficient process and framework to review development proposals; ensure safe, functional, energy-efficient developments which are compatible with the natural and man-made environment; and resolve potential conflicts that may arise between proposed developments and adjacent uses.

The site development review provisions are not intended to preclude uses that are permitted in the underlying zones.

#### **3.106.02 Applicability of Provisions**

- A. **Applicability.** Site Development Review shall be applicable to all new developments and major remodeling, except:
1. Single-family detached dwellings;
  2. A duplex; or
  3. Any commercial, industrial or public facility remodel that does not exceed 25% of the total square footage of the structure existing at the time of the adoption of this Ordinance.
- B. **Underlying Zone.** All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

#### **3.106.03 Review and Approval Process**

Site Development Review applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.

#### **3.106.04 Application and Fee**

An application for Site Development Review shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

### **3.106.05 Submittal Requirements**

The following information shall be submitted as part of a complete application for Site Development Review:

- A. Proposed grading and topographical changes;
- B. All existing and proposed structures, roadway access and utilities including finished floor elevations and setbacks;
- C. Vehicular and pedestrian circulation patterns, parking, loading and service areas;
- D. Proposed access to public roads and highways, railroads or other transportation systems;
- E. Site drainage plan including methods of storm drainage, sanitary sewer system, water supply system and electrical services. Inverse elevations may be required for all underground transmission lines;
- F. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;
- G. Proposed on-premise signs, fencing or other fabricated barriers, together with their heights and setbacks; and,
- H. The expected development schedule.

### **3.106.06 Evaluation of Site Development Plan**

The review of a Site Development Plan shall be based upon consideration of the following:

- A. Conformance with the General Development Standards in Section 2.200.
- B. Adequacy of public and private facilities.
- C. Traffic safety, internal circulation and parking;
- D. Provision for adequate noise and/or visual buffering from non-compatible uses.



## 3.107 CONDITIONAL USE PERMITS

### **3.107.01 Purpose**

A conditional use is a use which is generally acceptable as a land use activity in a particular zone, but due to certain aspects of the activity, buffering, screening, time limitations or other conditions are necessary to ensure compatibility with adjacent property. Conditional uses are assumed permitted uses unless conditions to ensure their compatibility cannot be established.

### **3.107.02 Review and Approval Process**

Conditional Use applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.

### **3.107.03 Application and Fee**

An application for a Conditional Use Permit shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

### **3.107.04 Criteria for Approval**

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. The use is listed as a conditional use in the underlying district.
- B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.
- C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned development for the area affected by the use.
- D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.

## 3.108 MAJOR VARIANCES

### **3.108.01 Purpose**

The development standards in this Development Code protect the public health, safety and welfare by establishing standard setbacks, maximum building heights and other development standards that apply to various uses. For lands or uses with unique characteristics the intent and purpose of the development standards may be maintained while allowing for a variance to quantifiable requirements. Those requests which result in a more than 10% change in a quantifiable standard require a major variance.

### **3.108.02 Review and Approval Process**

Major Variance applications shall be reviewed in accordance with the Type II review procedures specified in Section 3.201.

### **3.108.03 Application and Fee**

An application for a variance shall be filed with the City Recorder and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

### **3.108.04 Applicability**

Under the following provisions, a property owner or his designate may propose a modification or variance from a standard or requirement of this Ordinance, except when one or more of the following apply:

- A. The proposed variance would allow a use which is not permitted in the district.
- B. Another procedure and/or criteria is specified in the Ordinance for modifying or waiving the particular requirement or standard.
- C. Modification of the requirement or standard is prohibited within the district.
- D. An exception from the requirement or standard is not allowed in the district.

### **3.108.05 Criteria and Procedure**

The Planning Commission may grant a major variance from a requirement or standard of this Ordinance after a public hearing conducted in accordance with the Type II review procedures provided that the applicant provides evidence that the following circumstances substantially exist:

- A. The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.
- B. There has not been a previous land use action approved on the basis that variances would not be allowed.
- C. The variance will not be unreasonably detrimental to property or improvements in the neighborhood of the subject property.
- D. The variance will not significantly affect the health or safety of persons working or residing in the vicinity.
- E. The variance will be consistent with the intent and purpose of the provision being varied.

3.109 SUBDIVISIONS

**3.109.01 Area of Application**

A subdivision is required for any land division which creates more than three parcels in a calendar year.

**3.109.02 Submittal Requirements**

Submittal Material. The following submittal requirements shall apply to all major partition applications and to Preliminary Plan applications for subdivisions.

- A. All applications shall be submitted on forms provided by the City to the City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.
- B. In addition to the information listed in Subsection 3.107.03 of this ordinance, applicants for subdivisions shall submit the following:
  - 1. The name, address and phone number of the applicant engineer, land surveyor, or person preparing the application;
  - 2. Name of the subdivision.
  - 3. Date the drawing was made.
  - 4. Vicinity sketch showing location of the proposed land division.
  - 5. Identification of each lot by number.
  - 6. Gross acreage of property being subdivided or partitioned.
  - 7. Direction of drainage and approximate grade of abutting streets.
  - 8. Streets proposed and their names, approximate grade, and radius of curves.
  - 9. Any other legal access to the subdivision, partition other than a public street.
  - 10. Contour lines at two foot intervals if 10% slope or less, five foot intervals if exceeding 10% slope, and a statement of the source of contour information.

11. All areas to be offered for public dedication.

### **3.109.03 Review Procedures**

- A. Planning Commission. All Preliminary Plans for subdivisions shall be heard by the Planning Commission pursuant to the requirements for a Type II procedure as set forth in Section 3.203.
- B. Time Limit. Approvals of any preliminary plans for a subdivision shall be valid for one year after the date of the written decision. A Final Plat for a Final Plan for a subdivision shall be recorded within this time period or the approval shall lapse.
- C. Reapplication Required. If the approval period is allowed to lapse, the applicant must resubmit the proposal, including all applicable fees, for public hearing before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

### **3.109.04 Review Criteria**

Approval of a subdivision shall require compliance with the following:

- A. Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved.
- B. Adequate public facilities shall be available to serve the existing and newly created parcels.
- C. The proposal shall comply with the applicable development standards in Section 2.307.

### **3.109.05 Form of Final Subdivision Plat**

- A. Final Plat Requirements. The final plat shall be prepared in a form and with information consistent with ORS 92.010-92.160, and approved by the County Surveyor. All subdivision names shall conform to ORS 92.090.

### **3.109.06 Final Plat Review of Subdivisions**

- A. Final Review. The final subdivision plat shall be submitted to the City staff for review. Staff shall review the plat to assure compliance with the

approved preliminary plat and with the conditions of approval. The City Manager, or designee, shall signify staff approval of the final plat by signing the document.

- B. Filing Final Plat. The final subdivision plat shall be filed with the Marion County Clerk's Office.

**3.109.07 Expedited Land Division**

- A. Eligibility. Land designated for residential use, including recreational and open space uses accessory to residential use, is eligible to apply for an expedited land division process when creating three or less parcels. The expedited land division process may be used in lieu of a Type II process.
- B. Exclusion.
  - 1. Property and process exclusions include properties specifically mapped and designated in the Comprehensive Plan or Development Ordinance for full or partial protection of natural features under the statewide planning goals that protect open space, scenic and historic areas and natural features and not eligible for the construction of dwelling units or accessory buildings.
  - 2. The expedited land division process is not a land use or limited land use decision and is not subject to the permit requirements of City enabling legislation. Decisions are not subject to the Comprehensive Plan and not eligible for appeal to the Land Use Board of Appeals (LUBA).
- C. Complete Application. The City shall review an application and makes a decision on its completeness within 21 days of submittal. Upon determination of an incomplete application, the applicant has 180 days to submit the missing information.
- D. Public Notice. Upon submittal of a complete application, the City shall send written notice to affected governmental agencies and property owners within 100 feet of the site proposed for the land division. The notice shall include the following:
  - 1. The deadline for submission of written comments.
  - 2. The time and place where all copies of evidence submitted by the applicant will be available for review.

3. The name, address, and telephone number of the City's staff person available to comment on the application.
  4. Summary of the local decision making process for such a decision.
  5. Applicable decision criteria.
  6. Notification that participants must raise all issues during the written comment period.
- E. Initial Decision. The local government must allow at least 14 days for written comments and shall render a decision within 63 days of a complete application. No public hearing may be held during the initial decision making phase.
- F. Notice of Final Decision. A notice of decision must be given to the applicant and other participants of the decision. The notice of decision shall state the appeal process.
- G. Time Extension.
1. Applicant: If a decision is not made within 63 days, the applicant may seek review by writ of mandamus.
  2. City: The City may extend the 63 day period up to 120 days based on the determination that an unexpected or extraordinary increase in applications makes the 63 day period impracticable. Following a 7 day notice to the applicant, consideration of an extension is considered at a regularly scheduled City Council meeting. That determination is specifically declared not to be a land use decision or limited land use decision.
- H. Decision Criteria. Criteria for approving the subdivision shall be as follows:
1. The criteria established in Section 3.109.04.
  2. Density. The application must be able to establish at least 80 percent of the allowable density of the applicable residential zone.
  3. Street Standards. The application must comply with the most recent City of Donald Transportation Plan or provide evidence of meeting the City's minimum street connectivity standards contained within this Ordinance.

- I. Appeal of Initial Decision. A decision may be appealed to a local hearings officer within 14 days of filing the notice of decision by the applicant or any person or organization that filed comments on the initial decision.
- J. Appeal Fee. Filing an appeal requires a deposit of \$300.00 to cover costs. An appellant faces the possibility of an assessment of \$500.00 for the total costs of local proceedings if the appellant does not prevail. If an appellant materially improves its position, the deposit and appeal fee shall be refunded.
- K. Basis of an Appeal of the Initial Decision. The local appeal is shall based on the following:
  - 1. The failure to meet local substantive and procedural requirements,
  - 2. Unconstitutionality,
  - 3. The decision was not within the expedited land division category, or
  - 4. A party's substantive rights have been substantially prejudiced by an error in procedure of the local government.
- L. Hearings Officer. The appeal of the initial expedited land use decision shall be heard by a City designated hearings officer. The hearings officer may not be a City officer or City employee.
- M. Hearings Officer Notification. Within 7 days of the hearings officer's appointment, the City shall notify the appellant, the applicant (if not the appellant), and the persons or organizations entitled to notice and which provided written comments, of the hearing date before the hearings officer. If a person submitting comments did not appeal, the issues presented by that person are limited to those in their submitted comments.
- N. Appeal Hearing. The hearings officer conducts a hearing that:
  - 1. Follows the Commission proceeding requirements,
  - 2. Allows the local government's explanation of its decision, and
  - 3. May consider evidence not previously considered.



- O. Hearings Officer Decision. In all cases, not involving a procedural issue, the hearings officer shall seek to identify means by which the application can satisfy the applicable requirements. The hearings officer may not reduce the density of the application or remand the application to the City, but shall make a written decision on the appeal within 42 days of the filing of the appeal. Unless the local government determines that exigent circumstances exist, a hearings officer who fails to decide a case within the 42 day period shall receive no compensation for services as the hearings officer. If the decision was not an expedited land division, the hearings officer must remand the decision for proper procedural determination.
- P. Appeal of Hearings Officer Decision. Appeals of the Hearings Officer decision are to the Oregon Court of Appeals.
- Q. Basis of an Appeal of the Hearings Officer Decision. The grounds for review of a hearings officer's decision are limited to:
  - 1. Whether the decision followed the process for an expedited land division and the appellant raised that issue,
  - 2. Unconstitutionality, and
  - 3. Certain bias or interest on the part of the hearings officer or local government.
- R. Process for Final Plat Approval. Final plats for expedited land divisions shall be reviewed consistent with the requirements in Section 3.109.06

## 3.110 COMPREHENSIVE PLAN MAP AMENDMENTS

### 3.110.01 Process

Amendments to the Comprehensive Plan map shall be reviewed in accordance with the Type III review procedures specified in Section 3.201. Type III reviews shall be limited to map amendments affecting 5 or fewer adjacent parcels ownerships. Map amendments affecting more than 5 parcels ownerships shall be considered legislative actions and subject to a Type IV review process.

### 3.110.02 Application and Fee

An application for a map amendment shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

### 3.110.03 Criteria for Approval

Plan map amendment proposals shall be approved if the applicant provides evidence substantiating the following:

- A. Compliance is demonstrated with the Statewide Land Use Goals that apply to the subject properties or to the proposed land use designation. If the proposed designation requires an exception to the Goals, the applicable criteria in the LCDC Administrative Rules for the type of exception needed shall also apply.
- B. Consistency with the applicable goals and policies in the Comprehensive Plan is demonstrated.
- C. The Plan does not provide adequate areas in appropriate locations for uses allowed in the proposed land use designation and the addition of this property to the inventory of lands so designated is consistent with projected needs for such lands in the Comprehensive Plan.
- D. The Plan provides more than the projected need for lands in the existing land use designation.
- E. The proposed land use designation will not allow zones or uses that will destabilize the land use pattern in the vicinity or significantly adversely affect existing or planned uses on adjacent lands.
- F. Public facilities and services necessary to support uses allowed in the proposed designation are available or will be available in the near future.

### 3.111 ZONE CHANGE

#### **3.111.01 Process**

Zone changes shall be reviewed in accordance with the Type III review procedures specified in Section 3.201. Type III reviews shall be limited to zone changes affecting 5 or fewer adjacent parcels ownerships. Zone changes affecting more than 5 parcels ownerships shall be considered legislative actions and subject to a Type IV review process.

#### **3.111.02 Application and Fee**

An application for a zone change shall be filed with the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

#### **3.111.03 Criteria for Approval**

Zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.
- B. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
- C. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.
- D. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.
- E. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.

#### **3.111.04 Zone Change Conditions**

- A. Imposition of Conditions. Approval of a zone change application may be conditioned to require provisions for buffering or provision of off-site public facilities. In order to impose conditions on a zone change, findings must be adopted showing that:

1. The zone change will allow uses more intensive than allowed in the current zone; and
  2. The conditions are reasonably related to impacts caused by development allowed in the proposed zone or to impacts caused by the specific development proposed on the subject property; and
  3. Conditions will serve a public purpose such as mitigating the negative impacts of allowed uses on adjacent properties; and
- B. Conditions. Conditions that could meet the criteria in A., include, but are not limited to:
1. Dedication of right-of-way for public streets, utility easements, etc.
  2. Improvement of private roadways or public streets, including bike paths, curbs, and sidewalks.
  3. Provision of storm drainage facilities.
  4. Extension of public sewer, storm drain, and water service including over-sizing to permit development on other lands.
  5. Provision of fire suppression facilities and equipment.
  6. Provision of transit and traffic control facilities.
  7. Special building setbacks, orientation, landscaping, fencing, berming, and retention of natural vegetation.
  8. Special locations for truck loading, parking, access routes, or any outdoor activity that could impact adjacent property.
  9. Financial contributions to public agencies to offset increased costs for providing services or facilities related to the intensification of the use of the property.

3.112 TEXT AMENDMENTS

**3.112.01 Process**

Amendments to the Comprehensive Plan and Development Ordinance texts shall be reviewed in accordance with the Type IV review procedures specified in Section 3.201.

**3.112.02 Application and Fee**

A Plan or Ordinance text amendment can only be initiated by the Planning Commission or City Council. Upon direction of either the Commission or Council, City staff shall establish a file and set a schedule to review the proposed changes. No fee is required.

**3.112.03 Criteria for Approval**

Amendments to the Comprehensive Plan or Development Ordinance text shall be approved if the evidence can substantiate the following:

- A. Impact of the proposed amendment on land use and development patterns within the city, as measured by:
  - 1. Traffic generation and circulation patterns;
  - 2. Demand for public facilities and services;
  - 3. Level of park and recreation facilities;
  - 4. Economic activities;
  - 5. Protection and use of natural resources;
  - 6. Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.
- B. A demonstrated need exists for the product of the proposed amendment.
- C. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.
- D. The amendment is appropriate as measured by at least one of the following criteria:

1. It corrects identified error(s) in the provisions of the plan.
2. It represents a logical implementation of the plan.
3. It is mandated by changes in federal, state, or local law.
4. It is otherwise deemed by the council to be desirable, appropriate, and proper.

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3.201 GENERAL PROVISIONS

**3.201.01 Multiple Applications**

Applications for more than one land use action for the same property may, at the applicant's discretion, be heard or reviewed concurrently.

**3.201.02 Multiple Processing Types**

Multiple land use requests involving different processing Types shall be heard and decided at the higher processing Type. For example, an application involving a Subdivision (Type II) with a Minor Variance (Type I) shall be reviewed and decided as a Type II request.

**3.201.03 Generalized Area**

Applications involving a generalized area may be aggregated if in the opinion of the City Manager, or designee, a better understanding of the entire land use proposal is served by combining requests. A final decision shall be granted for each request and each request is appealable individually.

**3.201.04 Time Limit**

If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Ordinance.

- A. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120 day period.
- B. Public notice shall be mailed to affected parties as specified in Section 3.204.
- C. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 3.206 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.

**3.201.05 Performance Bonding**

Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant

provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.

- A. Types of Guarantees - Performance guarantees may be in the form of performance bond payable to the City of Donald, cash, certified check, time certificate of deposit, or other form acceptable to the City. The form must be approved by the City Attorney and appropriate documents filed with the City Recorder.
- B. Amount of Guarantee - The amount of the guarantee must be equal to at least one-hundred-ten percent (110%) of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of all materials, labor, equipment and other costs of the required performance.
- C. Completion of Performance - All improvements shall be completed within one year of filing the performance guarantee. This time limit may be extended for additional one year periods by the City Manager.

3.202 PROCEDURES

**3.202.01 Procedure for Type I Review**

- A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
  - 1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
  - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of issuing a staff report and related timing provisions either:
  - 1. Upon receipt of the additional information; or,
  - 2. If the applicant refuses to submit the information the application shall be deemed complete for review purposes on the 31st day after the original submittal.
- C. Referrals may be sent to interested agencies such as City departments, police and departments, school district, utility companies, and applicable state agencies at discretion of the Manager, or designee.
- D. Within thirty (30) days of receipt of a complete application, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Ordinance.
- E. Approvals of a Type I action may be granted subject to conditions and performance agreement requirements.
- F. Notice of the decision shall comply with the provisions in Section 3.204.
- G. A Type I land use decision may be appealed to the Planning Commission, by either the applicant or persons receiving notice of the decision. The appeal shall be filed within 15 days from the date of the final decision, pursuant to the provisions of Section 3.207.

### **3.202.02 Procedures for Type II and Type III Actions**

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
  - 1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.
  - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
  - 1. Upon receipt of the additional information; or,
  - 2. If the applicant refuses to submit the information, the application shall be deemed complete for scheduling purposes only on the 31st day after the original submittal.
- C. Referrals will be sent to interested agencies such as City departments, police and departments, school district, utility companies, and applicable state agencies.
- D. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 3.204.
- E. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties.
- F. The public hearing before the Planning Commission shall comply with the provisions in Section 3.205.
- G. Approvals of any Type II or Type III action may be granted subject to conditions and performance agreement requirements.
- H. The applicant shall be notified, in writing, of the Planning Commission's decision or recommendation. In addition, notice of the Commission's decision or recommendation shall be mailed to individuals who request

such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing.

- I. A Type II land use decision may be appealed to the City Council by either the applicant, persons receiving notice of the decision of the Manager. The appeal shall be filed within 15 days from the date of the decision, pursuant to the provisions of Section 3.207. Type III land use applications are automatically reviewed by the City Council.

3.203 TYPE IV ACTIONS

**3.203.01 Initiation**

Type IV may be initiated by:

- A. Majority vote of the City Council.
- B. Majority vote of the Planning Commission.
- C. Recommendation by the City Manager, or designee, subject to majority approval by the City Council or Planning Commission.

**3.203.02 Procedure for Type IV Actions**

- A. Public Hearings by Planning Commission:
  - 1. A public hearing shall first be held by the Planning Commission on all Type IV requests.
  - 2. The Planning Commission may continue any hearing in order to make a reasonable decision. Amendments to the original request may be considered and acted upon by the Planning Commission.
  - 3. A Type IV Planning Commission action shall be in the form of a recommendation to the City Council.
- B. Public Hearing by City Council:
  - 1. Following the Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation.
  - 2. The City Council may continue any hearing in order to make a reasonable decision. Amendments to the original request or the Planning Commission's recommendation may be considered and acted upon by the City Council.
  - 3. An approved Type IV City Council action shall be in the form of an Ordinance.

## 3.204 PUBLIC NOTICE REQUIREMENTS

### **3.204.01 Type I Action**

Written notice of a Type I decision shall be mailed to the applicant and all property owners within 100 feet of the subject property. Written notice for a Type I shall include the following:

1. Summary of the request.
2. Relevant decision criteria.
3. Findings of fact indicating how the request does or does not comply with the decision criteria.
4. Conclusionary statement indicating approval or denial of the request including (where appropriate) conditions of approval.
5. Information regarding the appeal process including who may appeal, where appeal must be submitted, fees and the appeal deadline.

### **3.204.02 Type II and Type III Actions**

Written notice of any public hearing shall be mailed at least 20 days prior to the hearing date to the applicant and owners of property within 200 feet of the boundaries of the subject property.

### **3.204.03 Type IV Actions**

Written notice of a hearing before the Planning Commission or City Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of the hearing before the Planning Commission or City Council.

### **3.204.04 Notice for Appeals**

An appeal to either Planning Commission or City Council shall include written notice at least 10 days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.

### **3.204.05 Public Hearing Notice Requirements**

Notice for any public hearing, including appeals, shall include the following:

- A. Explain the nature of the application and the proposed use or uses which could be authorized.
- B. Cite the applicable criteria from the ordinance and the plan which apply to the application at issue.
- C. Set forth the street address or other easily understood geographical reference to the subject property.
- D. State the date, time and location of the hearing.
- E. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Appeals Board of Appeals.
- F. Include the name and phone number of the City representative where additional information may be obtained.
- G. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost.
- H. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.
- I. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.



3.205 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

**3.205.01 General Provisions**

- A. Land use actions which require a public hearing by the Planning Commission under the provisions of this Ordinance shall be initially heard within sixty (60) days of the receipt of an application or appeal.
- B. The Planning Commission may continue a public hearing for additional, information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.
- C. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.
- D. Appeal of a Type I action shall be heard by the Planning Commission. The decision of the Commission on such appeal shall be final unless further appealed to the City Council.
- E. The decision of the Planning Commission on applications for Type II actions shall be final unless appealed to the City Council pursuant to Section 3.207.
- F. The recommendations of the Planning Commission on applications for Type III or Type IV actions shall be referred to the City Council for final determination.
- G. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the decision authority, and affected parties, an adequate opportunity to respond to each issue.

**3.205.02 Public Hearing Procedures**

The public hearings before the Planning Commission shall be conducted according to hearings procedures adopted by City Council resolution.

### **3.205.03 Evidence**

- A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. Any part of the evidence may be received in written, recorded, video tape or other suitable form.
- C. All evidence shall be offered and made part of the public record.
- D. Every party is entitled to an opportunity to be heard and to present and rebut evidence.
- E. All interested persons shall be allowed to testify.

### **3.205.04 Record of Hearing**

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

### **3.205.05 Limits on Oral Testimony**

The Planning Commission Chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

### **3.205.06 Exhibits**

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

## 3.206 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL

### 3.206.01 General Provisions

- A. Appeals. The City Council shall hear appeals of the Planning Commission actions. The appeal hearing shall be conducted in a manner consistent with Section 3.204.
- B. Action on Type III Reviews. The City Council shall hear all Type III actions; the City Council action on such requests shall be the final action by the City.
- C. All hearings or reviews required by the City Council shall be heard within sixty (60) days of the Planning Commission's written decision or appeal request.
- D. The decision shall be made by the City Council and written findings prepared listing findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council.

### 3.206.02 Hearings by City Council

- A. All public hearings shall be conducted pursuant to the City Council's adopted rules of procedure. The City Council shall allow the opportunity for all parties to be heard and may accept new evidence.
- B. Decisions of the City Council may be appealed to the State Land Use Board of Appeals (LUBA), subject to the provisions in ORS 197.805-855.

### 3.206.03 Appeal Review by City Council

- A. Review on Record: The City Council review of an appeal on an action by the Planning Commission shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the prior decision. The meeting shall be conducted as set forth in the City Council's adopted rules of procedures. The record of the initial proceeding shall include:
  - 1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence.
  - 2. All materials submitted by the City Staff with respect to the application.

3. The transcript of the hearing.
  4. The findings and action of the Planning Commission and the notice of decision.
- B. Submission of New Testimony and De Novo Hearings: The City Council may admit additional testimony and other evidence by holding a de novo hearing. Upon the decision to admit additional testimony or other evidence and to hear the entire matter de novo, the presentation of such testimony and evidence shall be governed by the procedures applicable to the presentation of such matters at the initial hearing.
- C. City Council Action. The City Council may affirm, rescind or amend the action of the Planning Commission. The Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120 day review period.

3.207 APPEAL PROVISIONS

**3.207.01 Appeal Period**

- A. The decision of the City Manager shall be final for a Type I land use decision unless a notice of appeal from an appropriate aggrieved party is received by the City within 15 days of the date of the final written notice. An appeal stays the proceedings in the matter appealed until the determination of the appeal.
- B. The decision of the Planning Commission for a Type II land use decision, or the appeal of a Type I decision, shall be final unless a notice of appeal from an aggrieved party is received by the City within 15 days of the date of the final written notice. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

**3.207.02 Form of Appeal**

Appeal requests shall be made on forms provided by the City. Appeals shall state the alleged errors in the original action.

**3.207.03 Notice Requirements**

Notice of public hearings by the Planning Commission or City Council on an appeal shall be as specified in Section 3.204.

3.208 FEES

**3.208.01 Purpose**

Fees are for the purpose of defraying administrative costs.

**3.208.02 General Provisions**

- A. Fees shall be payable at the time of application and shall be as set forth by Ordinance or Resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
- B. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect resulting in the dismissal of the case.
- C. Fees are not refundable unless the application is withdrawn prior to the completion of a staff report for a Type I action or notification of the hearing for Type II and III actions.
- D. The City Council may reduce or waive the fees upon showing of just cause to do so.