



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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

Date: 09/26/2014
Jurisdiction: City of Mill City
Local file no.: 2013-02
DLCD file no.: 001-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 09/25/2014. 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



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

FOR DLCD USE	
File No.:	001-14
	{ 22484 }
Received:	9/25/2014

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 Mill City

Local file no.: **2013-02**

Date of adoption: 8/26/2013

Date sent: 9/24/2014

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): Not Submitted

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:

Ordinance 369 is a housekeeping update to the Mill City Zoning Code. It corrects Section #s and modified Chapter 17.64 administration re: hearing notices, appeals and compliance with public works standards. This submittal includes the Mill City Zoning Code in effect on 9/24/2014.

Local contact (name and title): Stacie Cook, MMC, City Recorder

Phone: 503.897-2302

E-mail: scook@ci.mill-city.or.us

Street address: PO Box 256, 444 1st Avenue

City: Mill City, OR

Zip: 97383-

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

Zoning Code Amendments - Housekeeping to correct Section #s throughout Zoning Code. Amends Chapter 17.64 Administration Sections re: notices, public hearings, appeals and compliance with public works standards.

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):

List affected state or federal agencies, local governments and special districts:

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.

Ordinance 369, including a summary memo.

Codification of Title 17 of Mill City Zoning Code with all amendments adopted through Ordinance 369.

ORDINANCE NO. 369

AN ORDINANCE AMENDING TITLE 17 - MILL CITY ZONING CODE

WHEREAS, the Planning Commission recommends various sections of the Mill City Zoning Code in Title 17 be amended to correct errors and revise administrative provisions of the code; and

WHEREAS, the Planning Commission held a public hearing on April 12, 2013 to consider the amendments and recommends the City Council adopt the proposed amendments; and

WHEREAS, the City Council held a public hearing on July 23, 2013; and

WHEREAS, on July 23, 2013 the City Council concurred with the Planning Commission recommendations;

NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:

SECTION 1. Section 17.20.045.C of the Mill City Municipal Code is hereby amended to read as follows:

17.20.045.C Appeals. If an application is denied it may be appealed to the city council as outlined in Section 17.64.050 of this title, or the applicant may submit a revised site plan to the planning commission.

SECTION 2. Section 17.24.050.A of the Mill City Municipal Code is hereby amended to read as follows:

17.24.050.A Pre-Application Coordination. Before the city may accept an application for site plan review, the applicant shall meet with the zoning official, or his or her designee, to review the applicable city code requirements and procedures. The purpose of the pre-application meeting is to answer questions about city requirements and inform the applicant of any other requirements (e.g., those of outside agencies or service providers) that must be addressed before the city can accept an application as complete and schedule a planning commission hearing.

SECTION 3. Section 17.24.050.C of the Mill City Municipal Code is hereby amended to read as follows:

17.24.050.C. Within five days of acceptance of the site plan application, the city shall furnish one copy of the proposal to the Oregon Department of Transportation (ODOT), the Mill City Rural Fire Protection District, and to all other affected city, county, state and federal agencies, special districts and utilities, as determined appropriate by the city and as outlined in Section 17.64.080 of this title.

SECTION 4. Section 17.24.050.E of the Mill City Municipal Code is hereby amended to read as follows:

17.24.050.E Appeals. If an application is denied it may be appealed to the city council as outlined in Section 17.64.050 of this title, or the applicant may submit a revised site plan to the planning commission.

SECTION 5. Section 17.36.040.B.2 of the Mill City Municipal Code is hereby amended to read as follows:

17.36.040.B.2. Appeals. If an application is denied it may be appealed to the city council as outlined in Section 17.64.050 of this title, or the applicant may submit a revised site plan to the planning commission.

SECTION 6. Section 17.44.020.F.9 of the Mill City Municipal Code is hereby amended to read as follows:

17.44.020.F.9 If the recreation vehicle is to be replaced on the property by another recreation vehicle, the replacement recreation vehicle may be reviewed and approved for placement by the zoning official if it is placed in the same location and complies with all of the requirements of Section 17.44.020 of this title and the city council has approved a new park host agreement;

SECTION 7. Section 17.52.030.E.1.a of the Mill City Municipal Code is hereby amended to read as follows:

- E. Standards for a Wireless Telecommunications Tower (WCF).
 - 1. Application Requirements. In addition to all standard required application materials, an applicant for a new WCF shall submit the following information:
 - a. A visual study containing, at a minimum, a vicinity map depicting where, within a half-mile radius, any portion of the proposed tower could be visible, and a graphic simulation showing the appearance of the proposed tower and accessory structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures. Such points are to be mutually agreed upon by the applicant and the zoning official.

SECTION 8. Section 17.52.040.C and Section 17.52.040.D of the Mill City Municipal Code are hereby amended to read as follows:

17.52.040.C The city shall provide the applicant with written notice of the decision of the planning commission as outlined in Section 17.64.030 of this title.

17.52.040.D Appeals. The decision of the planning commission may be appealed to the city council as outlined in Section 17.64.050 of this title.

SECTION 9. Section 17.56.040.C and Section 17.56.040.D of the Mill City Municipal Code are hereby amended to read as follows:

17.56.040.C The city shall provide the applicant with written notice of the decision of the

planning commission as outlined in Section 17.64.030 of this title.

17.56.040.D Appeals. The decision of the planning commission may be appealed to the city council as outlined in Section 17.64.050 of this title.

SECTION 10. Sections 17.64.030.B and 17.64.030.C of the Mill City Municipal Code are hereby amended to read as follows:

17.64.030.B Findings and conclusions. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.

17.64.030.C Form of decision. For decisions listed under Section 17.64.025.B and 17.64.025.C of this chapter the decision authority shall issue a final written order containing the findings and conclusions which either approves, denies, or approves with specific conditions. The decision authority may also issue appropriate intermediate rulings when more than one permit or decision is required.

SECTION 11. Section 17.64.070 of the Mill City Municipal Code is hereby amended to read as follows:

17.64.070 Fees.

A. Application and Filing Fees: The city council shall, by resolution, determine application filings fee schedules for those land use actions which require a fee. The initial fee shall be paid upon filing the application and shall not be refundable.

B. Deposit for Additional Services. In addition, each applicant may be required to pay an additional deposit to cover potential costs the City may incur in processing the application including assistance on the case involving time provided by the city planner, the city engineer, and city attorney; and time of city staff related to pre-hearing, hearing, and post hearing activities. The additional deposit shall be paid to the city at the time of application. If the deposit is more than required to cover the City's costs, then the difference shall be refunded to the applicant within thirty (30) days of the issuance of a notice of decision. If the deposit is insufficient to cover all of the costs incurred by the City in processing the application, then the city may require the applicant to provide an additional deposit to cover the estimated costs of processing the application or bill the applicant for additional costs incurred by the City. If at the time of the issuance of a notice of decision, the deposit does not provide sufficient funds to cover the actual costs incurred by the City in processing the application, then the City may bill the applicant for the additional costs within thirty (30) days of the issuance of a written notice of decision.

C. The City may withhold the issuance of building permits or connection to city utilities until all fees due to the City are paid in full.

SECTION 12. Section 17.64.080 of the Mill City Municipal Code is hereby amended to read as follows:

17.64.080 Notice of public hearing.

A. Notices of public hearing shall be provided to the applicant, affected property owners, agencies and

interested parties as required by this chapter.

- B. A notice of hearing for a land use action specified by this title shall be provided or mailed to the applicant and to all owners of property located a specified distance from the exterior boundaries of the property for which the land use action is requested, in accordance with the following:

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action is Requested
Comprehensive Plan map amendment	500 feet
Zoning map amendment	300 feet
Conditional use	200 feet
Variance	100 feet
Site plan review: R-2 zone multifamily	100 feet
Site plan review: Highway Commercial (CH) zone	200 feet
Site plan review: Other	500 feet
Buffering or screening: Industrial (I) zone	100 feet
Historic structure alteration or demolition	100 feet
Medical hardship manufactured dwelling	100 feet
Residential community plan	200 feet
Special home occupation review	100 feet
Land use change involving N. Santiam River	100 feet
Appeal of zoning official decision	100 feet
Appeal of planning commission decision	Same distance as for land use action being appealed
All land use actions where the subject property is located outside the city urban growth boundary and is not within a Farm or Forest Zone.	250 feet
All land use actions where the subject property is located outside the city urban growth boundary and is within a Farm or Forest Zone.	500 feet

- C. For the purpose of providing or mailing notices of public hearings, the city shall use the list of property owners from the most recent property assessment tax roll of the county where the property is located.
- D. The notice of hearing shall be provided or mailed at least twenty (20) days before the evidentiary hearing; or if two or more evidentiary hearings are allowed, at least ten (10) days before the first evidentiary hearing.
- E. For each public hearing, the city shall prepare an affidavit of notice which certifies that the notice of hearing was provided or mailed as required by this title. The list of owners together with their addresses shall be attached to the affidavit. The affidavit shall be retained with the permanent record of the hearing.
- F. Failure of a person to receive notice of a public hearing shall not invalidate such proceeding if the city can demonstrate by affidavit that such notice was given.
- G. The notice provisions of this chapter shall not restrict the giving of notice by other means,

including mail, the posting of property, publication in a newspaper, radio, television, posting on the city's website or electronic communication.

- H. Notice of an application to amend the comprehensive plan or a land use regulation shall be transmitted to the Department of Land Conservation and Development.
- I. Notice shall also be provided to affected special or school districts, federal, state, county, and regional agencies, any neighborhood or community organization recognized by the city council as having an interest in land use or community development issues as they pertain to a particular neighborhood or to a community of interest within the city.
 - 1. Such agency notice shall be transmitted a minimum of twenty-one (21) days prior to the date of public hearing to allow affected agencies and departments sufficient time to comment on the proposed amendment;
 - 2. All agency and department comments received by the city shall be made a part of the hearing record and shall be considered during the public hearing;
 - 3. Failure of an affected agency or department to receive notice of public hearing on a proposed amendment to the comprehensive plan shall not invalidate a recommendation by the commission or a final decision by the council.
- J. If there is a conflict between the notice provisions of this section and the notice provisions as required by state law, notice shall be given as required by state law.

SECTION 13. Section 17.64.090.A of the Mill City Municipal Code is hereby amended to read as follows:

17.64.090 Public hearing notice and procedure.

- A. The notice of public hearing provided or mailed to the applicant and to owners of property entitled to receive notice shall:
 - 1. Explain the nature of the hearing and the proposed use or uses which could be authorized;
 - 2. List the applicable criteria from this title and the comprehensive plan that apply to the application;
 - 3. Set forth the street address or other geographical reference to the subject property;
 - 4. State the date, time, and location of the hearing;
 - 5. State that failure of an issue to be raised in a hearing, either in person or by letter, or failure to provide statements or evidence sufficient to afford the decision making body an opportunity to respond to the issue precludes an appeal to the State Land Use Board of Appeals based on that issue;
 - 6. Include the name and telephone number of the city staff person who can provide additional information;
 - 7. State that the application, all documents and evidence submitted by or on behalf of the

applicant and applicable criteria are available for inspection at city hall at no cost, and a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that these materials will be provided at a reasonable cost;

- 8. Include an explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

SECTION 14. Section 17.64.150 of the Mill City Municipal Code is hereby amended to read as follows:

17.64.150 Public works standards.

A. Unless specifically exempted or modified by another section of this title, improvements to be installed within any public right-of-way, public utility easement, or as a part of the construction or development of a use authorized by this title, whether as a use permitted outright, a conditional use, or a use subject to site plan review, shall comply with the city public works design standards which have been authorized through adoption of Ordinance No. 276, and adopted by Resolutions No. 518 and 519, or any subsequent amendment or re-adoption of the ordinance or resolutions.

B. The city may require an applicant to enter into a development agreement with the City regarding the public improvements to be installed by the applicant as part of an approved development. The agreement may require the applicant to provide a performance guarantee or security, insurance certificates and indemnification, warranty bond and a financial deposit to cover the estimated costs for engineering review of plans, city inspection services and administrative and legal costs related to the project.

SECTION 15. Severability. The provisions of this ordinance are severable. If a section, sentence, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of this ordinance.

This Ordinance read for the first time by title only on the 13th day of August , 2013.

This Ordinance read for a second time by title only on the 13th day of August, 2013.

This Ordinance passed on the 13th day of August, 2013 by the City Council and executed by the Mayor this 26th day of August, 2013.

Date: 8-26-13

By: /s/
TIM KIRSCH, Mayor

Date: 8-26-13

Attest: /s/
STACIE COOK, CMC, City Recorder

APPROVED AS TO FORM

Date: 9-4-13

By: /s/
JAMES L. McGEHEE, City Attorney

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APPROVED AS TO FORM

Date: 9-4-13

By: [Signature]
JAMES L. McGEHEE, City Attorney

David W. Kinney
Community Development Consultant
791 E. Hollister St., Stayton, OR 97383
Office: (503) 769-2020 Cell: (503) 551-0899
Email: dwkinney@wvi.com

July 15, 2013

To: Mayor Kirsch and City Councilors

**From: Chairman Nancy Kelle & Members of Mill City Planning Commission
David W. Kinney, Planning Consultant**

In RE: Title 17 – Zoning Code Amendments

Issue:

The Planning Commission has asked staff to develop proposed code amendments to the Mill City Zoning Code to make minor revisions to the administrative sections of the code. The Planning Commission reviewed the proposed amendments at a work session on February 23, 2013 and held a public hearing on April 12, 2013.

Proposed Zoning Code Amendments:

Throughout the code, corrections address the following issues and inconsistencies:

- | | |
|-------------------------------|---|
| · Zoning Official | Eliminates incorrect references to city administrator |
| · Notice of Decision | Correctly refers to Notice of Decision section in Chapter 17.64 |
| · Notices for Public Hearings | Deletes outdated provisions & refers to Chapter 17.64. |
| · Appeals | Correctly refers to Appeals section in Chapter 17.64 |

The Chapter 17.64 amendments will address the following issues:

- | | |
|------------------------------|--|
| · Fees and Deposits | Deposits to ensure applicants are billed for actual costs.
Allows withholding building permits until all fees paid. |
| · Notices of Public Hearings | Fixes notice requirements to comply with ORS 197.763. |
| · Development Agreement | Authorizes City to require a development agreement to ensure all public improvements are installed with a project. |

Chapter 17.16 Multi-Family Residential Zone (R-2) is amended. Outright uses are modified in the R-2 zone to allow staff to approve duplexes without a site plan review before the Planning Commission. Site Plans and building permits for duplexes will be reviewed and approved by the staff.

Planning Commission and Staff Recommendation: Approval

The staff recommends approval as a housekeeping measure in order to comply with state requirements and clean up inconsistencies in the code.

Adoption Process:

This is a legislative amendment to the Mill City Zoning Code. Two public hearings are held. The first is before the Planning Commission, which makes a recommendation to the City Council. The second hearing is before the City Council.

Planning Commission Review	February 23, 2013	Work Session
Planning Commission Public Hearing including deliberation and recommendation	April 12, 2013	Regular Meeting
City Council Public Hearing	May 2013	Regular Council Meeting
City Council Adoption of Ordinance	May 2013	Regular Council Meeting

The Draft Ordinance presented to the council shows all the additions/deletions and includes text boxes explaining each of the changes. If the Council adopts the Ordinance the staff will prepare a “clean” version for signatures.

Options:

The City Council may:

- (1) Approve the code amendments as submitted,
- (2) Modify and approve code amendments as modified,
- (3) Refer the amendments back to the Planning Commission
- (4) Reject the code amendments.

Motions:

Approval: Move to read Ordinance No. _____ (as proposed or as modified) for a first reading by Title Only.

Move to read Ordinance No. _____ for a second reading by title only and for final enactment and to direct to execute the ordinance as enacted.

Refer to PC: Move to table the proposed amendments and refer it back to the Planning Commission for reconsideration.

Reject: No action or a Motion to reject the proposed ordinance amending Title 17.

Title 17 ZONING

Chapters:

Chapter 17.04 - INTRODUCTORY PROVISIONS

Chapter 17.06 - COMPREHENSIVE PLAN

Chapter 17.08 - ESTABLISHMENT OF ZONES

Chapter 17.12 - R-1 SINGLE-FAMILY RESIDENTIAL ZONE

Chapter 17.16 - R-2 RESIDENTIAL ZONE MULTI-FAMILY DWELLING

Chapter 17.20 - CC CENTRAL COMMERCIAL ZONE*

Chapter 17.24 - CH COMMERCIAL HIGHWAY ZONE*

Chapter 17.28 - I INDUSTRIAL ZONE

Chapter 17.32 - P PUBLIC ZONE*

Chapter 17.36 - SPD SPECIAL PLANNED DEVELOPMENT ZONE

Chapter 17.40 - HISTORIC PRESERVATION

Chapter 17.44 - SUPPLEMENTARY PROVISIONS

Chapter 17.48 - NONCONFORMING USES

Chapter 17.52 - CONDITIONAL USES

Chapter 17.56 - VARIANCES

Chapter 17.60 - AMENDMENTS

Chapter 17.64 - ADMINISTRATION AND ENFORCEMENT

Chapter 17.68 - SIGN CODE

Chapter 17.72 - WETLAND PROTECTION AREA

Chapter 17.04 INTRODUCTORY PROVISIONS

Sections:

[17.04.010 Title.](#)

[17.04.020 Purpose.](#)

[17.04.030 Definitions.](#)

Title 17 ZONING

[17.04.040 Compliance with title provisions.](#)

17.04.010 Title.

The ordinance codified in this title shall be known as the Mill City Zoning Ordinance of 1998.

(Ord. 273 § 1.010, 1998)

17.04.020 Purpose.

The purpose of this title is to promote the public health, safety and general welfare, to assist in carrying out the city comprehensive plan, and to assist in implementing statewide planning goals as adopted by the State of Oregon Land Conservation and Development Commission.

(Ord. 273 § 1.020, 1998)

17.04.030 Definitions.

Words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular; the word "shall" is mandatory and not directory. As used in this title, the following words and phrases mean:

"Abut" means contiguous to or immediately join. For example, two lots with a common property line are considered to be abutting.

"Access" means the way or means by which pedestrians and vehicles enter and leave property.

"Accessory building" means a detached subordinate building or a portion of the main building, the use of which is incidental to that of the main building or the premises. Where a substantial part of the wall of an accessory building is a part of the wall of the main building, or where an accessory building is attached to the main building in a substantial manner by a roof, such accessory building shall be regarded as part of the main building.

"Accessory use" means a use incidental, appropriate and subordinate to the main use of a lot or building.

"Access way" means an unobstructed way of specified width containing a drive or roadway which provides vehicular access within a manufactured dwelling park and connects to a public street.

"Alley" means a public right-of-way not more than twenty (20) feet nor less than ten (10) feet in width, which intersects with a public street.

"Alteration" means any change, addition or modification in construction or occupancy.

Apartment House. See Dwelling, Multiple-Family.

"Automobile and/or trailer sales area" means uncovered premises used for display, sale or rental of new or used automobiles, trucks or trailers.

"Awning" means any stationary structure used in conjunction with a manufactured dwelling, other than a window awning, for the purpose of providing shelter from the sun and rain which has a roof with supports and not more than one wall or storage cabinet substituting for a wall.

"Buffer" means an area of natural or planted vegetation which is dense enough to block substantially all sight and to lower noise and air pollution levels.

Title 17 ZONING

"Building" means any structure having a roof supported by columns or walls for the housing, shelter or enclosure of persons, animals or property; when separated by dividing walls without openings, each portion of such building so separated shall be deemed a separate building.

Building, Height of. "Height of building" means the vertical distance measured from the grade to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip or gambrel roof.

"Cabana" means a stationary light-weight structure which may be prefabricated or demountable, with two or more walls, used adjacent to and in conjunction with the manufactured dwelling.

"Carport" means a stationary structure consisting of a roof with its supports and not more than one wall, and used for sheltering a motor vehicle.

"Church" means a building, together with its accessory buildings and uses, where persons regularly assemble for worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

"City" means the city of Mill City, Oregon.

"Clear vision area" means a triangular area on a lot at the intersection of two streets or a street and a railroad, the sides of which are lines measured from the corner intersection of the right-of-way lines. 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 the point of intersection.

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

"Comprehensive plan" means the Mill City comprehensive plan which has been formally adopted by the city council of Mill City; which is an expression of public policy in the form of policy statements, generalized plan maps, and standards and guidelines; which is the basis for more specific rules and land use regulations which implement the plan policies; and which is intended to assure that public actions are consistent and coordinated with the policies expressed through the comprehensive plan.

"Day care facility" means a facility that provides day care to children, including a day nursery, nursery school group or similar unit operating under any name, but not including: (1) A facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day; (2) A facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion; (3) A facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group; (4) A facility operated by a school district, political subdivision of this state or a governmental agency; or (5) A residential facility licensed under ORS 443.400 to 443.455.

"Dwelling" means any building, or portion thereof, which is designed for or used for residential purposes, including manufactured dwellings.

Dwelling, Multiple-Family. "Multiple-family dwelling" means a building or portion thereof, designed for occupancy by three or more families living independently of each other.

Dwelling, Single-Family. "Single-family dwelling" means a building designed and occupied exclusively by one related family. The building may have only one kitchen.

Dwelling, Two-Family. "Two-family dwelling" means a building designed for occupancy by two families living independently of each other.

"Dwelling unit" means three or more rooms including a sleeping room, bathroom, and kitchen designed for the permanent occupancy of one family.

"Expansion of an existing manufactured home park" means the construction of manufactured home slab(s) or site(s) or the siting of manufactured homes of a number in excess of the number of sites, slabs,

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or manufactured homes in existence: (1) when the ordinance codified in this title came into effect; (2) when the manufactured home park was first constructed; or (3) after the date of the most recent expansion, whichever event occurred most recently.

"Family" means an individual or two or more persons related by blood, marriage, legal adoption or legal guardianship living together in one dwelling unit using one kitchen and providing meals or lodging to not more than three additional persons, excluding servants; or a group of not more than five unrelated persons living together in one dwelling unit using one kitchen.

"Family day care provider" means a day care provider who regularly provides day care in the family living quarters of the providers home to fewer than thirteen (13) children, including children of the provider, regardless of full-time or part-time status.

Garage, Private. "Private garage" means an accessory building designed or used for the parking or storage of not more than four automobiles owned by occupants living in the main building to which it is accessory.

"Grade (ground level)" means the average elevation of the finished ground level at the centers of all walls of a building, except that if a wall is parallel to and within five feet of a sidewalk, the sidewalk elevation nearest the center of the wall shall constitute the ground level.

"Guest house" or "servants quarters" means an accessory building without kitchen or cooking facilities and occupied solely by nonpaying guests or by servants employed on the premises.

"Home occupation" means an occupation carried on by an occupant of the dwelling which is incidental or secondary to residential use, provided it does not change the character of the dwelling.

"Loading space" means an off-street space in a building or on the same lot with a building for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which has direct access to a street or alley, and which has a paved surface wherever required.

"Lot" means a parcel of land occupied or intended to be occupied by a main building and its accessory building, together with the yards and other open spaces required by this title, and having its principal frontage upon a street or officially approved place.

"Lot area" means the total horizontal area within the lot lines of a lot exclusive of public and private streets.

Lot, Corner. "Corner lot" means a lot abutting on two or more streets, other than an alley, at their intersection.

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

Lot, Interior. "Interior lot" means a lot other than a corner lot.

"Lot line" means the property line bounding a lot.

Lot Line, Front. "Front lot line" means the lot line separating the lot from a street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley.

Lot Line, Rear. "Rear lot line" means the lot 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 (10) feet in length within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side. "Side lot line" means any lot line not a front or rear lot line.

"Lot of record" means a lot which has been recorded as required by the laws of the state, in the office of the county clerk of Marion or Linn County.

Lot, Through. "Through lot" means a lot having frontage on two parallel or nearly parallel streets.

"Lot width" means the average horizontal distance between the side lot lines.

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"Manufactured dwelling" means a manufactured dwelling is either a mobile home or a manufactured home.

"Manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction. A "manufactured home" is a home built on or after June 15, 1976 to the standards and requirements of the National Home Construction and Safety Standards Act of 1974 as those standards are or may be amended. "Manufactured home" does not mean any building or structure subject to the structural specialty code adopted pursuant to ORS 455.100 to 455.450 or any unit identified as a recreation vehicle by the manufacturer.

"Manufactured home park" means a lot upon which four or more manufactured homes occupied for living or sleeping purposes are located, regardless of whether a charge is made for such accommodation.

"Mobile home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"Motel, hotel or rooming house" means a building or group of buildings used for transient residential purposes, containing units for rent.

"Nonconforming structure or lot" means a lawful existing structure or lot at the time this title or any amendment thereto becomes effective which does not conform to the dimensional or similar standards of the zone in which it is located.

"Nonconforming use" means a use which lawfully occupied a building or land at the time this title became effective, and which does not conform with the use regulations of the zone in which it is located.

Parking Area, Public. "Public parking area" means an open area, other than a street, used for the temporary parking of more than four automobiles and available for public use, whether free, or compensated, or as an accommodation for clients or customers.

"Parking space" means a clear area for the temporary parking or storage of one automobile, having an all-weather surface, of a width of not less than eight feet and a length of not less than eighteen (18) feet, and having not less than seven and one-half feet in height when within a building or structure, further provided that such automobile parking space shall have easy access to a street or alley by a driveway having an all-weather surface.

"Person" means every natural person, firm, partnership, association or corporation.

"Planning commission" means the planning commission of the city of Mill City, Oregon. The term "commission" is used interchangeably with "planning commission" in this title.

"Ramada" means a stationary structure having a roof extending over a manufactured dwelling which may also extend over a patio or parking space for motor vehicles, and is used principally for protection from sun and rain.

"Recreational vehicle" means a vacation trailer or other vehicular or portable unit which is either self-propelled or towed or is carried by a motor vehicle and which is intended for temporary human occupancy and is designed for vacation or recreational purposes but not residential use.

"Residential facility" means a facility licensed under ORS 443.400 through 443.455 for eleven (11) or fewer unrelated physically or mentally handicapped persons or elderly persons and not to exceed two staff persons who need not be related to each other or to any other facility resident.

"Residential home" means a residence for five or fewer unrelated physically or mentally handicapped persons and for staff persons who need not be related to each other or to any other home resident.

"Right-of-way" means the area between the boundary lines of a street, road or other easement.

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Service Station, Automobile. "Automobile service station" means a place or station designed and used primarily for the supplying of motor fuel, oil, lubrication and accessories to motor vehicles, but excluding major repair and overhauling.

"Shipping container" means a premanufactured metal container or other similar container used for overseas shipping, interstate commerce or storage. A shipping container does not include a tractor trailer box, with or without wheels.

"Story" means that portion of a building included between the surface of any floor and the surface of the next floor above it, or, if there be no floor above it, then the space between such floor and the next above it. Fourteen (14) feet from one floor surface to the next floor surface above shall be considered as one story in height measurements.

Story, Half. "Half story" means a story next under a sleeping roof in which the ceiling surface is within two feet of the floor surface in two opposite walls.

"Street" means a public or private way that is created primarily to provide vehicular ingress and egress for persons to one or more lots, parcels, areas or tracts of land and including the terms "road", "street", "highway", "lane", "boulevard", "avenue", or similar designations.

"Structure" means anything constructed or erected which requires location on the ground or attachment to something having a location on the ground. Driveways and walks not more than six inches above the ground on which the rest shall not be considered structures.

"Structural alterations" means any change in the supporting members of a building, such as foundation, bearing walls, columns, beams or girders.

"Temporary storage cover or building" means a storage cover or building constructed of a plastic or metal pole frame and covered with a canvas, vinyl, metal sides and/or roof which is not attached to a permanent foundation and is normally intended for storage of vehicles, recreation vehicles or equipment. A temporary storage cover or temporary storage building is an accessory use to the main structure.

"Use" means the purpose land or a building now serves or for which it is arranged, designed or intended.

"Yard" means an open space on a lot which is unobstructed from the ground upward, except as otherwise provided in this title.

Yard, Front. "Front yard" means a yard between side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of a building. Any yard meeting this definition and abutting on a street other than an alley shall be considered a front yard.

Yard, Rear. "Rear yard" means a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

Yard, Side. "Side yard" means a yard between the front and rear yard measured horizontally, at right angles from the side lot line to the nearest point of a main building.

Yard, Street Side. "Street side yard" means a yard adjacent to a street between the front yard and rear lot line measured horizontally at right angles from the side lot line to the nearest point of a building.

"Zoning official" means the City Recorder and Planning Consultant for the City of Mill City who have been designated by the City Council of Mill City with the duties and authority to enforce the provisions of this title and Title 16 of this code.

(Ord. 339 § 1, 2006; Ord. 277 § 1, 1999; Ord. 283 § 4, 2001; Ord. 273 § 1.030, 1998)

(Ord. No. 358, § 3, 7-13-2010)

17.04.040 Compliance with title provisions.

- A. No building shall be erected, enlarged or structurally altered, nor shall any land or building be used for any purpose other than is permitted in the zone in which said building or land is located.

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- B. No lot shall be so reduced or diminished so that the yards or other open spaces shall be smaller than prescribed by this title nor shall the density of population be increased in a manner except in conformity with the area regulations herein established.
- C. No yard or other open space provided about any building in compliance with this title shall be considered as any part of a yard or open space for any other building, nor shall any yard or open space of adjacent property be considered as providing a yard or open space required for a building.

(Ord. 273 § 1.040, 1998)

Chapter 17.06 COMPREHENSIVE PLAN

Sections:

[17.06.010 Purpose.](#)

[17.06.020 Definitions.](#)

[17.06.030 Comprehensive plan.](#)

[17.06.040 Application.](#)

[17.06.050 Filing.](#)

[17.06.060 Administrative provisions.](#)

[17.06.070 Notice requirements.](#)

[17.06.080 Approval criteria.](#)

[17.06.090 Periodic review.](#)

17.06.010 Purpose.

The purpose of this chapter is to provide a policy framework for the City of Mill City's adoption and amendment of the Mill City Comprehensive Plan. This chapter also sets forth procedures and criteria to comply with state regulations concerning comprehensive plan adoption and amendments; and the adoption of specific elements of the Mill City Comprehensive Plan.

(Ord. No. 363, § 1, 4-24-2012)

17.06.020 Definitions.

As used in this chapter:

"Commission" means the Planning Commission of the City of Mill City, Oregon.

"Comprehensive plan" means the comprehensive plan of the City of Mill City, Oregon, as passed by ordinance of the city council and subsequent amendments thereto.

"Council" means the City Council of the City of Mill City, Oregon.

(Ord. No. 363, § 1, 4-24-2012)

17.06.030 Comprehensive plan.

- A. The city has adopted and shall maintain a comprehensive plan document consisting of written text and maps and supportive technical information. The comprehensive plan shall be the principal

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document to guide the future growth and development of the city. It shall be the function of the comprehensive plan to establish the city's vision, goals and public policies to guide and accommodate future urban population growth while maintaining the maximum efficiency of land uses within the city limits and within the urban growth boundary. The comprehensive plan shall provide a basis for land use regulations as set forth in this code. The plan shall contain but not be limited to the following elements:

1. Policies element;
2. Land use element;
3. Natural resources, scenic and historic areas, and open space element;
4. Air, water and land resources quality element;
5. Areas subject to natural hazards element;
6. Parks and recreation element;
7. Economic element;
8. Housing element;
9. Public facilities and services element;
10. Transportation element;
11. Energy element;
12. Urban growth program.

B. Adoption and Amendments to the Comprehensive Plan.

1. Method. The plan and amendments thereto shall be adopted by ordinance, following proceedings conducted in accordance with the standards and criteria set forth in Chapter 17.12.
2. Categories of Changes.
 - a. Amendment. A plan amendment may be a redesignation of an area from one land use classification to another, or a modification to policies or text of the plan. A plan amendments is normally considered to be a quasi-judicial change.
 - b. Revision or Update. Major revisions, including the updating of all or parts of the plan and affecting the framework or principal elements of the plan, are considered legislative rather than quasi-judicial changes.

(Ord. No. 363, § 1, 4-24-2012)

17.06.040 Application.

Application for amendment of the comprehensive plan may be initiated by:

- A. The council;
- B. The commission;
- C. A special district or school district, if the amendment is requested for land within the district boundaries;
- D. A property owner or a group of property owners, or the authorized agent of the property owner(s) for property which is owned by the property owner(s);
- E. A person residing in or owning property within the Mill City urban growth boundary may initiate an amendment to the text of the comprehensive plan;

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- F. Linn County, if the amendment request pertains to property in Linn County and within the Mill City urban growth boundary but outside the city limits of Mill City, or if the request is for an amendment to the urban growth boundary;
- G. Marion County, if the amendment request pertains to property in Marion County and within the Mill City urban growth boundary, but outside the city limits of Mill City, or if the request is for an amendment to the urban growth boundary.

(Ord. No. 363, § 1, 4-24-2012)

17.06.050 Filing.

Application for amendment of the comprehensive plan shall be filed on a form provided by the city, according to the provisions of this chapter.

- A. An application for an amendment to the comprehensive plan shall be submitted to the city a minimum of forty-five (45) calendar days in advance of the public hearing to be held by the commission.
- B. The fees assessed for a comprehensive plan amendment application shall be determined by resolution adopted by the council.
- C. An application for amendment of the comprehensive plan may be initiated to amend the plan map for a particular parcel or number of parcels, to amend the plan text, or to amend a combination of the plan map and text.
 - 1. A request to amend the plan map designation for a parcel or parcels to two or more map designations shall require two or more separate applications, although such applications may be consolidated into a single hearing. Approval of one application shall not mandate approval of the other application.
 - 2. A request to amend both the plan map and text shall require separate applications although such applications may be consolidated into a single hearing. Approval of one application shall not mandate approval of the other application.

(Ord. No. 363, § 1, 4-24-2012)

17.06.060 Administrative provisions.

When considering an application to amend the comprehensive plan, the city shall follow the administrative provisions in Chapter 17.64 of this code.

(Ord. No. 363, § 1, 4-24-2012)

17.06.070 Notice requirements.

When considering an application to amend the comprehensive plan, the city shall follow the notice requirements in Chapter 17.64 of this code.

(Ord. No. 363, § 1, 4-24-2012)

17.06.080 Approval criteria.

To approve an application for amendment of the comprehensive plan, findings shall be made that the proposal complies with the following decision criteria:

- A. The proposed amendment is consistent with the applicable LCDC goals, guidelines and Oregon Administrative Rules (OAR).

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- B. The proposed amendment is consistent with the applicable goals and policies of the comprehensive plan.
- C. The proposed amendment will be reasonably compatible with the present and/or proposed land uses on abutting property and in the neighborhood.
- D. Adequate public facilities and services are available to serve the uses allowed by the comprehensive plan amendment.
- E. The transportation network in the vicinity is adequate to serve the uses allowed by the comprehensive plan amendment.
- F. The site is capable of supporting the uses for which the plan amendment is intended, considering factors such as soil and foundation quality, geology, and location in a floodplain.

(Ord. No. 363, § 1, 4-24-2012)

17.06.090 Periodic review.

- A. The city shall review the comprehensive plan and related ordinances in accordance with the periodic review schedule as established by the state.
- B. The city may take action to consider amendments to any element and/or policy of the plan when the city determines that the element and/or policy needs to be updated, or is no longer applicable to the city, to other portions of the plan, or to the statewide planning goals.
- C. The planning commission should review the plan every seven years and provide a recommendation to the city council whether any elements, goals or policies in the plan need to be updated.

(Ord. No. 363, § 1, 4-24-2012)

Chapter 17.08 ESTABLISHMENT OF ZONES

Sections:

[17.08.010 Classification of zones.](#)

[17.08.020 Location of zones.](#)

[17.08.030 Zoning maps.](#)

[17.08.040 Zoning of annexed areas.](#)

[17.08.050 Zone boundaries.](#)

17.08.010 Classification of zones.

For the purpose of this title the following zones are established.

Zone	Abbreviated Designation
Residential, single-family	R-1
Residential, multi-family dwelling	R-2

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Central commercial	CC
Commercial highway	CH
Industrial	I
Public	P
Special planned development	SPD

(Ord. 273 § 2.010, 1998)

17.08.020 Location of zones.

The boundaries for the zones listed in this title are indicated on the "Zoning Map of the City of Mill City", dated 24 May 1994, as amended by Ordinance No. 269 (24 September 1997), which is adopted by reference. The boundaries shall be modified in accordance with zoning map amendments which shall be adopted by reference.

(Ord. 273 § 2.020, 1998)

17.08.030 Zoning maps.

A zoning map or zoning map amendment adopted by Section 17.08.020 of this chapter or by an amendment thereto shall be prepared by authority of the city council. The map or map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the city recorder as long as this title remains in effect.

(Ord. 273 § 2.030, 1998)

17.08.040 Zoning of annexed areas.

Any additional property to be annexed to the city shall have attached to the legal description thereof, a map of the property. All annexations and zoning of annexed properties shall be handled concurrently at the same public hearing. All annexed properties shall be zoned within a city zoning district that is in harmony with the existing comprehensive plan description.

(Ord. 273 § 2.040, 1998)

17.08.050 Zone boundaries.

Unless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad right-of-way or such lines extended. Whenever any uncertainty exists as to the boundary of a zone as shown on the zoning map or amendment thereto, the following regulations shall control.

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- A. Where a boundary line is indicated as following a street, alley or railroad right-of-way, it shall be construed as following the center line of such right-of-way.
- B. Where a boundary line follows or approximately coincides with a section, lot or property ownership line, it shall be construed as following such line.
- C. Where a zone boundary divides a land parcel under a single ownership into two zones, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided the boundary adjustment is a distance of not less than twenty (20) feet. If the adjustment involves a distance of more than twenty (20) feet, the procedure for a zone change shall be followed.
- D. Where a public street, alley, or railroad right-of-way is officially vacated, the zoning regulations applicable to abutting property on each side of the center line of such right-of-way shall apply up to the center line of such right-of-way on each respective side thereof. If the right-of-way is vacated in total to one property owner, the zoning of that abutting property shall apply to the total vacated property.

(Ord. 273 § 2.050, 1998)

Chapter 17.12 R-1 SINGLE-FAMILY RESIDENTIAL ZONE

Sections:

[17.12.010 Applicability.](#)

[17.12.020 Uses permitted outright.](#)

[17.12.030 Conditional uses permitted.](#)

[17.12.040 Lot size, width and coverage.](#)

[17.12.050 Height requirements.](#)

[17.12.060 Yard requirements.](#)

[17.12.070 Parking.](#)

[17.12.080 Design standards.](#)

[17.12.090 Building orientation.](#)

17.12.010 Applicability.

In an R-1 zone, the following regulations shall apply.

(Ord. 339 § 2 (part), 2006; Ord. 320 § 1 (part), 2004; Ord. 283 § 1 (part), 2001; Ord. 280 § 1 (part), 2000; Ord. 273 § 3.010 (part), 1998)

17.12.020 Uses permitted outright.

In an R-1 zone, the following uses and their accessory uses are permitted outright:

- A. Detached single-family dwellings, subject to the following development standards:
 - 1. Floor Area. A conventional dwelling shall have a minimum floor area of one thousand (1,000) square feet.
 - 2. Garage. The dwelling must have, and continuously maintain, a garage. The siding on the garage shall match the exterior appearance and color of the siding on the home, or as

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otherwise approved by the planning commission. A detached garage shall comply with requirements for accessory buildings in Section 17.44.010 of this title.

3. Design Standards. All dwellings shall comply with the design standard requirements in Section 17.12.080 of this chapter.
- B. Manufactured home, subject to the following development standards:
1. Floor Area. A manufactured home shall have a minimum floor area of one thousand (1,000) square feet.
 2. Garage. The manufactured home must have, and continuously maintain, a garage. The siding on the garage shall match the exterior appearance and color of the siding on the manufactured home, or as otherwise approved by the planning commission. A detached garage shall comply with requirements for accessory buildings in Section 17.44.010 of this title.
 3. Design Standards. All manufactured homes shall comply with the design standards requirements in Section 17.12.080 of this chapter.
 4. Manufactured Home Standards. All manufactured homes shall comply with provisions of Section 17.44.100 of this title.
- C. Residential home;
- D. Family day care provider;
- E. Home occupation, subject to the provisions for home occupation review of Section 17.44.130 of this title.

(Ord. 339 § 2 (part), 2006: Ord. 320 § 1 (part), 2004: Ord. 283 § 1 (part), 2001: Ord. 280 § 1 (part), 2000: Ord. 273 § 3.010(A), 1998)

17.12.030 Conditional uses permitted.

In an R-1 zone, the following uses and their accessory uses may be permitted subject to the provisions of Sections 17.52.010 through 17.52.080 of this title:

- A. Church;
- B. Community center;
- C. Governmental structure or use of land;
- D. Hospital, sanitarium, rest home, convalescent home, residential facility, or similar facility;
- E. Nursery school, day nursery, kindergarten, day care facility, or similar activity;
- F. Public school or private school offering curricula similar to public school;
- G. Public utility facility;
- H. Bed and breakfast establishment as defined by ORS 624.010;
- I. Parking lot intended to serve a use permitted within the CC or CH zone when the parking lot abuts or is across a street or an alley from the use in the CC or CH zone.

(Ord. 339 § 2 (part), 2006: Ord. 320 § 1 (part), 2004: Ord. 283 § 1 (part), 2001: Ord. 280 § 1 (part), 2000: Ord. 273 § 3.010(B), 1998)

17.12.040 Lot size, width and coverage.

Except as provided in Section 17.44.020 of this title, the minimum lot size and width and the maximum lot coverage in an R-1 zone shall be as follows:

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- A. For a single-family dwelling or manufactured home, the minimum lot area shall be seven thousand (7,000) square feet.
- B. The minimum average lot width shall be seventy (70) feet.
- C. Buildings, including accessory buildings and temporary covered storage structures, shall not occupy more than forty (40) percent of the lot area.

(Ord. 339 § 2 (part), 2006: Ord. 320 § 1 (part), 2004: Ord. 283 § 1 (part), 2001: Ord. 280 § 1 (part), 2000: Ord. 273 § 3.010(C), 1998)

17.12.050 Height requirements.

Except as provided in Section 17.52.030 of this title in an R-1 zone, no building or structure shall exceed a height of thirty-five (35) feet.

(Ord. 339 § 2 (part), 2006: Ord. 320 § 1 (part), 2004: Ord. 283 § 1 (part), 2001: Ord. 280 § 1 (part), 2000: Ord. 273 § 3.010(D), 1998)

17.12.060 Yard requirements.

In an R-1 zone yards shall be as follows:

- A. The front yard and street side yard shall be a minimum of fifteen (15) feet. However, the front yard or street side yard setback to the front of a garage shall be a minimum of twenty (20) feet. All setbacks shall be measured from property lines and shall not encroach upon the public right-of-way.
- B. Each interior side yard shall be a minimum of five feet for a one story building and seven and one-half feet for a building greater than one story.
- C. The rear yard shall be a minimum of five feet for a one story building and seven and one-half feet for a building greater than one story.
- D. Clear Vision Area. A clear vision area shall be preserved on corner lots as provided in Section 17.44.050 of this title.
- E. Setback requirements shall apply to all structures, including accessory buildings and temporary covered structures.

(Ord. 339 § 2 (part), 2006: Ord. 320 § 1 (part), 2004: Ord. 283 § 1 (part), 2001: Ord. 280 § 1 (part), 2000; Ord. 273 § 3.010(E), 1998)

17.12.070 Parking.

As specified in Section 17.44.060 of this title, including recreational vehicle parking restrictions in Section 17.44.020 of this title.

(Ord. 339 § 2 (part), 2006: Ord. 320 § 1 (part), 2004)

17.12.080 Design standards.

Within the R-1 zone, all new single-family dwellings, including manufactured homes, shall contain the following design standards:

- A. Attached or detached garage;
- B. Gutters and down spouts;

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- C. Design Features. New single-family dwellings, including manufactured homes, shall contain at least four of the following design elements on the side of the home which fronts on a street to provide architectural relief:
1. Dormers or gables,
 2. Cupolas,
 3. Bay or bow windows,
 4. Exterior shutters,
 5. Recessed Front Entries. The entry shall be recessed at least four feet from the front wall,
 6. Recessed Garage. The garage shall be recessed at least four feet from the front wall,
 7. Front porch of at least one hundred (100) square feet, which may extend into the required front yard,
 8. Covered porch entries,
 9. Pillars or posts in the front entry area,
 10. Roof with pitch greater than three feet in height per each twelve (12) feet in length,
 11. Front-side exterior brickwork or masonry.

(Ord. 339 § 2 (part), 2006; Ord. 320 § 1 (part), 2004)

17.12.090 Building orientation.

If the subject property fronts a public street, the architectural front of the home shall face the street.

(Ord. 339 § 2 (part), 2006; Ord. 320 § 1 (part), 2004)

Chapter 17.16 R-2 RESIDENTIAL ZONE MULTI-FAMILY DWELLING

Sections:

[17.16.010 Applicability.](#)

[17.16.020 Uses permitted outright.](#)

[17.16.030 Conditional uses permitted.](#)

[17.16.040 Lot size, width and coverage.](#)

[17.16.050 Height requirements.](#)

[17.16.060 Yard requirements.](#)

[17.16.070 Parking.](#)

[17.16.080 Design standards.](#)

[17.16.090 Building orientation.](#)

[17.16.100 Site plan review.](#)

17.16.010 Applicability.

In an R-2 zone, the following regulations shall apply.

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(Ord. 339 § 3 (part), 2006: Ord. 320 § 2 (part), 2004: Ord. 283 § 2 (part), 2001: Ord. 273 § 3.020 (part), 1998)

17.16.020 Uses permitted outright.

In an R-2 zone, the following uses and their accessory uses are permitted outright:

- A. Detached single-family dwellings, subject to the following development standards:
 - 1. Floor Area. A conventional dwelling shall have a minimum floor area of one thousand (1,000) square feet.
 - 2. Garage or Carport. The dwelling must have, and continuously maintain a garage or carport:
 - a. Garage. The siding on the garage shall match the exterior appearance and color of the siding on the dwelling, or as otherwise approved by the planning commission. A detached garage shall comply with requirements for accessory buildings in Section 17.44.010 of this title.
 - b. Carport. If a carport is built in lieu of a garage, the carport shall include an enclosed storage area with a minimum area of fifty (50) square feet or a separate accessory building with a minimum area of fifty (50) square feet. The siding on the carport shall match the exterior appearance and color of the siding on the dwelling, or as otherwise approved by the planning commission.
 - 3. Design Standards. All dwellings shall comply with the design feature requirements in Section 17.16.080 of this chapter.
- B. Manufactured home, subject to the following development standards:
 - 1. Floor Area. A manufactured home shall have a minimum floor area of one thousand (1,000) square feet.
 - 2. Garage or Carport. The dwelling must have, and continuously maintain a garage or carport:
 - a. Garage. The siding on the garage shall match the exterior appearance and color of the siding on the dwelling, or as otherwise approved by the planning commission. A detached garage shall comply with requirements for accessory buildings in Section 17.44.010 of this title.
 - b. Carport. If a carport is built in lieu of a garage, the carport shall include an enclosed storage area with a minimum area of fifty (50) square feet or a separate accessory building with a minimum area of fifty (50) square feet. The siding on the carport shall match the exterior appearance and color of the siding on the dwelling, or as otherwise approved by the planning commission.
 - 3. Design Standards. All manufactured homes shall comply with the design feature requirements in Section 17.16.080 of this chapter.
 - 4. Manufactured Home Standards. All manufactured homes shall comply with provisions of Section 17.44.100 of this title.
- C. Two-family dwelling, subject to site plan approval by the planning commission;
- D. Multifamily dwelling, subject to site plan approval by the planning commission;
- E. Any other use permitted outright in the R-1 zone.

(Ord. 339 § 3 (part), 2006: Ord. 320 § 2 (part), 2004: Ord. 283 § 2 (part), 2001: Ord. 273 § 3.020(A), 1998)

17.16.030 Conditional uses permitted.

In an R-2 zone, the following uses and their accessory uses are permitted subject to the provisions of Sections 17.52.010 through 17.52.080 of this title:

- A. Conditional use permitted in the R-1 zone;
- B. Manufactured home park.

(Ord. 339 § 3 (part), 2006: Ord. 320 § 2 (part), 2004: Ord. 283 § 2 (part), 2001: Ord. 273 § 3.020(B), 1998)

17.16.040 Lot size, width and coverage.

Except as provided in Section 17.44.010 of this title, the minimum lot size and width and the maximum lot coverage in the R-2 zone shall be as follows:

- A. Lot Size.
 - 1. For a single-family dwelling or manufactured home, the minimum lot area shall be five thousand (5,000) square feet.
 - 2. For a two-family dwelling, the minimum lot area shall be eight thousand (8,000) square feet.
 - 3. For a multifamily dwelling the minimum lot area shall be eight thousand (8,000) square feet for the first two dwelling units plus an additional three thousand (3,000) square feet for each additional dwelling unit.
- B. The minimum average lot width shall be fifty (50) feet for a single-family dwelling or manufactured home, seventy (70) feet for a two-family dwelling, and one hundred (100) feet for a multifamily dwelling.
- C. Maximum Lot Coverage.
 - 1. For a single-family dwelling or a manufactured home, buildings, including accessory buildings and temporary covered storage structures, shall not occupy more than forty (40) percent of the lot area.
 - 2. For a two-family dwelling, a multifamily dwelling, or other uses permitted in the R-2 zone, buildings, including accessory buildings and temporary covered storage structures, shall not occupy more than fifty (50) percent of the lot area.

(Ord. 339 § 3 (part), 2006: Ord. 320 § 2 (part), 2004: Ord. 283 § 2 (part), 2001: Ord. 273 § 3.020(C), 1998)

17.16.050 Height requirements.

Except as provided in Section 17.52.030 of this title in an R-2 zone, no building or structure shall exceed a height of thirty-five (35) feet.

(Ord. 339 § 3 (part), 2006: Ord. 320 § 2 (part), 2004: Ord. 283 § 2 (part), 2001: Ord. 273 § 3.020(D), 1998)

17.16.060 Yard requirements.

In an R-2 zone yards shall be as follows:

- A. The front yard and street side yard shall be a minimum of fifteen (15) feet. However, the front yard or street side yard setback to the front of a garage shall be a minimum of twenty (20) feet.

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All setbacks shall be measured from property lines and shall not encroach upon the public right-of-way.

- B. Each interior side yard shall be a minimum of five feet for a one story building and seven and one-half feet for a building greater than one story.
- C. The rear yard shall be a minimum of five feet for a one story building and seven and one-half feet for a building greater than one story.
- D. Clear Vision Area. A clear vision area shall be preserved on corner lots as provided in Section 17.44.050 of this title.
- E. Setback requirements apply to all structures, including accessory buildings and temporary covered structures.

(Ord. 339 § 3 (part), 2006; Ord. 320 § 2 (part), 2004; Ord. 283 § 2 (part), 2001; Ord. 273 § 3.020(E), 1998)

17.16.070 Parking.

As specified in Section 17.44.060 of this title, including recreational vehicle parking restrictions in Section 17.44.020 of this title.

(Ord. 339 § 3 (part), 2006; Ord. 320 § 2 (part), 2004)

17.16.080 Design standards.

Within the R-2 zone, all new single-family dwellings, including manufactured homes, shall contain the following design features:

- A. Attached or detached garage or a carport;
- B. Gutters and down spouts;
- C. Design Features. New single-family dwellings, including manufactured homes, shall contain at least four of the following design elements on the side of the home which fronts on a street to provide architectural relief:
 - 1. Dormers or gables,
 - 2. Cupolas,
 - 3. Bay or bow windows,
 - 4. Exterior shutters,
 - 5. Recessed Front Entries. The entry shall be recessed at least four feet from the front wall,
 - 6. Recessed Garage. The garage shall be recessed at least four feet from the front wall,
 - 7. Front porch of at least one hundred (100) square feet, which may extend into the required front yard,
 - 8. Covered porch entries,
 - 9. Pillars or posts in the front entry area,
 - 10. Roof with pitch greater than three feet in height per each twelve (12) feet in length,
 - 11. Front-side exterior brickwork or masonry.

(Ord. 339 § 3 (part), 2006; Ord. 320 § 2 (part), 2004)

17.16.090 Building orientation.

If the subject property fronts a public street, the architectural front of the single-family home shall face the street.

(Ord. 339 § 3 (part), 2006; Ord. 320 § 2 (part), 2004)

17.16.100 Site plan review.

When more than one residential structure is to be placed on a lot or when a residential structure with two or more dwelling units is to be placed on a lot, a site plan review shall be required.

- A. Application. An application for site plan review shall be submitted to the planning commission in accordance with the provisions of Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall be submitted with the application.
- B. Hearing and Action on a Site Plan Review Application. Before the planning commission may act on an application for a site plan review, it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. After the public hearing is closed, the planning commission shall either approve, deny, or approve with conditions or modifications the site plan review application. Action shall be based on the following criteria which are intended to implement the standards of subsection C of this section.
 - 1. The property is adequately buffered or screened from abutting residential property.
 - 2. There is adequate on-site parking available at a location which will not interfere with the residential use of abutting property.
 - 3. Vehicular access is designed to minimize traffic congestion.
 - 4. There will be sufficient area reserved for landscaped open space on the property.
- C. Standards. Properties subject to site plan review shall comply with the following standards:
 - 1. Buffer. A buffer shall be provided on each side of a property. The buffer area shall be a minimum of five feet in width for a one story building and seven and one-half feet in width for a building taller than one story. The buffer shall contain a continuous fence or wall a minimum of three feet in height, supplemented with landscape planting, so as to effectively screen the property from adjoining residential properties. Buffer areas may not be used for building, parking, or driveways, unless the area is the most suitable location for a driveway. Buffers may be used for landscaping, sidewalks or pathways and for utility placement.
 - 2. Landscaping.
 - a. All areas intended for use as part of the building project shall be completely and permanently landscaped except for buildings, areas used for refuse containers, and areas set aside for access driveways, off-street parking, sidewalks, and pathways.
 - b. All landscaped and buffered areas shall be continually maintained in an attractive manner.
 - 3. Screening of Refuse Containers. Except for one- and two-family dwellings, any refuse container or disposal area visible from a public street or abutting property zoned R-1 or R-2 shall be screened from view by placement of a solid wood, concrete block or similar fence or evergreen hedge at least five feet in height.
 - 4. Fencing.
 - a. Barbed wire and electric fences are prohibited.
 - b. Fences shall be maintained in a condition of reasonable repair and shall not remain in a condition of disrepair, including noticeable leaning, broken supports, missing sections, or replaced or supplemented with weeds or noxious vegetation.

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5. Parking.
 - a. Off-street parking shall be provided in compliance with the standards of Section 17.44.060 of this title.
 - b. Off-street parking areas for residential structures with three or more dwelling units shall be set back a minimum of fifteen (15) feet from property lines abutting a street and ten (10) feet from lots zoned either R-1 or R-2.
6. Access Driveways. The location and improvement of an access driveway onto a public street shall be subject to site plan review and shall meet the following requirements:
 - a. Driveways shall have a width of ten (10) to sixteen (16) feet for one-way driveways and twenty (20) to thirty-two (32) feet for two-way driveways.
 - b. There shall be a minimum separation of twenty-two (22) feet between driveways.
 - c. Driveways shall be at least twenty (20) feet from the intersection with a minor street and thirty (30) feet from the intersection with an arterial or collector street.
 - d. Driveway spacing, as well as driveways and driveway approaches, shall be consistent with the public works design standards as adopted by the city of Mill City.
- D. Planning Commission Action. The planning commission, in granting approval, shall base its decision on the criteria listed in subsection B of this section and the standards listed in subsection C of this section.
- E. City Council Action.
 1. The planning commission decision may be appealed to the city council as outlined in Section 17.64.050 of this title.
 2. Council action on appeal shall be based on the criteria in subsection B of this section and the standards in subsection C of this section.
- F. Time Limit on Approved Site Plan Review. Authorization of a site plan review shall be void one year after the date of approval of the site plan review application unless a building permit has been issued and substantial construction pursuant thereto has taken place. However, upon written request, the planning commission has the authority to grant an additional period, not to exceed one year, to complete the project.

(Ord. 339 § 3 (part), 2006: Ord. 320 § 2 (part), 2004: Ord. 283 § 2 (part), 2001: Ord. 273 § 3.020(F), 1998)

Chapter 17.20 CC CENTRAL COMMERCIAL ZONE*

Sections:

[17.20.010 Applicability.](#)

[17.20.020 Uses permitted outright.](#)

[17.20.025 Uses permitted subject to site plan review.](#)

[17.20.030 Conditional uses permitted.](#)

[17.20.040 Lot size and width.](#)

[17.20.045 Site plan review process.](#)

[17.20.050 Height requirements.](#)

[17.20.060 Yard requirements.](#)

17.20.010 Applicability.

In a CC zone, the following regulations shall apply.

(Ord. 344 § 1 (part), 2007)

17.20.020 Uses permitted outright.

In a CC zone the following uses and their accessory uses are permitted outright.

- A. Any use permitted outright or conditionally in an R-2 zone except for a manufactured home park, a church, a public facility, and a public utility facility.
- B. A commercial enterprise which may be classified as belonging to one of the following use groups.
 - 1. Retail store or shop, such as a food store, drug store, apparel store, hardware store, florist, or furniture store;
 - 2. Repair shop for the type of goods offered for sale in a retail trade establishment permitted in a CC zone such as a shoe repair shop, small appliance or television repair shop or watch repair shop;
 - 3. Personal or business service establishment such as a barber or beauty shop, tailor shop or laundry that excludes the use or storage of highly volatile or combustible materials on the premises;
 - 4. Amusement enterprise, including billiard or pool hall, bowling alley, dance hall, theater, skating rink or similar amusement;
 - 5. Newspaper office, print shop;
 - 6. Bus depot, taxi stand;
 - 7. Automobile service station;
 - 8. Motel, hotel or rooming house;
 - 9. Lodge, club or fraternal organization;
 - 10. Business or professional office, including a medical or dental clinic;
 - 11. Restaurant, tearoom or cafeteria;
 - 12. Automobile, boat, truck, motorcycle, farm equipment, trailer, recreational vehicle or all-terrain vehicle sales, service, rental or repair establishment provided any repair activity shall be conducted entirely within an enclosed building;
 - 13. Tire shop;
 - 14. Animal hospital, boarding kennel;
 - 15. Farm supply store;
 - 16. Garden supply store, nursery;
 - 17. Lumber and building supply store;
 - 18. Second hand goods store;
 - 19. Tavern;
 - 20. Uses customarily incidental to any of the above uses, including usual accessory buildings.
- C. The zoning official shall determine whether a specific use is appropriate to the particular use group permitted in the CC zone. The zoning official shall either approve or deny the use, or,

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refer it to the planning commission for a decision. A decision of either the zoning official or planning commission may be appealed as provided by Section 17.64.050 of this title.

(Ord. 344 § 1 (part), 2007)

17.20.025 Uses permitted subject to site plan review.

The following uses are permitted in the CC zone subject to site plan review by the planning commission as specified in Section 17.20.045 of this chapter. The following activities require site plan review:

- A. RV storage facilities adjacent to SE Fairview Street and SE Remine Rd, with recreational vehicle storage entirely within the enclosed buildings. RV storage facilities are not permitted in any other area of the CC zone;
- B. Public Facilities;
- C. Church.

(Ord. 344 § 1 (part), 2007)

17.20.030 Conditional uses permitted.

In a CC zone the following uses and their accessory uses may be permitted subject to the provisions of Chapter 17.52 of this title.

- A. Public utility facility.

(Ord. 344 § 1 (part), 2007)

17.20.040 Lot size and width.

Except as provided in Section 17.44.020 of this title, the minimum lot size and width in a CC zone shall be as follows:

- A. For a building hereafter erected or used for commercial purposes there is no minimum lot size or width.
- B. Buildings hereafter erected or used for dwelling purposes shall comply with the lot size and width requirements and the site plan review requirements of the R-2 zone.

(Ord. 344 § 1 (part), 2007)

17.20.045 Site plan review process.

- A. Application. An application for site plan review for a commercial use in the CC zone shall be submitted to the planning commission in accordance with the provisions of Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall be submitted with the application.
- B. Hearing and Action on a Site Plan Review Application. Before the planning commission may act on an application for a site plan review, it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. After the public hearing is closed, the planning commission shall either approve, deny, or approve with conditions or modifications, the site plan review application based on the following criteria:
 - 1. The existence of or ability to provide adequate utilities including water, sewer, surface water drainage, power and communications, including easements, to properly serve development on the subject property in accordance with city public works standards.

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2. Provision of safe and efficient internal traffic circulation, including pedestrian and motor vehicle traffic, and provision for safe access to and from the property to adjacent public streets.
 3. Provision of necessary improvements to local streets, including the dedication of additional right-of-way to the city and/or the improvement of traffic facilities to accommodate access for emergency vehicles and the additional traffic load generated by the proposed development of the site.
 4. Provision of on-site parking areas and adequate loading/unloading areas for the proposed uses and in compliance with Chapter 17.44 of this code. The parking area shall be designed to facilitate the safe movement of traffic and pedestrians and minimize traffic congestion.
 5. The design and placement on the site of buildings and other structural improvements shall provide compatibility in size, scale, and intensity of use between the proposed development and similar development on neighboring properties. The location, appearance and size of the proposed buildings shall be designed to properly serve anticipated users of the proposed improvements.
 6. Provision of landscaping of the site including the planting of trees, street trees, shrubs and groundcovers so that the landscaping presents an attractive interface with adjacent land use and development.
 7. Provision of visual or physical barriers around the property including the provision of site obscuring fencing or vegetative screening between a commercial and/or public use and adjacent residential properties.
 8. Lighting sufficient to satisfy the intended use of the property but designed in such a manner as to not present an adverse impact (as measured by excessive brightness or glare) upon adjacent land uses or traffic movements.
 9. Establishment of provisions for the continuing maintenance and upkeep of all improvements and facilities.
 10. The use is in compliance with the other development standards which are specified by this chapter.
 11. Special standards for RV storage facilities:
 - a. Provision of security fencing and gates to control entry and exit of vehicles into the site, with security fencing and gates located to ensure that recreational vehicles can pull completely off of the public street before entering the security gate.
 - b. Provision of landscaping in the public right-of-way on SE Fairview Street and Remine Road.
 - c. No outside storage shall be permitted.
- C. Appeals. If an application is denied it may be appealed to the city council as outlined in Section 17.64.050 of this title, or the applicant may submit a revised site plan to the planning commission.
- D. Conditions. The planning commission, in granting approval, reserves the right to place additional conditions that are consistent with the intent and purpose of this title. These may include, but are not limited to buffers or screening, landscaping, location and design of parking areas, number of access points, security gates and fencing.
- E. Time Limit on Approved Site Plan Review. Authorization of a site plan/review shall be void one year after the date of approval of the site plan review application unless a building permit has been issued and substantial construction pursuant thereto has taken place. However, upon written request, the planning commission has the authority to grant an additional period, not to exceed one year, to complete the project.

(Ord. 344 § 1 (part), 2007)

(Ord. No. 358, § 4, 7-13-2010; Ord. No. 369, § 1, 8-13-2013)

17.20.050 Height requirements.

Except as provided in Section 17.52.030 of this title, in a CC zone no buildings or structure shall exceed thirty-five (35) feet in height.

(Ord. 344 § 1 (part), 2007)

17.20.060 Yard requirements.

In a CC zone yards shall be as follows:

- A. For buildings and structures hereafter erected or used for commercial purposes the following regulations shall apply:
 - 1. Front Yard and Street Side Yard. None is required, except for a corner lot where a fifteen (15) foot vision clearance area is required;
 - 2. Side Yard and Rear Yard. Where the interior (side or rear) lot line of a lot in a CC zone abuts an interior lot line of a lot in a residential zone there shall be a side or rear yard of at least five feet. A building that is between twelve (12) feet and sixteen (16) feet in height may be located no closer than seven and one-half feet from an interior lot line of a lot in a residential zone. A building that is between sixteen (16) and twenty (20) feet in height may be located no closer than ten (10) feet from an interior lot of a lot in the residential zone. In other cases a side yard or rear yard is not required, but, if provided shall be a minimum of five feet.
- B. Buildings hereafter erected or used for dwelling purposes shall comply with the yard requirements of the R-2 zone.

(Ord. 344 § 1 (part), 2007)

Chapter 17.24 CH COMMERCIAL HIGHWAY ZONE*

Sections:

[17.24.010 Applicability.](#)

[17.24.020 Uses permitted outright.](#)

[17.24.025 Actions subject to Oregon Highway 22-Access Management Plan.](#)

[17.24.030 Uses permitted subject to site plan review.](#)

[17.24.040 Conditional uses permitted.](#)

[17.24.050 Site plan review process.](#)

[17.24.060 Lot size and width.](#)

[17.24.070 Height requirements.](#)

[17.24.080 Yard requirements.](#)

[17.24.090 Oregon Highway 22-Access Management Plan conformity.](#)

17.24.010 Applicability.

In a CH zone the following regulations shall apply.

(Ord. 353 § 2 Exh. B (part), 2008)

17.24.020 Uses permitted outright.

In a CH zone, the following uses and their accessory uses are permitted outright:

- A. Any use permitted outright or conditionally in the R-1 or R-2 zone, except for manufactured home park and public utility facility;
- B. A single-family dwelling occupied by the owner, manager, night watchman or caretaker of the commercial establishment may be permitted accessory to the commercial use. If the dwelling is attached to or is an integral part of the building housing the commercial or industrial use, residential lot size and setback requirements may be waived. A manufactured home or recreational vehicle is not permitted as a caretaker residence in a commercial or industrial zone.

(Ord. 353 § 2 Exh. B (part), 2008)

17.24.025 Actions subject to Oregon Highway 22-Access Management Plan.

- A. In a CH zone, the following actions are subject to review by the city of Mill City and consultation with the Oregon Department of Transportation, in conformance with the applicable provisions of the Oregon Highway 22-Access Management Plan in Mill City:
 - 1. Zoning or plan amendment designation changes;
 - 2. Construction of new buildings;
 - 3. Addition of existing buildings by more than six hundred (600) square feet;
 - 4. Division or consolidation of property boundaries;
 - 5. Proposed change in land use (e.g., change from residential to commercial use, or from less intensive to more intensive commercial or industrial use);
 - 6. Proposed construction or modification of existing parking, driveway, or other site circulation area (paved or non-paved), including changes in circulation between multiple parcels;
 - 7. Reestablishment of a property's use after discontinuance for two years.
- B. An application for site plan review, as required under Section 17.24.050, and/or an application for land division review under Title 16, as applicable, shall be required when an action in subsection A of this section results in any of the following:
 - 1. Site traffic volume generation increases by more than two hundred fifty (250) average daily trips or twenty-five (25) peak hour trips (trips generated externally for multi-use developments);
 - 2. Highway operational problems occur or are anticipated as a result of the action;
 - 3. The action affects a highway approach that does not meet sight distance requirements;
 - 4. The action affects a highway approach that is not consistent with state highway safety factors, as prescribed under Oregon Administrative Rules. (OAR 734-051-0080(9));
 - 5. The action causes a ten (10) percent or greater increase in daily use of a highway approach by vehicles exceeding twenty thousand (20,000) pound gross vehicle weight.
- C. An effect in subsection B of this section may be determined by field counts, site observation, traffic impact study, field measurement, crash history, Institute of Transportation Engineer Trip Generation Manual, or information and studies provided by the city or ODOT.
- D. The following actions do not constitute a change of use: modifications in advertising, landscaping, general maintenance, or aesthetics not affecting internal or external traffic flow or safety; or buildout of an approved site plan or multi-phased development within the parameters of a traffic impact study that is less than five years old or where within parameters of the future year analysis of the traffic impact study, whichever is greater, and that is certified by a professional engineer.

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(Ord. 353 § 2 Exh. B (part), 2008)

17.24.030 Uses permitted subject to site plan review.

Any commercial use permitted in the CC zone is also permitted in the CH zone, subject to the provisions of Section 17.24.025, and subject to site plan review by the planning commission as specified in Section 17.24.050 of this chapter. The following activities require site plan review.

- A. The establishment of a new commercial enterprise on a lot which previously had been vacant or used for another purpose;
- B. The construction of a building to house a commercial enterprise, unless that building is clearly accessory to the commercial operation and has a floor area of six hundred (600) square feet or less;
- C. The expansion of an existing commercial structure by over fifty (50) percent of the floor area, or six hundred (600) square feet, whichever is least;
- D. The replacement of one commercial enterprise by another. Notwithstanding the provisions of subsections A through C of this section, if the zoning official determines that the proposed use or development meets the criteria under Section 17.24.025(B) (Actions subject to the Oregon Highway 22-Access Management Plan), site plan review shall be required.

(Ord. 353 § 2 Exh. B (part), 2008)

17.24.040 Conditional uses permitted.

In a CH zone the following uses and their accessory uses may be permitted subject to provisions of Chapter 17.52 of this title.

- A. Public utility facility.

(Ord. 353 § 2 Exh. B (part), 2008)

17.24.050 Site plan review process.

- A. **Pre-Application Coordination.** Before the city may accept an application for site plan review, the applicant shall meet with the zoning official, or his or her designee, to review the applicable city code requirements and procedures. The purpose of the pre-application meeting is to answer questions about city requirements and inform the applicant of any other requirements (e.g., those of outside agencies or service providers) that must be addressed before the city can accept an application as complete and schedule a planning commission hearing.
- B. **Site Plan Review Application.** An application for site plan review for a use in the CH zone shall be submitted to the planning commission in accordance with the provisions of Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall be submitted with the application.
- C. Within five days of acceptance of the site plan application, the city shall furnish one copy of the proposal to the Oregon Department of Transportation (ODOT), the Mill City Rural Fire Protection District, and to all other affected city, county, state and federal agencies, special districts and utilities, as determined appropriate by the city and as outlined in Section 17.64.080 of this title.
- D. **Hearing and Action on a Site Plan Review Application.** Before the planning commission may act on an application for a site plan review it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. Hearing notice shall also be provided to the Oregon Department of Transportation. After the public hearing is closed, the planning commission shall approve, deny, or approve with conditions or modifications, the site plan review application based on the following criteria:

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1. Adequate on-site parking is available and is designed to facilitate the safe movement of traffic and pedestrians;
 2. Access to or from Highway 22 will conform to the Oregon Highway 22-Access Management Plan in Mill City provisions (highway access spacing, access management and streetscape/landscape improvements) under Section 17.24.090;
 3. The use is in compliance with the development standards which are specified by this chapter.
- E. Appeals. If an application is denied it may be appealed to the city council as outlined in Section 17.64.050 of this title, or the applicant may submit a revised site plan to the planning commission.
- F. Conditions. The planning commission, in granting approval, reserves the right to place additional conditions that are consistent with the intent and purpose of this title. These may include, but are not limited to buffers or screening, additional parking, location and design of parking areas or number of access points.
- G. Time Limit on Approved Site Plan Review. Authorization of a site plan review shall be void one year after the date of approval of the site plan review application unless a building permit has been issued and substantial construction pursuant thereto has taken place. However, upon written request, the planning commission has the authority to grant an additional period, not to exceed one year, to complete the project.

(Ord. 353 § 2 Exh. B (part), 2008)

(Ord. No. 358, § 5, 7-13-2010; Ord. No. 369, §§ 2—4, 8-13-2013)

17.24.060 Lot size and width.

Except as provided in Section 17.44.020 of this title, the minimum lot size and width in a CH zone shall be as follows:

- A. For a building hereafter created or used for commercial purposes there is no minimum lot size or width.
- B. A building hereafter erected or used for dwelling purposes shall comply with the lot size and width requirements and the site plan review requirements of the R-2 zone.

(Ord. 353 § 2 Exh. B (part), 2008)

17.24.070 Height requirements.

Except as provided in Section 17.52.030 of this title, in a CH zone no building or structure shall exceed thirty-five (35) feet in height.

(Ord. 353 § 2 Exh. B (part), 2008)

17.24.080 Yard requirements.

In a CH zone yards shall be as follows:

- A. For a building or structure hereafter erected or used for commercial purposes the following regulations shall apply.
 1. Front Yard and Street Side Yard. None is required, except for a corner lot, where a fifteen (15) foot vision clearance area is required;
 2. Side Yard. Where the interior lot line of a lot in a CH zone abuts an interior lot line of a lot in a residential zone there shall be a landscaped side yard of at least ten (10) feet, the purpose of which is to provide screening and/or buffering between commercial and

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residential uses. In other cases a side yard is not required, but, if provided shall be a minimum of five feet;

3. Rear Yard. When a CH zone abuts a residential zone, a rear yard of ten (10) feet shall be required, the purpose of which is to provide screening and/or buffering between commercial and residential uses. In other cases, a rear yard is not required, but, if provided shall be a minimum of five feet.

B. For buildings hereafter erected or used for dwelling purposes shall comply with the yard requirements of the R-2 zone.

(Ord. 353 § 2 Exh. B (part), 2008)

17.24.090 Oregon Highway 22-Access Management Plan conformity.

- A. All actions meeting the criteria under Section 17.24.025 shall conform to the Oregon Highway 22-Access Management Plan in Mill City and subsections B through E of this section, the purpose of which is to:
 1. Ensure that future roadway and access management needs are met;
 2. Maintain functional use and highway safety;
 3. Preserve the public investment in the highway; and
 4. Improve the appearance of the community and provide for pedestrian circulation, in conformance with required landscaping and streetscape standards.
- B. Highway Access Spacing Standards. All lots, parcels and tracts shall provide dimensions that accommodate state highway access spacing standards. The approval body may require changes to a proposed site plan, preliminary plat or property line adjustment to ensure compliance with the highway access spacing standards.
- C. Access Management. Where an action is subject to the Oregon Highway 22-Access Management Plan in Mill City under Section 17.24.025, the city may require one or more of the following to ensure its conformity to the plan:
 1. The combining of existing highway approaches for joint use, or require joint use for new approaches, consistent with the Oregon Highway 22-Access Management Plan in Mill City;
 2. The closure of approaches designated as "Temporary" as redevelopment occurs. The city may require an applicant to obtain a cross-access easement from an abutting property owner, consistent with the access management plan, prior to final approval of a development;
 3. Access be taken from a lower classification street (e.g., to the local street system rather than to the state highway), in furtherance of the access management plan and applicable site design standards;
 4. The creation or extension of an alternate through-route (not a cul-de-sac) parallel to the highway, which may be a local street, or a joint-use driveway where extension of a public street is not practical;
 5. Setbacks and/or right-of-way dedication allowing for required transportation improvements, such as pedestrian ways or turn lanes, when redevelopment occurs. Where right-of-way dedication for Highway 22 frontage improvements is required, the city shall require right-of-way dedication to ODOT;
 6. Inter-parcel circulation, including joint-use driveways and pedestrian ways, connecting commercial sites, and mitigating the use of the highway for circulation between adjacent sites;
 7. Where practical a new highway connection or approach shall be at a location where access rights exist; or a Grant of Access must be requested of ODOT under OAR 734-051-0430 and 734-051-0440;

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8. Where a connection is permitted, it shall meet the spacing standards for approaches based on the highway classification and segment definitions contained in the Highway 22 Mill City Access Management Plan; and
 9. Where an intersection is or may be signalized in the future, the connection shall meet the spacing necessary for the timing and progression of the signal, as set forth in OAR 734-020-0400 through 734-020-0500.
- D. Streetscape and Landscaping Requirements. Where an action is subject to the Oregon Highway 22-Access Management Plan in Mill City under Section 17.24.025, the city may require the owner or developer to complete one or more of the following streetscape and/or landscaping improvements in conformance with the Mill City Highway 22 Streetscape Plan, Appendix H of the Oregon Highway 22-Access Management Plan in Mill City:
1. Dedicate right-of-way and/or record public easement(s) for required landscaping and/or sidewalk improvements as indicated by the streetscape plan;
 2. Install and maintain landscaping, sidewalks, street furnishings (e.g., benches) and/or other improvements, as indicated by the streetscape;
 3. Enter into a development agreement with the city and/or ODOT and provide financial assurance for future installation of landscaping, sidewalks, street furnishings, and/or other required improvements. Required improvements may be deferred if the city and/or ODOT finds such deferral is in the public interest and the property owner enters into a deferral/non-remonstrance agreement with the city and/or ODOT. The deferral agreement will be recorded in the Marion County deed records.
- E. In interpreting the provisions of this section and considering variance requests under Chapter 17.56, the hearing body shall apply the applicable approval criteria in this section and make findings of consistency with the purpose statement contained in subsection A of this section.

(Ord. 353 § 2 Exh. B (part), 2008)

Chapter 17.28 I INDUSTRIAL ZONE

Sections:

[17.28.010 Applicability.](#)

[17.28.020 Uses permitted outright.](#)

[17.28.030 Conditional uses permitted.](#)

[17.28.040 Limitations on use.](#)

[17.28.050 Lot size and width.](#)

[17.28.060 Height requirements.](#)

[17.28.070 Yard requirements.](#)

[17.28.080 Buffering and screening.](#)

17.28.010 Applicability.

In an I zone, the following regulations shall apply.

(Ord. 273 § 3.050 (part), 1998)

17.28.020 Uses permitted outright.

In an I zone the following uses and their accessory uses are permitted outright:

- A. A use permitted outright or conditionally in the CH zone, excluding single, two, and multiple-family dwelling, church, school, nursery school, kindergarten, hospital, sanitarium, rest home or convalescent home, and manufactured home park.
- B. Any use involving the manufacture, research, repair, assembly, processing, fabricating, wholesaling, storage or transportation of commodities or goods except those used which are listed as conditional uses in the I zone.

(Ord. 273 § 3.050(A), 1998)

17.28.030 Conditional uses permitted.

In an I zone the following uses and their accessory uses may be permitted subject to provisions of Chapter 17.52 of this title.

- A. Automobile wrecking yard, junk yard;
- B. Solid waste disposal transfer station;
- C. Manufacturing and related uses including:
 - 1. Cement, lime or similar products manufacture;
 - 2. Explosives storage or manufacture;
 - 3. Petroleum products storage, manufacture or refining;
 - 4. Pulp mill;
 - 5. Rendering plant, tannery, slaughter house, feed lot;
 - 6. Smelting or refining of metallic ore;
 - 7. Other uses similar to the above which may possess characteristics injurious to public health and safety due to emission of smoke, dust, odor, refuse, fumes, vibration, glue or similar hazard.

(Ord. 273 § 3.050(B), 1998)

17.28.040 Limitations on use.

Uses permitted outright or conditionally in an I zone are subject to the following limitations:

- A. Activities located outside a building are permitted only if the buffering and screening requirements in this chapter are met.
- B. The activity shall meet all applicable standards and regulations of the Oregon State Board of Health, the Oregon Department of Environmental Quality and any other public agency having appropriate regulatory jurisdiction. Prior to approval of conditional use applications or building permits, evidence shall be submitted to the city indicating that the proposed activity has been approved by all appropriate regulatory agencies.

(Ord. 273 § 3.050(C), 1998)

17.28.050 Lot size and width.

There is no minimum lot size or width requirement in an I zone.

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(Ord. 273 § 3.050(D), 1998)

17.28.060 Height requirements.

Except as provided for in Section 17.52.030 of this title, in an I zone no building or structure shall exceed forty-five (45) feet in height.

(Ord. 273 § 3.050(E), 1998)

17.28.070 Yard requirements.

In an I zone the yard requirements for a building or structure shall be as follows:

- A. Front Yard and Street Side Yard. None is required, except for a corner lot where a fifteen (15) foot vision clearance is required.
- B. Side Yard. Where the side interior lot line in an I zone abuts an interior lot line of a lot in a residential zone there shall be a yard of at least five feet. Otherwise, no side yards are required.
- C. Rear Yard. Where the rear lot line in an I zone abuts a lot line of a lot in a residential zone there shall be a yard of at least five feet; otherwise, no rear yards are required.

(Ord. 273 § 3.050(F), 1998)

17.28.080 Buffering and screening.

Buffering and screening shall be required for all industrial uses having outside storage, manufacturing, fabrication or other activities as outlined in this chapter. The buffering and screening shall consist of either existing or planted vegetation, sight obscuring fences, hedges, walls, earth berms or similar techniques or any combination thereof and shall be subject to the following provisions.

A. Buffering and screening will be provided at the following rates:

Parcel Size	Buffer Width	Screen
1 to 4.99 acres	10'	4 to 6 feet high
5 acres or greater	25'	4 to 6 feet high

- B. Planted screens should be sufficient to obscure the proposed use within four years.
- C. The planning commission may require additional buffering or screening to protect sensitive natural features, safeguard cliffs or areas of steep slope, reduce sound transmission or protect specific environmental conditions that can be anticipated.
- D. All required buffers, screening and landscaping shall be completed before the final building inspection may be requested.
- E. Buffering and Screening—Site Plan Review.
 - 1. Application. An application for a site plan review for buffering and screening in an I zone shall be submitted to the planning commission in accordance with the provisions of Section

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17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall be submitted with the application;

2. Hearing and Action on Site Plan Review Application. Before the planning commission may act on an application for a site plan review, it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. After the public hearing is closed, the planning commission shall either approve, deny, or approve with conditions or modifications, the site plan review application, based upon the standards and provisions of this section.

(Ord. 273 § 3.050(G), 1998)

Chapter 17.32 P PUBLIC ZONE*

Sections:

[17.32.010 Applicability.](#)

[17.32.020 Use regulations.](#)

[17.32.025 Conditional uses permitted.](#)

[17.32.030 Lot size and width.](#)

[17.32.040 Height requirements.](#)

[17.32.050 Yard requirements.](#)

17.32.010 Applicability.

In a P zone, the following regulations shall apply.

(Ord. 326 § 1 (part), 2004)

17.32.020 Use regulations.

No building, structure or land shall be used, and no buildings shall be hereafter erected, enlarged or structurally altered except for the following uses which are operated by a public agency or organization:

- A. Park, playground;
- B. City office or community center;
- C. School, library;
- D. Fire or police station;
- E. Public parking lot;
- F. Other publicly operated use similar to the above listed areas;
- G. A recreation vehicle to be occupied by a park host or caretaker as a dwelling accessory to a use permitted in the P zone, as an accessory use subject to the provisions of Section 17.44.020(G) of this title.
- H. A collocated wireless communication facilities (WCF) shall be considered a permitted use on all existing, legally established, transmission towers. No additional conditional permit is required.

(Ord. 326 § 1 (part), 2004)

17.32.025 Conditional uses permitted.

In a P zone, the following uses may be permitted subject to provisions of Chapter 17.52 of this title:

- A. Public utility buildings and structures for water, sewer or other city operated utility;
- B. Private utility buildings and structures for electric, natural gas, cable TV, telecommunications or similar users, including a tower or ancillary wireless communication facilities.

(Ord. 326 § 1 (part), 2004)

17.32.030 Lot size and width.

There shall be no minimum lot size or width in a P zone.

(Ord. 326 § 1 (part), 2004)

17.32.040 Height requirements.

In a P zone, no building or structure shall exceed thirty-five (35) feet in height, except as provided for in Section 17.52.030 of this title.

(Ord. 326 § 1 (part), 2004)

17.32.050 Yard requirements.

Where a lot in a P zone abuts a lot in a residential zone, there shall be side and rear yards of not less than ten (10) feet (fifty (50) feet for schools). In other cases, a yard for a public building in the P zone shall not be required.

(Ord. 326 § 1 (part), 2004)

Chapter 17.36 SPD SPECIAL PLANNED DEVELOPMENT ZONE

Sections:

[17.36.010 Applicability and purpose.](#)

[17.36.020 Uses permitted outright.](#)

[17.36.030 Conditional uses permitted.](#)

[17.36.040 Special standards.](#)

17.36.010 Applicability and purpose.

- A. Applicability. In an SPD the following regulations shall apply.
- B. Purpose. The purpose of the SPD zone is to ensure the appropriate development of a large parcel of open land located along the north side of the North Santiam River in the center of Mill City. This site possesses considerable development potential for a variety of purposes including recreational, residential and commercial. Its proper development can serve to enhance both the property and the community.

(Ord. 273 § 3.070(A), 1998)

17.36.020 Uses permitted outright.

In the SPD zone no use of property shall be permitted outright.

(Ord. 273 § 3.070(B), 1998)

17.36.030 Conditional uses permitted.

In the SPD zone the following uses and their accessory uses may be permitted subject to the provision of this chapter and Chapter 17.52.

- A. Any use permitted outright or conditionally in the R-1 zone or the R-2 zone. Residential densities shall be based on the standards of the R-2 zone.
- B. Any use permitted outright or conditionally in the CC zone or the CH zone.
- C. Recreation vehicle park.

(Ord. 273 § 3.070(C), 1998)

17.36.040 Special standards.

In the SPD zone, development of property shall be consistent with a site development plan for the entire property which has been reviewed and approved by the planning commission and adopted by the city council.

- A. The site development plan shall include the following elements:
 - 1. Proposed land uses including housing unit densities (number of units per acre and type of residences);
 - 2. Building types and proposed size (length, width, and height);
 - 3. Vehicular and pedestrian access, circulation and parking pattern, status of street ownership;
 - 4. Parks, playgrounds and open spaces;
 - 5. Existing natural features such as trees, streams, and topography;
 - 6. Landscaping proposals;
 - 7. Proposed method of handling water supply and sewage disposal;
 - 8. Proposed method for handling of surface water drainage and for any grading or filling of property;
 - 9. Supplementary information including proposed property ownership pattern; property operation and maintenance proposal; time table for development including starting and completion dates and project phasing; and method for financing public improvements.
- B. Review of Site Development Plan.
 - 1. Hearing and Action on a Site Development Plan. Before the planning commission may act on an application for a site development plan, it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. After the public hearing is closed, the planning commission shall approve, deny, or approve with conditions or modifications, the site development plan application based on the following criteria:
 - a. Compliance with the Mill City Comprehensive Plan policies;
 - b. The standards of this title and other regulations;

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- c. The suitability of the proposed development in relation to the physical characteristics of the site; and
 - d. The appropriateness of the development proposal in relation to the entire community.
2. Appeals. If an application is denied it may be appealed to the city council as outlined in Section 17.64.050 of this title, or the applicant may submit a revised site plan to the planning commission.
3. Conditions. The planning commission, in granting approval, reserves the right to place additional conditions that are consistent with the intent and purpose of this title. These may include, but are not limited to housing unit densities, building types, proposed size and height, vehicular and pedestrian access, circulation and parking patterns, status of street ownership, homeowner's association and maintenance requirements, provision of public parks and open spaces, protection of existing natural features such as trees, streams, and topography, landscaping, buffers and public improvement requirements.

(Ord. 273 § 3.070(D), 1998)

(Ord. No. 358, § 8, 7-13-2010; Ord. No. 369, § 5, 8-13-2013)

Chapter 17.40 HISTORIC PRESERVATION

Sections:

[17.40.010 Historic site alteration or demolition.](#)

[17.40.020 Permits.](#)

[17.40.030 Review procedure.](#)

[17.40.040 Planning commission decision.](#)

[17.40.050 Decision criteria.](#)

17.40.010 Historic site alteration or demolition.

Any structure listed in the comprehensive plan inventory of significant historic resources, as listed in this section and any subsequent structures added to the inventory, shall comply with the alteration and demolition requirements of this chapter.

1. Mill City Presbyterian Church	236 SW Broadway
2. Railroad Bridge (Pedestrian)	N. Santiam River
3. PR Horner House	268 SW Kingwood Avenue
4. Shaw Kelly House	156 SW Greenwood Place

(Ord. 339 § 4, 2006; Ord. 273 § 4.010, 1998)

17.40.020 Permits.

A permit is required for alteration or demolition of any historic structure.

- A. Alteration as governed by this chapter means any addition to, removal of, or change in the exterior of a structure and shall include modification of the surface texture, material, or architectural detail of the exterior part of the structure but shall not include paint color.
- B. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature on any property covered by this chapter that does not involve a change in design, material or external appearance thereof. Nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the building official determines that such emergency action is required for the public safety due to an unsafe or dangerous condition. Prior to such emergency action, notification shall be provided to the planning commission.
- C. A permit is not required under this chapter for alteration of a structure when review of the proposed alteration is required by an agency of the state or federal government.

(Ord. 273 § 4.020, 1998)

17.40.030 Review procedure.

- A. Application. A property owner or his or her authorized agent may initiate a request for a permit for alteration or demolition of an historic structure by filing an application with the city recorder in accordance with the provisions of Section 17.64.060 of this title.
- B. Hearing and Action on a Historic Structure Alteration or Demolition Application. Before the planning commission may act on a historic structure alteration or demolition application, it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. The public hearing shall be held within forty-two (42) days of the acceptance of the application by the city recorder. Hearing notice shall also be provided to the State Historic Preservation Office. After the public hearing is closed, the planning commission shall take action on the request in accordance with the provisions of Sections 17.40.040 and 17.40.050 of this chapter.

(Ord. 273 § 4.030, 1998)

17.40.040 Planning commission decision.

- A. The decision of the planning commission shall be based on the criteria established in Section 17.40.050 of this chapter.
 - 1. The planning commission shall render a decision on an application within thirty-five (35) days of closure of the hearing;
 - 2. A copy of the decision shall be mailed to the applicant, the owners of the affected property, and other persons specifically requesting such notification within seven days following the decision.
- B. The planning commission shall take one of the following actions.
 - 1. Alteration. In the case of an application for alteration of an historic structure the planning commission shall:
 - a. Approve the request submitted; or
 - b. Approve the request with modifications, conditions or recommendations; or
 - c. Deny the request.
 - 2. Demolition. In the case of an application for demolition of an historic structure, the planning commission shall either:

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- a. Allow immediate issuance of the permit; or
- b. Require delay of issuance of the permit for up to ninety (90) days. During this period, the planning commission shall attempt to determine if public or private acquisition and preservation is feasible or if other alternatives are possible which could be carried out to prevent demolition of the site or structure.

(Ord. 273 § 4.040, 1998)

17.40.050 Decision criteria.

The decision to approve or deny any alteration or demolition permit for historic structures shall be based on the following criteria.

- A. Alteration. To preserve the historic architectural integrity and provide for building safety, alteration requests shall be based on applicable state and local codes and ordinances related to building, fire, and life and safety and the following criteria.
 1. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible;
 2. All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis shall be discouraged;
 3. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected;
 4. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity;
 5. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on the availability of different architectural elements from other buildings or structures;
 6. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.
- B. Demolition. The planning commission shall authorize immediate issuance of a demolition permit if it finds all of the following.
 1. The structure cannot be economically rehabilitated;
 2. A program or project does not exist which may result in preservation of the structure;
 3. Delay of the permit would result in unnecessary and substantial hardship to the applicant;
 4. No other reasonable alternative to demolition exists.

(Ord. 273 § 4.050, 1998)

Chapter 17.44 SUPPLEMENTARY PROVISIONS

Sections:

[17.44.010 Accessory buildings.](#)

[17.44.020 Accessory uses.](#)

[17.44.030 Exceptions.](#)

[17.44.040 Sign requirements.](#)

[17.44.050 Clear vision areas.](#)

[17.44.060 Off-street parking.](#)

[17.44.070 Off-street loading.](#)

[17.44.080 Temporary transient sales.](#)

[17.44.090 Exterior lighting.](#)

[17.44.100 Manufactured homes.](#)

[17.44.110 Residential community plan.](#)

[17.44.120 Review of land use action involving the North Santiam River.](#)

[17.44.130 Home occupation review.](#)

17.44.010 Accessory buildings.

Accessory buildings are allowed as authorized in this section and are subject to the following provisions.

- A. Use. Accessory buildings may be used as garages, workshops, storerooms, utility rooms, playhouses and other similar uses that are in conjunction with the principal use of the property.
- B. Building Location. An accessory building to a residential use of property or to a use permitted in the R-1 or R-2 zone may not be located within a required front, rear, or side yard.
- C. Height and Setback Requirements for Buildings Which Are Accessory to Residential Uses of Property and to Uses Permitted in the R-1 or R-2 Zone. An accessory building to a residential use of property or to a use permitted in the R-1 or R-2 zone shall not exceed a height of twenty (20) feet. An accessory building that is twelve (12) feet or less in height may be located within five feet of a rear or side lot line. An accessory building that is between twelve (12) feet and sixteen (16) feet in height may be located no closer than seven and one-half feet from a side or rear property line. An accessory building that is between sixteen (16) and twenty (20) feet in height may be located no closer than ten (10) feet from a side or rear property line.
- D. Accessory Buildings and Home Occupations. Accessory buildings may be used for home occupation purposes subject to the provisions in Section 17.44.130.
- E. Building Permits for Accessory Uses. A building permit for an accessory use to a residential use of property may be issued only:
 1. After there is a residential use already on the property, or
 2. At the same time or after a building permit for a residential use of property is issued.
- F. Exterior Appearance and Color of the Accessory Building. For accessory buildings which require a building permit, the siding of the accessory building shall match the exterior appearance and color of the siding of the main building or dwelling on the property.
- G. Garage or Carport.

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1. Each new single-family residential dwelling and manufactured home on an individual lot shall have either a garage or carport located on the same lot with the single-family dwelling or manufactured home as required in Section 17.12.020 and Section 17.16.020.
2. The garage or carport shall be completed prior to occupancy of the single-family dwelling or manufactured home, except that one time period, not to exceed ninety (90) days, may be granted by the planning commission, upon submittal of a request by the owner of the single-family dwelling or manufactured home.

(Ord. 320 § 4, 2004; Ord. 283 § 3, 2001; Ord. 273 § 5.010, 1998)

17.44.020 Accessory uses.

An accessory use shall comply with all requirements for a principal use except where specifically modified by this chapter.

- A. Garage sales are permitted, provided:
 1. The maximum length of a sale shall be four days;
 2. The maximum number of sales permitted in a calendar year for each family is four;
 3. There shall be a minimum of thirty (30) days between each sale at any single property;
 4. All signs advertising a sale or directing the public to a sale shall be removed within forty-eight (48) hours of the completion of the sale.
- B. A guest house may be maintained accessory to a dwelling provided there are no cooking facilities in the guest house.
- C. Parking or Storage of Motor Vehicles and Recreational Vehicles.
 1. A motor vehicle, boat, trailer, camper, motorized dwelling and similar recreational equipment may be parked or stored on a lot as an accessory to a dwelling in a driveway, designated paved or gravel parking area, rear yard or side yard.
 2. A motor vehicle, boat, trailer, camper, motorized dwelling and similar recreational equipment may not be parked or stored in a front yard or street side yard, unless placed in a driveway or designated paved or gravel parking area.
 3. No person shall store or permit to be stored on a street or other public property any motor vehicle, boat, trailer, camper, motorized dwelling, similar recreational vehicle or personal property, without permission of the council, for a period in excess of twenty-four (24) hours as specified in Section 10.16.070 of the Mill City Municipal Code.
 4. A vehicle stored on a private property shall not violate the city's nuisance code, Chapter 8.04 of the Mill City Municipal Code which prohibits the storage of junk, vehicle parts, and/or an inoperable or unregistered motor vehicle.
- D. Use of Tractor Trailers, Trailer Boxes or Storage Containers Prohibited. The use of tractor trailer boxes (with or without wheels) and or shipping containers is prohibited in all zones, except as follows:
 1. The temporary use of not more than one storage container, with a maximum size of two hundred (200) square feet, during construction of a permanent building, subject to the following conditions:
 - a. The storage container shall be placed in the driveway, side or rear yard.
 - b. The storage container must be removed from the property not later than one year from the date of the issuance of the building permit for the permanent building by the Linn County building department.

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- c. If the storage container is not removed by the property owner in a residential zone, then the city may proceed with removal of the storage unit under the city's summary abatement procedures in Chapter 8.04 of this code;
 2. The temporary use of a garbage or recycling container provided by the city's garbage franchise holder; and/or
 3. The on-going use of a recycling container provided by the city's garbage franchise holder to a public or not for profit entity within a public, commercial or industrial zone, subject to approval by the city council.
- E. RV Use as a Temporary Residence. The use of a recreation vehicle as a temporary residence is permitted provided that:
 1. The use of a self-contained recreational vehicle as a residence does not exceed thirty (30) days in a calendar year;
 2. The use of the recreational vehicle as a residence has been approved to be occupied by a park host as a dwelling accessory to a permitted use in the public "P" zone and is covered by the provisions of subsection E of this section;
 3. The use of the recreational vehicle as a temporary residence has been approved to be occupied by the owner of the property for a period of up to one year during construction of a new home in accordance with subsection F of this section; or
 4. A conditional use permit is approved granting the use of the recreational vehicle as a temporary secondary residence due to a medical hardship in accordance with subsection G of this section and Chapter 17.52 of this title.
- F. RV Use for a Park Host. Standards for a recreation vehicle to be occupied by a park host or caretaker as a dwelling accessory to a use permitted in the public "P" zone are as follows:
 1. An application to place a recreation vehicle as a park host in the public "P" zone shall be submitted to the planning commission for review and approval. The application shall include:
 - a. A completed application to use a recreational vehicle as a "park host" RV site;
 - b. A completed "park host agreement" form;
 - c. A site plan showing the proposed location of all buildings, including the temporary residence, proposed screening, fencing or landscaping and how water supply, sewage disposal and electrical connections shall be accomplished in a safe and approved manner;
 - d. A filing fee in accordance with Section 17.64.070 of this title;
 2. The planning commission shall consider the application at a regular meeting. However, no public hearing is required;
 3. The permit may be approved by the planning commission upon affirmative findings that:
 - a. The "park host" use will be a benefit to the public,
 - b. The placement of the temporary residence will comply with all other standards of this section,
 - c. The value, use and enjoyment of neighboring properties will not be adversely affected;
 4. The recreational vehicle shall be connected to the city water system and may be connected to the city sewer system, upon approval of the city. All water, sewer, plumbing and electrical installations shall comply with applicable city ordinance, building codes, state statutes and administrative rules;

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5. The recreation vehicle shall have a floor area of at least one hundred twenty (120) square feet;
 6. There shall not be more than two adult occupants and not more than four total occupants residing in the recreation vehicle;
 7. The recreation vehicle shall be separated from all other buildings on the property or on adjacent properties by at least ten (10) feet, except that the setback from residential structures shall be at least fifteen (15) feet;
 8. The recreation vehicle shall be effectively screened from view from all residentially used or zoned properties which are within one hundred (100) feet from the location where the recreation vehicle is to be sited. The screening shall consist of a continuous fence or wall supplemented with landscaping and which is a minimum of five feet in height. The screening shall be maintained in good repair;
 9. If the recreation vehicle is to be replaced on the property by another recreation vehicle, the replacement recreation vehicle may be reviewed and approved for placement by the zoning official if it is placed in the same location and complies with all of the requirements of Section 17.44.020 of this title and the city council has approved a new park host agreement;
 10. Payment of systems development charges is not required at the time of connection to the system;
 11. The planning commission may vary the strict application of these rules or may establish additional conditions for the placement of the recreational vehicle on the property at the time of approval of the "park host" or "caretaker" permit;
 12. Upon approval of the permit to locate a recreational vehicle for a "park host," the council will review and may approve or deny a "park host" agreement for each use of the park host RV site. The planning commission will not review the "park host" agreement for each new park host. However, the terms of the park host RV site permit shall be attached to each "park host" agreement signed by the each park host.
- G. RV Use During Construction. Standards for a recreation vehicle to be occupied as a temporary residence during construction of a new home in the R-1, R-2, CC and CH zones and construction of a commercial, industrial or public building in any zone are as follows:
1. An application for a permit to use a recreational vehicle during construction shall be submitted to the city. The application shall include:
 - a. A completed application form;
 - b. A site plan showing the proposed location of all buildings, including the location for recreational vehicle, proposed screening, fencing or landscaping (if any) and how water supply, sewage disposal and electrical connections shall be accomplished in a safe and approved manner;
 - c. A filing fee in accordance with Section 17.64.070 of this title;
 - d. A statement from the applicant certifying that the applicant will comply with subsections (G)(3) through (G)(9) of this section.
 2. The zoning official shall be the decision authority.
 3. The recreational vehicle must be occupied by the owner of the lot on which the recreational vehicle is located (if a new home is being constructed) or by a contractor or subcontractor (if a public, commercial or industrial structure is being constructed).
 4. The recreational vehicle may not be occupied until after the building permit has been issued by the city.

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5. The recreational vehicle may be occupied for a period of up to one year and only during a period in which satisfactory progress is being made toward the completion of the structure on the same site.
 6. Not more than thirty (30) days after final inspection and approval of the permanent structure (housing unit, public, commercial or industrial building) by the building official or upon expiration of the building permit, whichever comes first, the property owner shall remove the recreational vehicle from the lot or store it in accordance with subsection (B) of this section.
 7. Upon written request, the zoning official may grant not more than two six-month extensions while the structure is under construction.
 8. Evidence shall be presented showing that arrangements have been made for electric, water and sewer utility service to the recreational vehicle. [Note: The city may require the applicant to retain septage in a holding tank and dispose of at a RV sewage dumping station rather than connecting to the city sewer or place a temporary on-site portable restroom on site.]
 9. The recreation vehicle shall be separated from all other buildings on the property or on adjacent properties by at least ten (10) feet.
- H. RV or Manufactured Home Use for a Medical Hardship. Standards for a recreation vehicle or manufactured home to be occupied as a temporary residence due to a medical hardship in the R-1, R-2, CC and CH zones are as follows:
1. An application for a permit shall be filed with the city using forms furnished by the city. The application shall include:
 - a. A completed conditional use permit application, including written authorization from the property owners;
 - b. A site plan showing the proposed location of all buildings, including the temporary residence, proposed screening, fencing or landscaping and how water supply, sewage disposal and electrical connections shall be accomplished in a safe and approved manner;
 - c. A completed building permit application, if a manufactured home is proposed as a temporary residence;
 - d. A filing fee in accordance with Section 17.64.070 of this title;
 - e. A written statement from the applicant describing the medical hardship, the individuals to be cared for and why no other alternative method of alleviating the hardship is readily available to the family;
 - f. A written statement from a medical physician licensed to practice in the state of Oregon. The physician's statement shall clearly state that the afflicted person needs daily supervision, care and/or assistance and the medical reasons for the need. The burden of proof showing medical need is required; financial hardship or a mere preference or unwarranted desire is insufficient justification for the application;
 - g. A statement from the applicant certifying that the applicant will comply with subsections (H)(4) through (H)(9) of this section.
 2. The planning commission shall consider the application in accordance with the conditional use permit requirements in Chapter 17.52 of this title.
 3. The permit may be approved by the planning commission upon affirmative findings that:
 - a. There is a medical hardship and the granting of the permit will alleviate substantial personal hardship by providing a temporary residence where care or assistance will be provided to a dependent family member.

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- b. The temporary residence will be occupied by members of the immediate family who will either provide assisted living services and/or medical care to residents of the existing home or will receive assisted living services or medical care from residents of the existing home.
- c. The placement of the temporary residence will comply with all other standards of this section.
- d. The value, use and enjoyment of neighboring properties will not be adversely affected.
4. The temporary residence may not be occupied until after the permit has been issued by the city.
5. The permit will expire after one year, unless annual extensions are granted by the planning commission.
6. Annual Renewal. Each conditional use permit granted under this section shall be reviewed annually by the planning commission. The permit will expire unless an extension is granted by the planning commission. Upon written request from the applicant, the planning commission may grant an annual extension of the permit if it finds the hardship situation has not changed substantially.
7. The temporary residence will be served with electric, water and sewer utility service in compliance with building code requirements or city ordinances. No permanent electrical or sewer connections to a recreational vehicle will be permitted. All set-up and connections for a manufactured home must comply with applicable sections of the state of Oregon Manufactured Dwelling Code, state statutes and administrative rules and city ordinances.
8. The temporary residence shall be separated from all other buildings on the property or on adjacent properties by at least ten (10) feet and shall be screened with fencing or landscaping from adjacent properties.
9. Upon the expiration of the permit, the applicant and property owner shall agree in writing to remove the temporary residence from the lot within sixty (60) days or the owner will store the recreational vehicle in accordance with Section 17.44.020(B) of this title.

(Ord. 339 § 5, 2006; Ord. 333 § 2, 2005; Ord. 320 § 5, 2004; Ord. 273 § 5.020, 1998)

(Ord. No. 358, § 9, 7-13-2010; Ord. No. 363, § 4, 4-24-2012; Ord. No. 369, § 6, 8-13-2013)

17.44.030 Exceptions.

The requirements of the zones set forth in this title shall be subject to the following exceptions:

A. Lot Size and Width.

1. In an R-1 zone, a lot of less than seventy (70) feet in average width and less than seven thousand (7,000) square feet in area may be occupied by a use permitted within the zone, provided that the lot was held under separate ownership at the time this title became effective and provided all other requirements of the zone are met;
2. In an R-2 zone, a lot of less than fifty (50) feet in average width and less than five thousand (5,000) square feet in area may be occupied by a use permitted within the zone, provided that the lot was held under separate ownership at the time this title became effective and provided all other requirements of the zone are met;
3. Lot size and dimension standards shall be increased above the minimums established by this title, when it is determined by the Department of Environmental Quality or its authorized county agent for on-site sewage disposal that additional area or dimension is needed to accommodate a subsurface sewage disposal system.

B. Setback Requirements.

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1. Through lots shall have a minimum yard of fifteen (15) feet facing each street;
 2. Where a side or rear yard opens onto an alley one-half of the width of the alley may be included toward meeting the yard requirement;
 3. Front, side and rear yard requirements shall be waived for dwellings, hotels, and rooming houses erected above the ground floor of a building provided the ground floor is designed and utilized for commercial or industrial purposes;
 4. For the purpose of yard regulations buildings with a common wall shall be considered as one building;
 5. The distance between any two principal buildings sited on one lot shall be a minimum of ten (10) feet.
- C. Obstruction. Every part of a required yard shall be open from the ground to the sky unobstructed except for the following:
1. Accessory building, subject to other requirements in this title;
 2. Fence, wall or similar feature designed to delineate property boundaries;
 3. Playground equipment;
 4. Above or below ground swimming pool, spa or hot tub;
 5. Flagpole or antenna;
 6. Building projection such as a cornice, eave, sill or similar architectural feature not to project more than twenty-four (24) inches into any yard;
 7. Chimney projection when not obstructing light, air or access;
 8. Other structures similar to the above listed structures. The zoning official shall determine whether a specific structure is acceptable. The zoning official shall either approve or deny the structure, or, refer it to the planning commission for a decision. A decision of either the zoning official or planning commission may be appealed to the city council as provided by Section 17.64.050 of this title;
 9. The placement of any structure shall be consistent with the vision clearance requirements set forth in Section 17.44.050 of this chapter.

(Ord. 339 § 6, 2006; Ord. 273 § 5.030, 1998)

17.44.040 Sign requirements.

Sign requirements are located in Chapter 17.68 of this title. Sign regulations for temporary transient sales businesses are located in Section 17.44.080 of this chapter and sign regulations for home occupations are in Section 17.44.130(B)(3)(i) of this chapter.

(Ord. 278 § 2, 1999; Ord. 273 § 5.040, 1998)

17.44.050 Clear vision areas.

All zones shall comply with the following vision clearance requirements:

- A. Clear vision areas shall be maintained at each access to a public street and on each corner of property at the intersection of two streets or a street and a railroad.
- B. No fence, wall, hedge, sign, or other planting or structure that would impede visibility between two feet and eight feet shall be established in the clear vision area. Measurement shall be made from the top of curb or, where no curb exists, from the street centerline grade.

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- C. For single use residential driveways, the clear vision area shall consist of a triangular area, two sides of which are the curb line and the edge of the driveway. Where no curbs exist, the future location of the curb based on full street improvements shall be used.
- D. The following measurements shall establish the clear vision areas.

Clear Vision Area Measurements

Type of Intersection	Measurement Along Each Lot Line or Drive Edge
Controlled intersection (Stop sign/signal)	20 feet
Uncontrolled intersection (60' r/w or less)	30 feet
Uncontrolled intersection (over 60' r/w)	40 feet
Commercial/industrial driveways	20 feet
Common use residential driveways, alleys	20 feet
Single residential driveways	10 feet

- E. The provisions of this section shall not apply to the following:
 - 1. A public utility pole;
 - 2. A tree trimmed (to the trunk) to a line at least eight feet above the level of the intersection;
 - 3. An official warning sign or signal;
 - 4. A place where the natural contour of the ground is such that there can be no cross visibility at the intersection.

(Ord. 283 § 5, 2001: Ord. 273 § 5.050, 1998)

17.44.060 Off-street parking.

At the time a building is constructed or enlarged, off-street parking spaces shall be provided as set forth in this chapter. Square foot measurements shall include ground floor area less space within a building for off-street parking and loading. Number of employees shall be defined as those working on the premises, including the proprietor, during the largest shift at peak season.

Uses	Parking Space Requirements
A.Residential Uses.	

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Single-family dwelling, duplex, or mobile home	Two spaces per dwelling unit
Multiple-family housing	Three spaces per two dwelling units
B. Commercial Residential Uses.	
Motel	One space per guest room or suite plus one additional space for the owner or manager
Club, lodge	Spaces to meet the combined requirements of the uses being conducted such as hotel, restaurant, auditorium, etc.
C. Place of Public Assembly.	
Church, other auditorium meeting room, arena, theater	One space per four seats or eight feet of bench length in the main auditorium
Nursery, primary school	Two spaces per teacher
Elementary, junior or senior high school	One space per classroom plus one space per administrative employee; or one space per four seats or eight feet of bench length in auditorium or assembly room, whichever is greater
D. Commercial Amusement Uses.	
Bowling alley	Five spaces per alley plus one space per two employees
Dance hall, skating rink	One space per 100 square feet of floor area plus one space per employee
E. Commercial Uses.	
Retail store except as provided in this subsection	One space per 200 square feet for retail store

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Eating or drinking establishment	One space per 100 square feet of floor area for eating or drinking establishments
Service or repair shop; retail store handling exclusively bulky merchandise such as automobiles and furniture; bank; office (except medical or dental)	One space per 600 square feet of floor area plus one space per two employees
Medical or dental clinic	One space per 300 square feet of floor area plus one space per two employees
F. Industrial Uses.	
Storage warehouse; manufacturing establishment; rail or trucking freight terminal; wholesale establishment	One space per employee plus one space per 700 square feet of patron serving area
G. Requirements for a building or development not specifically listed herein shall be determined by the planning commission based upon the requirements of comparable uses listed.	
H. Parking Standards.	
1. Land hereafter used as an automobile parking area for multi-family residential use with three or more dwelling units, or for commercial industrial or public use, requiring ten (10) or more parking spaces shall comply with the design, layout, drainage and paving requirements which are part of the city public works design standards as adopted by the city council. Land hereafter used as an automobile parking area for residential uses with two or fewer dwelling units, or for commercial, industrial or public use requiring nine or fewer spaces are exempted from the parking requirements as specified in this chapter. An automobile, truck, trailer, or recreational vehicle sales area shall be paved with asphalt, concrete, or other all-weather, dust-free surface;	
2. Driveway spacing requirements which are a part of the city public works design standards shall apply to all partitions and subdivisions approved after adoption of this section, to all two-	

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family and multi-family housing and to all commercial, industrial and public uses. Single-family housing outside of a newly approved partition or subdivision is exempt from the driveway spacing requirements;

3. Driveway approach standards that are a part of the public works design standards shall apply to all new development in the city;

4. Driveway standards that are a part of the public works design standards shall not apply to single-family and two-family residences unless they are served by a common driveway serving multiple lots or a flag lot driveway over one hundred fifty (150) feet in length;

5. Each space within a parking lot for a multi-family dwelling or for a commercial, industrial or public use where the parking requirement is for ten (10) or more spaces shall be clearly and permanently delineated as shown in the city public works design standards. Bumper guards or wheel barriers shall be installed so that no portion of a vehicle projects into the right-of-way or over the adjoining property.

I. Commercial Long-Term Vehicle Parking in a Residential Zone. The parking of a log truck, semi-truck, or similar commercial vehicle in a residential zone is permitted subject to the following provisions.

1. The vehicle shall be either owned or operated by the occupant of the dwelling where the vehicle is parked;

2. The vehicle shall be parked wholly within the residential lot or on the street immediately adjacent to the lot;

3. The vehicle or trailer shall not be parked in a vision clearance area.

(Ord. 283 § 6, 2001; Ord. 273 § 5.060, 1998)

17.44.070 Off-street loading.

Commercial and industrial buildings hereafter erected or enlarged and having a floor area of three thousand (3,000) square feet or greater shall provide and maintain a permanent off-street loading facility subject to the following requirements.

- A. The loading space shall be a minimum of twenty-five (25) feet in length, ten (10) feet in width, and fourteen (14) feet in height.
- B. The space must be accessible from an alley or street which abuts the lot.
- C. Buildings greater than ten thousand (10,000) square feet shall provide two loading spaces. One additional space shall be required for each thirty-six thousand (36,000) square feet by which the building exceeds ten thousand (10,000) square feet.
- D. Off-street parking areas used to fulfill this requirement shall not be used for loading or unloading operations.

(Ord. 273 § 5.070, 1998)

17.44.080 Temporary transient sales.

A temporary sale by a transient business is permitted subject to the following provisions.

- A. The transient business shall be conducted in either the CC or CH zone.
- B. The sale shall be limited to a maximum of thirty (30) days. After this time a permit extension of thirty (30) days may be requested and will be either approved or denied by the zoning official.
- C. No more than two signs may be permitted on the premises where the business is situated. Each sign shall not exceed eight square feet in area. Business or advertising signs for the transient business shall not be permitted off the premises where the business is situated.
- D. The business shall be maintained so that the premises are free of litter and debris at all stages of the operation.
- E. Prior to opening of the business, the person operating the business shall obtain approval of the location and proposal for the conduct of the business from the zoning official.

(Ord. 273 § 5.080, 1998)

17.44.090 Exterior lighting.

Exterior lighting for uses in commercial and industrial zones shall be located in such a manner so as not to face directly, shine or reflect glare onto an adjacent street or property.

(Ord. 273 § 5.090, 1998)

17.44.100 Manufactured homes.

The following regulations shall apply to manufactured homes and mobile homes situated outside of manufactured dwelling parks.

- A. Mobile homes shall not be located outside of manufactured dwelling parks except as specified in subsection G of Section 17.44.020 or subsection B of this section.
- B. Manufactured Homes Outside of Manufactured Dwelling Parks. Manufactured homes are permitted outright in the R-1, R-2, CC, and CH zones, subject to the following conditions:

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1. The manufactured home shall comply with the lot size and width, height, design standards and yard requirements which apply to single-family dwellings for the zone in which it is located.
2. Floor Plan. The manufactured home shall be multi-sectional and have an enclosed floor area of not less than one thousand (1,000) square feet.
3. Roof. The manufactured home shall have a pitched roof with a slope not less than three feet in height for each twelve (12) feet in width (fourteen (14) degrees).
4. Residential Building Materials. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood-appearance siding is considered superior to metal siding and roofing).
5. Garages. The garage or carport shall be constructed of materials similar to those used on the manufactured home and shall be constructed prior to occupancy. The siding on the garage or carport shall match the exterior appearance and color of the siding on the manufactured home, unless otherwise approved by the planning commission.
6. Thermal Envelope. The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the State Building Code.
7. Placement. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than sixteen (16) inches above grade, and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR Chapter 918. Where the building site has a sloped grade, no more than sixteen (16) inches of the enclosing material shall be exposed on the uphill side of the home.
8. Foundation Skirt. The foundation area of the manufactured home shall be fully skirted.
9. Gutters and Downspouts. The manufactured home shall be provided with gutters and down spouts to direct storm water away from the placement site.
10. Decks. A front and rear landing or deck composed of wood, wood substitute or equivalent, or concrete shall be placed at the front and rear entries to the manufactured home. Each landing or deck shall have dimensions of at least four feet by eight feet.
11. The maximum height and special setbacks for any carport, garage or accessory building shall comply with the requirements of Section 17.44.010.
12. Prior to the issuance of a placement permit for a manufactured home on a lot, the owner shall certify that the manufactured home and its location conform to this title and to all other applicable state and local laws or administrative rules. An application for a building permit shall be accompanied by:
 - a. A plot plan, drawn to scale, showing the proposed location of the manufactured home and accessory structures on the lot and including the exterior dimensions of the manufactured home and setbacks from all property lines;
 - b. Information indicating the exterior length and width dimensions of the manufactured home; the materials, design and necessary dimensions of the roof, foundation support system, and perimeter crawl space enclosure; and the type of materials and appearance of the siding;
 - c. An agreement signed by the owner of the manufactured home, or the owner's authorized agent, pledging full compliance with this title;
 - d. An application for a building permit for a garage or carport.
13. The manufactured home shall not be occupied until: (1) the zoning official certifies that all provisions of this title and other city ordinances have been met; and (2) the building official

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certifies that the State of Oregon Manufactured Dwelling Code and all other state manufactured housing rules, building and related code requirements have been met.

14. If the city finds the structure has been occupied without full compliance with the city's zoning and building regulations, the city may proceed with enforcement actions authorized in this code and/or as an alternative remedy terminate utility service to the home until such time as the owner fully complies with the city's code requirements. Utility service shall not be terminated unless the city has provided the owner with seven days' written notice by regular mail and by posting the property seventy-two (72) hours prior to the shut-off of water service.
15. Building Orientation.
 - a. In an R-1 zone, the architectural front of the manufactured home must face the street.
 - b. In an R-2 zone, the architectural front of the house may have the side of the manufactured home face the street.
 - c. The manufactured home must comply with the design standards in Section 17.12.080(C) or Section 17.16.080(C).

(Ord. 320 § 6, 2004; Ord. 273 § 5.100, 1998)

(Ord. No. 358, § 1, 7-13-2010)

17.44.110 Residential community plan.

- A. Plan and Application. The owner or owners of any tract of land comprising an area of not less than one acre may submit to the planning commission a plan for the use and development of all of the tract for residential purposes, or for the repair and alteration of any existing housing development of an area comprising one acre or more. The plans shall be accompanied by an application for a residential community plan which is in accordance with the provisions of Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall be submitted with the application.
- B. Hearing and Action on a Residential Community Plan. Before the planning commission may act on an application for a residential community plan, it shall hold a public hearing thereon in accordance with the provisions of Sections 17.64.080 and 17.64.090 of this title. After the public hearing is closed, the planning commission shall either recommend approval, denial, or approval with conditions or modifications to the city council. After the planning commission recommendation has been received, the city council shall hold a public hearing thereon and shall make a final decision on the application. The city council shall follow the same notice and procedural standards for the hearing as required by the planning commission. Both the planning commission and city council shall base their decision on the following criteria:
 1. The property adjacent to the area of the proposed community development will not be adversely affected by the proposal;
 2. The property is adequately buffered or screened from abutting residential property;
 3. The buildings shall be used only for single-family, two-family and multiple-family dwellings, and necessary accessory uses to the proposed development, such as recreation facilities, administrative offices, community halls, and chapels;
 4. Sufficient area is reserved for open space or outdoor recreation;
 5. There is adequate on-site parking available at a location which will not interfere with the residential use of abutting or nearby property;
 6. Vehicular access is designed to minimize traffic congestion.

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- C. Approval. If the planning commission approves the community development plan, building permits and certificates of occupancy may be issued even though the use of the land, the locations of the buildings to be erected in the area, and the yards do not conform in all respects to the regulations of the zone in which the community development is located.
- D. Conditions. The planning commission, in granting approval, reserves the right to place additional conditions that are consistent with the intent and purpose of this title. These may include, but are not limited to, buffers or screening, additional parking, number of access points, street dimensions or landscaping.
- E. Standards. Properties which are to be developed under the provisions for a residential community plan shall comply with the standards for residential site-plan review as outlined in Sections 17.16.070(C) of this title.
- F. Time Limit on an Approved Residential Community Plan. Authorization of a residential community plan shall be void one year after the date of approval of the plan unless the necessary building permits have been issued and substantial construction pursuant thereto has taken place. However, upon written request, the planning commission has the authority to grant an additional period, not to exceed one year, to complete the project.

(Ord. 273 § 5.110, 1998)

17.44.120 Review of land use action involving the North Santiam River.

Existing or proposed lots that adjoin the North Santiam River shall comply with the following requirements.

- A. Land Use Changes. Any land use change involving a current lot or proposed lot that adjoins the North Santiam River shall be submitted to the planning commission for review.
 - 1. Land use changes include, but are not limited to:
 - a. New building construction, enlargement of a building on the riverfront side of the building; or
 - b. The removal of trees or other vegetation in the area between the stream channel and the topographical break at the top of the stream bank; or
 - c. The creation of a lot or parcel by the subdividing or partitioning of land; or
 - d. Landscaping that requires the addition or removal of fifty (50) cubic yards of soil within seventy-five (75) feet above the topographical break at the top of the stream bank as outlined in subsection (D) of this section; or
 - e. Water dependent uses such as boat docks or boat launching and/or mooring facilities.
 - 2. Exceptions. The following land use changes are exempt from planning commission review:
 - a. Removal of a tree that could become a threat to life or structure if done in such a way that stream bank stability is maintained;
 - b. Removal of tansy ragwort, Canadian thistle, and other noxious weeds if followed by replanting of the area with riparian species appropriate to Western Oregon;
 - c. Construction of an accessory structure such as a pump house or storage shed, not to exceed one hundred twenty (120) square feet in area and ten (10) feet in height.
- B. Review Criteria. The planning commission shall use the following criteria in approval or denial of an application:
 - 1. The removal of any existing trees or other forms of existing natural vegetation such as shrubs, brush, plants or grasses between the stream channel and the topographical break at the top of the stream bank shall not be harmful to existing fish and wildlife habitat,

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including such items as stream bank erosion/stabilization and water quality degradation. When the removal of trees is considered to be commercial harvesting, the Oregon Department of Forestry shall have jurisdiction to manage the removal of trees;

2. A use or activity expressed in the proposed request shall not have a potentially damaging impact on existing fish or wildlife habitat along the river.
- C. Application. An application for a land use change involving the North Santiam River shall be submitted to the planning commission in accordance with the provisions of Section 17.64.060. A filing fee in accordance with the provisions of Section 17.64.070 shall be submitted with the application.
- D. Hearing and Action on Land Use Change Application Involving the North Santiam River. Before the planning commission may act on an application for a land use change involving the North Santiam River, it shall hold a public hearing in accordance with the provisions of Sections 17.64.080 and 17.64.090. Hearing notice shall also be provided to the Oregon Department of Fish and Wildlife and to the Oregon Department of Forestry. After the public hearing is closed, the planning commission shall either approve or deny the application. In approving the application, the planning commission may impose conditions as outlined in subsection (E) of this section. The placement of fill or the removal of soil below the top of the bank may also require state or federal permits.
- E. Time Limit on Approved Land Use Change Involving the North Santiam River.
1. Authorization of land use change involving the North Santiam River that involves the construction or expansion of a building shall be void two years after the date of approval unless a building permit has been issued and the building permit is either still active or the building is complete and fully approved by the permit review authority. However, upon written request, the planning commission has the authority to grant an additional period, not to exceed two years, to complete the project.
 2. In the case of an activity or use on the land that does not involve construction or expansion of a building, the authorization shall remain in effect for a period of five years as long as the lot or parcel remains vacant and as long as the circumstances pertaining to removal of vegetation have not changed. After the five year period, if the property remains vacant or if the use or activity is expected to continue, a new application shall be submitted for review by the city.
 3. In the case of a lot or parcel created by the subdividing or partitioning of land that has been reviewed and approved under the provisions of this section on a lot-by-lot basis, the authorization shall remain in effect for a period of five years from the date the plat for the subdivision or partition is filed as long as the lot or parcel remains vacant and as long as the circumstances pertaining to removal of vegetation have not changed. After the five-year period, if the property remains vacant, a new application shall be submitted for review by the city. If a subdivision or partition has been filed during the five-year period commencing prior to the date this title goes into effect, the five-year period shall begin the date this title goes into effect.
- F. Conditions and Basis for Denial of Application. If the planning commission finds that damaging effects set forth in this section could occur from the proposed request, the Commission may impose conditions to any land use application approval in order to maintain, enhance and protect existing fish and wildlife habitat along the river. An application may be denied if it cannot be conditioned to mitigate its adverse impacts. Conditions that may be imposed include, but are not limited to, the following:
1. Replanting of any existing trees or any other forms of existing natural vegetation which are removed. Replanting shall be with native vegetation using riparian species appropriate to western Oregon;
 2. Requirement of additional or special setbacks from the water's edge or at the topographical break at the top of the stream bank;

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3. Installation of fencing.

(Ord. 313 § 1, 2003; Ord. 273 § 5.120, 1998)

17.44.130 Home occupation review.

- A. Circumstances Under Which Home Occupation is Permitted Outright. A home occupation which meets the following standards shall be permitted outright and is not subject to the review by the zoning official.
1. The home occupation shall be fully contained and conducted within a completely enclosed building and shall have no impact on the use or enjoyment of surrounding or nearby properties. There shall be no exterior storage of materials related to the home occupation on the property;
 2. The home occupation shall not result in the need for additional on-street or off-street parking to accommodate the use beyond the requirement for residential use on the property, except for parking on an occasional need;
 3. There shall be no structural accommodation to handle the home occupation;
 4. There shall be no employees except for residents of the dwelling where the home occupation is situated;
 5. There shall be no exterior visual evidence of the home occupation except for a sign attached to the building which complies with the sign requirements of subsection (B)(3)(i) of this section;
 6. The home occupation shall be limited to either a pre-existing garage or accessory structure, or to not more than twenty-five (25) percent of the floor area of the main floor of the dwelling. If located within an accessory structure or garage, the home occupation shall not utilize over five hundred (500) square feet of floor area;
 7. There shall be no noise level related to the home occupation which extends beyond the exterior boundaries of the property where the home occupation is located;
 8. No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any adjacent or nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors.
- B. Special Home Occupation Review Procedure. If a home occupation does not meet the standards specified in subsection A of this section, either at the time it is to be established, or upon subsequent investigation of the operation of an existing home occupation, the zoning official shall review and take action on the home occupation under the special home occupation review procedures as outlined in this subsection.
1. Application. An application for a special home occupation review shall be submitted to the zoning official in accordance with provisions of Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall be submitted with the application;
 2. Hearing and Action on Special Home Occupation Review. Before the zoning official may act on an application for a special home occupation review, notice of the zoning official's pending action shall be mailed to owners of abutting property in accordance with the provisions of Section 17.64.080 of this title;
 3. Standards for Review of a Special Home Occupation Review. The decision to approve or deny a special home occupation review shall be based on the following standards:
 - a. The home occupation shall be secondary to the main use of the dwelling as a residence;
 - b. All aspects of the home occupation shall be fully contained and conducted within a completely enclosed building. Materials associated with the home occupation shall not be stored outside of an enclosed building;

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- c. The home occupation shall be limited to either a pre-existing garage or accessory structure, or not over one-third of the floor area of the main floor of a dwelling. If located within an accessory structure or garage, the home occupation shall not utilize over seven hundred fifty (750) square feet of floor area;
 - d. Any structural alteration to accommodate the home occupation shall not detract from the outward appearance of the property as a residential use;
 - e. No person other than members of the immediate family residing within the dwelling where the home occupation is situated and one additional employee shall be engaged in the home occupation;
 - f. No window display and no sample commodities displayed outside the dwelling shall be allowed;
 - g. No materials or mechanical equipment shall be used which are detrimental to the residential use of the dwelling or any adjacent or nearby dwellings because of vibration, noise, dust, smoke, odor, interference with radio or television reception, or other factors;
 - h. No parking of customer vehicles in a manner or frequency so as to cause disturbance of inconvenience to nearby residents or so as to necessitate the provisions of additional off-street parking shall be allowed. A maximum of two vehicles in addition to vehicles belonging to the residents shall be permitted at one time;
 - i. Signs for advertising the home occupation shall be prohibited. Signs to identify the home occupation shall be limited to one non-illuminated sign, attached to the exterior of the building, which identifies only the name and type of business or profession. Signs shall be no more than three square feet in size;
4. Conditions of Approval for a Special Home Occupation. In approving a special home occupation review request, the zoning official may impose in addition to those standards and requirements expressly specified by this title, additional conditions which the zoning official considers necessary to protect the adjacent properties and the surrounding neighborhood. These conditions may include, but are not limited to, the following:
- a. Controlling the location and number of vehicle access points and the location and number of off-street parking spaces;
 - b. Requiring fencing, screening, or other facilities to protect adjacent or nearby property;
 - c. Limiting the manner in which the use is conducted including restricting the hours of operation and imposing restraints to minimize environmental effects such as noise, vibration, air pollution, glare, and odor;
 - d. Setting a time limit for subsequent review of the home occupation;
 - e. Other conditions necessary to protect the adjacent properties and the surrounding area;
5. Notice of the Zoning Official Decision. After the zoning official has made a decision, notice of that decision and any conditions of approval shall be forwarded to the applicant and to all parties receiving notice of the pending special home occupation review decision. The notice of decision shall give all parties receiving notice the right to appeal the decision to the planning commission. If a decision is appealed to the planning commission, that body shall hold a public hearing on the appeal. Those standards and conditions of approval that apply to the zoning official decision shall also apply to the planning commission decision;
6. Time Limit on Approval Special Home Occupation Review Application. Authorization of a special home occupation review shall be void one year after the date of approval if the home occupation has not been established. However, upon written request, the zoning official has the authority to grant an additional period, not to exceed one year, to begin the home occupation.

- C. Application of Home Occupation Standards to Prior Approved Home Occupations. Effective January 1, 2002, all home occupations approved under the home occupation provisions of this title in effect at the date of approval, shall meet the standards in effect on January 1, 2002.

(Ord. 280 § 2, 2000; Ord. 273 § 5.130, 1998)

Chapter 17.48 NONCONFORMING USES

Sections:

[17.48.010 Intent.](#)

[17.48.020 Continuation of a nonconforming use.](#)

[17.48.030 Discontinuance of a nonconforming use.](#)

[17.48.040 Repairs and maintenance.](#)

[17.48.050 Completion of structure.](#)

[17.48.060 Destruction of nonconforming use.](#)

17.48.010 Intent.

It is the intent of this chapter to permit pre-existing uses and structures which do not conform to the use or dimensional standards of this title to continue under conditions specified in this chapter. However, alteration or expansion of these nonconforming uses and structures, thereby creating potentially adverse effects in the immediate neighborhood or in the city as a whole, are not permitted except as outlined in this chapter.

(Ord. 273 § 6.010, 1998)

17.48.020 Continuation of a nonconforming use.

- A. Subject to the provisions of this chapter, a nonconforming use of a structure, or a nonconforming use, may be continued or maintained.
- B. A nonconforming use of a building may be changed to a similar nonconforming use or a use allowed in a more restrictive zone classification provided there is no structural alteration.

(Ord. 273 § 6.020, 1998)

17.48.030 Discontinuance of a nonconforming use.

If a nonconforming use is discontinued from active use for a period of one year, further use of the property shall be for a conforming use.

(Ord. 273 § 6.030, 1998)

17.48.040 Repairs and maintenance.

- A. Any building housing a nonconforming use may be maintained or restored to conform with the standards of the building code, including repair or replacement of fixtures, wiring, or plumbing, provided the building is not increased in cubic content or floor area.

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- B. In an industrial zone, a dwelling existing prior to the date of adoption of the ordinance codified in this title (September 13, 1994) may be altered or extended provided that:
1. The alteration or extension shall not exceed the lot size and density, yard, lot coverage, and building height requirements of the R-2 zone; or
 2. The applicant shall apply for and receive approval of a variance to the above listed requirements.

(Ord. 273 § 6.040, 1998)

17.48.050 Completion of structure.

Nothing contained in this chapter shall require any change in the plans, construction, alteration or designated use of a structure for which a building permit has been lawfully issued and construction has commenced prior to adoption of the ordinance codified in this title, provided the structure, if nonconforming or intended for a nonconforming use, is completed and in use within one year from the time the permit is issued.

(Ord. 273 § 6.050, 1998)

17.48.060 Destruction of nonconforming use.

Any structure involuntarily destroyed by fire, casualty or natural disaster may be restored or replaced if, upon application to the city, the proposed restoration or replacement shall be commenced within twelve (12) months from the occurrence of the fire, casualty or natural disaster.

(Ord. 273 § 6.060, 1998)

(Ord. No. 358, § 10, 7-13-2010)

Chapter 17.52 CONDITIONAL USES

Sections:

[17.52.010 Purpose of conditional use procedure.](#)

[17.52.020 Authorization to grant or deny conditional use permit.](#)

[17.52.030 Standards governing conditional uses.](#)

[17.52.040 Procedure for taking action on a conditional use application.](#)

[17.52.050 Building permits for an approved conditional use.](#)

[17.52.060 Time limit on an approved conditional use application.](#)

[17.52.070 Termination of a conditional use.](#)

[17.52.080 Limitation on conditional use requests.](#)

17.52.010 Purpose of conditional use procedure.

A conditional use is a use of land or a structure which is normally appropriate, desirable, or necessary in a zone where it is permitted, but which, by virtue of a feature of that use, could create a problem within the area such as excessive height or bulk, congestion, a potential nuisance, or a health or safety hazard. It is the intent of this chapter to provide standards and procedures so that uses which are

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classified as conditional can fit into a particular zone in a manner so that the best interests of surrounding property, the neighborhood, and the city are safeguarded.

(Ord. 273 § 7.010, 1998)

17.52.020 Authorization to grant or deny conditional use permit.

Conditional uses listed in this title may be permitted, altered or enlarged upon by authorization of the planning commission in accordance with the standards and procedures set forth in this chapter.

- A. In taking action on a conditional use permit application the planning commission may either approve or deny the application. A decision by the planning commission may be appealed to the city council as outlined in Section 17.64.050 of this title.
- B. The decision to approve or deny a conditional use shall be based on the following criteria.
 1. Development of the property as proposed in the application is generally compatible with existing development on abutting properties and in the surrounding neighborhood. It is also generally compatible with possible future development of the property in the surrounding neighborhood as indicated in the comprehensive plan. This criteria does not apply to manufactured home parks;
 2. The proposed development site has the physical characteristics needed to support the use considering factors such as steepness of slope and septic suitability;
 3. The proposed development will not unduly affect the capacity of current public facilities, including streets and utility systems;
 4. The proposed development is consistent with the goals and policies in the comprehensive plan.
- C. In approving a conditional use permit application, the planning commission may impose, in addition to those standards and requirements expressly specified by this title, additional conditions which the planning commission considers necessary to protect the appropriate development and best interests of the surrounding property, the neighborhood, and the city as a whole. These conditions may include, but are not limited to, the following.
 1. Increasing the required lot size, lot width, or yard dimensions;
 2. Limiting the height, size or location of a building or other structure;
 3. Controlling the location and number of vehicle access points;
 4. Increasing the street width;
 5. Increasing the number of required off-street parking or off-street loading spaces;
 6. Requiring fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
 7. Limiting the number, size, location of lighting of signs;
 8. Designating sites for open space or outdoor recreation areas;
 9. Limiting the manner in which the use is conducted including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor;
 10. Setting a time limit for which the conditional use is approved;
 11. Providing internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property;

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12. Other conditions necessary to permit the development of the city in conformity with the intent and purpose of this title and the policies of the comprehensive plan;
 13. The standards for manufactured home parks expressly specified in Section 17.52.030(B) cannot be exceeded in taking action on a conditional use application.
- D. In the case of a use existing prior to the effective date of the ordinance codified in this title and classified in this title as a conditional use, the change in use or in lot area or the alteration or enlargement of the structure shall conform with the requirements for conditional use.
 - E. The planning commission may require that the applicant for a conditional use furnish the city with a performance bond or similar contractual arrangement of up to the value of the cost of the improvement to be guaranteed by such bond, in order to assure that the conditional use is completed according to the plans as approved by a person designated by the city council.
 - F. The planning commission may require that an applicant for a conditional use enter into a contractual agreement with the city to assure that the applicant will provide streets, curbs, gutters, sidewalks, and water, sewer, and drainage facilities that meet city standards.

(Ord. 273 § 7.020, 1998)

17.52.030 Standards governing conditional uses.

In addition to the standards of the zone in which the conditional use is located the other standards of this title, and the city public works design standards as adopted by the city council, conditional uses shall meet the following standards.

- A. Height. In any zone, a building which is classified as a conditional use may exceed the height restriction of the zone in which the property is located, provided the increase in building height does not interfere with or detract from nearby property and provided further that the building is set back from the property line an additional one foot for each two feet of building height.
- B. Standards for a Manufactured Home Park. Each application for a manufactured home park as a conditional use shall meet the following requirements.
 1. The application for a permit to construct a new manufactured home park or to expand an existing manufactured home park shall be accompanied by four copies of the plot plan of the proposed park. The plot plan shall be drawn to a scale the same as subdivision requirements. The drawing shall be placed on substantial tracing paper, and shall show the following information:
 - a. Name of the person who prepared the plan;
 - b. Name of the manufactured home park and address;
 - c. Scale and north point of the plan;
 - d. Boundaries and dimensions of the manufactured home space;
 - e. Locations and dimensions of each manufactured home space;
 - f. Location and dimensions of each existing or proposed building;
 - g. Location and width of access ways and walkways;
 - h. Location of each lighting fixture for lighting the manufactured home spaces and grounds;
 - i. Location of recreation areas and buildings, the area of recreation space in square feet;
 - j. Location of point where manufactured home park water and sewer system connects with the public system;

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- k. Location of available fire and irrigation hydrants;
 - l. Location of public telephone service for the park;
 - m. Enlarged plot plan of a typical manufactured home space, showing location of the stand, patio, storage space, parking, sidewalk, utility connections, and landscaping;
 - n. Location of all buried utility services;
 - o. A workable drainage plan;
 - p. Proof of arrangement to connect the manufactured homes to the city sewer system if the lot is served by the sewer, or to a state-approved septic tank system if the lot is not served by a sewer;
2. Arrangement of Manufactured Home Park.
- a. Each manufactured home pad shall have two off-street parking spaces;
 - b. Off-street guest parking shall be provided at the ratio of one parking space for each four manufactured home pads. Clubhouse and community building parking may account for up to fifty (50) percent of these requirements;
 - c. Recreational vehicle parking will be supplied at the rate of one space (at least four hundred fifty (450) square feet in size) per ten (10) manufactured homes;
 - d. Buffering and screening between the park and adjacent properties or roadways is required. Buffers and screens will consist of existing or planted vegetation, sight-obscuring fences, hedges or walls, earth berms, or similar techniques.
 - i. The planning commission may require earth berms or walls where sound transmission or other environmental problems can be anticipated. Planted screens should be sufficient to obscure the proposed use within four years;
 - ii. The planning commission may require additional buffering within the development to protect sensitive natural features, such as streams or to safeguard cliffs and areas of steep slope;
 - iii. Buffering shall be no less than twenty-four (24) feet and screening shall be four to six feet high including the wall or earth berm;
 - iv. The park developer will provide landscaping around each manufactured home and in public recreation areas. Screens and planted buffers will also be landscaped.
 - e. No individual manufactured home shall have direct access onto a city street;
 - f. Adequate fire protection shall be provided to the manufactured home park;
 - g. Access to a public street. A manufactured home park shall not be established on any site that does not have access to any public street on which the potential paving width is less than thirty (30) feet;
 - h. Service buildings. Service buildings housing sanitation facilities shall comply with all applicable city and state ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems;
 - i. Structures. Structures located in any manufactured home space shall be limited to a storage building, ramada or carport. The storage buildings, ramada or carport may be combined as one structure. No structural additions shall be built onto or become a part of any manufactured home, except for rain flashing and no manufactured home shall support any building in any manner. The words "structural additions" shall not be construed to exclude the construction of an awning, patio cover or cabana adjacent to the manufactured home;

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- j. Every manufactured home park shall have an office and a sign designating the same;
 - k. All manufactured home parks shall include a minimum of thirty (30) percent of the site for common, functional open space. The following areas shall not be considered as open space:
 - i. Surfaced widths or park roads;
 - ii. Recreational vehicle, guest and unit parking areas;
 - iii. Common open space may include community recreational areas and facilities such as playgrounds, swimming pools and club houses, provided that no more than fifty (50) percent of the required buffer strips are included in the community open space totals;
3. Minimum area requirements for manufactured home parks or the expansion of current manufactured home parks:
- a. The total space occupied by all manufactured homes and structures (within the manufactured home park) shall not exceed forty (40) percent. Total paved surface shall not exceed eighty (80) percent;
 - b. Occupied manufactured homes shall be parked only on stands provided and shall be set back a minimum of five feet from the edge of all access ways;
 - c. Each manufactured home space shall be provided with a patio or a raised deck having a minimum area of one hundred twenty (120) square feet. The patio or raised deck shall have a minimum length of ten (10) feet;
 - d. One permanent storage building containing a minimum of twenty-four (24) square feet of floor space area shall be provided for each manufactured home space. The building height shall not be less than seven feet nor more than nine feet;
 - e. Minimum space requirements between manufactured homes:
 - i. Ten (10) feet end to end, fifteen (15) feet side to side, and ten (10) feet from any building (including carports, cabanas, ramadas, and storage buildings);
 - ii. No unit shall be closer than five feet to any buffer or screening;
 - f. The minimum size of a manufactured home park shall be one acre;
 - g. The minimum area per manufactured dwelling in a manufactured home park shall be eight thousand (8,000) square feet for the first two manufactured homes plus three thousand (3,000) square feet for each additional manufactured home;
4. Improvement requirements for a new manufactured home park or the expansion of an existing park are as follows:
- a. Manufactured homes will be situated on a concrete slab, constructed in conformance with state requirements, that exceeds the outside dimensions of the manufactured home by twelve (12) inches;
 - b. Access ways and sidewalks shall be hard-surfaced with asphalt or concrete;
 - c. All access ways and walkways within the park shall be lighted at night. Lighting shall be hooded to focus lights onto access ways and walkways;
 - d. Public telephone services shall be made available for the manufactured home park residents;
 - e. All drainage plans will show:
 - i. Existing drainage ways and how the development will use or affect them;
 - ii. Location of all proposed storm drain openings, catch basins, and/or dry wells;

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- iii. Size and location of all storm drains;
 - iv. Location of all outflows;
 - v. Existing manufactured home parks may be expanded or altered after an expansion or alteration permit is issued by the planning commission. The application, filed by the owner or other real partner in interest, will be filed and processed in the same manner as an application for a new manufactured home park;
 - vi. The manufactured home park owner is responsible to maintain the park and all landscaping in a clean and neat manner and to minimize all health and safety hazards;
 - vii. All manufactured home parks will conform with state, county, and all city laws, regulations and statutes. In a case of differing standards, the more restrictive shall apply.
- C. Standards for Nursery Schools, Pre-schools, Kindergartens or Similar Facilities.
- 1. Pre-schools, nursery schools, and kindergartens shall provide and maintain at least one hundred (100) square feet of outdoor play area per child. A sight obscuring fence of four to six feet shall separate the play area from the abutting lots;
 - 2. A structure other than a private residence shall be used if more than fifteen (15) children are to be enrolled or cared for at the facility;
 - 3. The facility shall be readily accessible for fire and other emergency vehicles.
- D. Standards for Parking Lots in a Residential Zone Intended to Serve Uses in a Commercial Zone.
- 1. The parking lot shall be consistent with the standards in Section 17.44.060 of this title;
 - 2. The parking lot shall have an asphalt, concrete, or other all weather dust free surfacing;
 - 3. Screening shall be provided on each side of the parking lot which abuts a residential use in a residential zone. The screening shall consist of a continuous fence or wall a minimum of three feet in height, supplemented with landscape planting, so as to effectively screen the parking lot from the residential zone.
- E. Standards for a Wireless Telecommunications Tower (WCF).
- 1. Application Requirements. In addition to all standard required application materials, an applicant for a new WCF shall submit the following information:
 - a. A visual study containing, at a minimum, a vicinity map depicting where, within a half-mile radius, any portion of the proposed tower could be visible, and a graphic simulation showing the appearance of the proposed tower and accessory structures from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures. Such points are to be mutually agreed upon by the applicant and the zoning official.
 - b. Documentation of the actions that will be taken to minimize the visual impact of the proposed facility.
 - c. A landscape plan, drawn to scale, that is consistent with the need for screening at the site. Existing vegetation that is to be removed must be clearly indicated and provisions for mitigation included where appropriate.
 - d. A feasibility study for the collocation of telecommunication facilities as an alternative to new structures. The feasibility study shall include:
 - i. An inventory, including the location, ownership, height and design of existing WCFs within one mile of the proposed location of a new WCF.

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- ii. Documentation of the efforts that have been made to collocate on existing or previously approved towers. Each applicant shall make a good faith effort to contact the owner(s) of all existing or approved towers and shall provide a list of all owners contacted in the area.
 - iii. Documentation as to why collocation on existing or proposed towers or location on an existing tall structure within one mile of the proposed site is not practical or feasible. Collocation shall not be precluded simply because a reasonable fee for shared use is charged or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. The city may consider expert testimony to determine whether the fee and costs are reasonable. Collocation costs exceeding new tower development are presumed to be unreasonable.
- e. A report containing the following information:
- i. A description of the proposed tower height and design, including technical, engineering, and other pertinent factors governing selection of the proposed design. A cross section of the proposed tower structure shall be included. If the proposed tower is intended to accommodate future collocation, the applicant shall document that the design is sufficient for the purpose. If the proposed tower is not intended to allow for future collocation, the applicant shall provide an explanation of why it is not so intended.
 - ii. The total anticipated capacity of the tower in terms of the number and types of antennae which can be accommodated. The applicant shall also describe any limitations on the ability of the tower to accommodate collocation. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not used.
 - iii. Documentation that the proposed tower will have sufficient structural integrity for the proposed uses at the proposed location, in conformance with the minimum safety requirements of the state Structural Specialty Code, latest adopted edition at the time of the application.
 - iv. A description of mitigation methods which will be employed to avoid ice hazards, including increased setbacks, and/or de-icing equipment.
 - v. Documentation demonstrating compliance with non-ionizing electromagnetic radiation emissions standards as set forth by the Federal Communications Commission.
 - vi. Evidence that the proposed tower will comply with the applicable requirements of Federal Aviation Administration, the Aeronautics Section of the Oregon Department of Transportation, and the Federal Communications Commission.
- f. A description of anticipated maintenance needs, including frequency of service, personnel needs, equipment needs and potential safety impacts of such maintenance.
- g. The planning commission may request any other information deemed necessary to fully evaluate and review the application and potential impact of a proposed WCF.
2. Collocation. In order to encourage shared use of towers, all new WCFs shall comply with the following collection standards:
- a. To encourage shared use of towers, no conditional use permit shall be required for the addition of antennae to an existing tower, nor shall a conditional use permit be required for accompanying accessory uses.
 - b. All collocation facilities shall meet all requirements of the state of Oregon Structural Specialty Code, latest adopted edition. A building permit shall be required for such additions. Documentation from a licensed professional engineer may be required by

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the planning commission or building official in order to verify that changes or additions to the tower structure will not adversely affect the structural integrity of the tower.

- c. All collocated facilities shall be designed in such a way as to be visually compatible with the tower structures on which they are placed.
3. Development Standards. All new WCFs shall comply with the following standards:
- a. Visual Impact.
 - i. Tower Height. Freestanding WCFs shall be exempted from the height limitations of the zone in which they are located, but shall comply with setback requirements in subsection A of this section. The height and mass of the transmission tower shall be the minimum which is necessary for its intended use, as demonstrated in a report prepared by a licensed professional engineer. A WCF which is attached to an alternative tower structure may not exceed the height of the alternative tower structure, unless findings are made by the planning commission that such an increase will have a deminis impact on the appearance of the structure.
 - ii. Paint and Finish.
 - (A) Towers, antennae and associated equipment shall use, and continuously maintain, a galvanized steel finish or be painted a nonreflective, neutral color, as approved by the planning commission. Attached communications facilities shall be painted so as to be identical to or compatible with the existing structure.
 - (B) All ancillary facilities shall be colored and surfaced so as to blend into the surrounding natural and built environment.
 - iii. Storage. Unenclosed storage of materials is prohibited.
 - b. Site Size and Location.
 - i. The site on which a transmission tower is located shall be of a sufficient shape and size to provide adequate setbacks as specified below. Towers may be located on sites containing other principal uses in the same buildable area as long as all of the other general requirements of subsection D of this section are met.
 - ii. Wherever possible, tower sites shall be large enough and structurally sufficient to allow for additional collocated and ancillary facilities, unless a finding is made by the planning commission that the tower will not accommodate future collocation. This standard shall not apply to antennae attached to existing structures.
 - c. Separation and Setbacks.
 - i. Freestanding WCFs shall be set back from any other property line as required under subsection A of this section. The planning commission may require a larger setback for purposes of mitigating visual impacts or improving compatibility with other uses on the property, but the setback may not be greater than the tower height.
 - ii. Freestanding WCFs shall be located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses by at least twenty-five (25) feet, unless this requirement is specifically waived by the planning commission.
 - iii. A guyed wire tower located on sites containing other principal uses must maintain a minimum distance between the tower and other principal uses of the greater of one hundred (100) percent breakpoint or twenty-five (25) feet, unless this requirement is specifically waived by the planning commission.

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- iv. Towers and antennas mounted on rooftops or alternative tower structures shall be exempted from these minimum separation requirements. However, WCFs and related equipment may be required to be set back from the edge of the roof line in order to minimize their visual impact on surrounding properties.
 - d. Lighting. No lighting shall be permitted on transmission towers except (1) lighting that required by the Oregon State Aeronautics Division or the Federal Aviation Administration, (2) security lighting for the site placed not higher than thirty (30) feet above ground level, and/or, (3) if the tower is located adjacent to an athletic field, field lighting for the athletic field.
 - e. Signs. All signs are prohibited on WCFs, except for one non-illuminated sign, not to exceed twelve (12) square feet, which shall be provided at the main entrance to the facility stating the owner's name and address, including a contact name and phone number for emergency purposes.
 - f. Security. WCFs shall be enclosed by decay resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device. Fencing shall be compatible with other nearby fencing. Such requirements may be waived for attached WCFs.
 - g. Landscaping. Landscaping shall be placed around the outside perimeter of the security fencing and shall consist of vegetation that can reach a minimum height of six feet and will form a continuous hedge. Trees and shrubs in the vicinity of guy wires shall be of a kind that will not exceed twenty (20) feet in height and will not affect the stability of the guy wires. Landscaping shall be compatible with other nearby landscaping.
4. Deed Covenants. If a new tower is approved, the owner shall be required, as a condition of approval, to:
- a. Record the conditions of approval specified by the city in the deed records office in the county clerks office of the county in which the tower site is located. Such conditions shall run with the land and be binding on subsequent purchasers of the tower site;
 - b. Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant; and
 - c. Negotiate in good faith for shared use by third parties.
5. Abandoned Facilities.
- a. In the event that an owner discontinues use of a transmission facility for more than six consecutive months, the city may declare the facility abandoned and require the property owner to remove it. An abandoned facility may be declared a nuisance subject to abatement procedures in Mill City Code Chapter 8. Delay by the city in taking action shall not in any way waive the city's right to take action. Upon written application prior to the expiration of the six-month period, the planning commission may grant a six-month extension for reuse of the facility. Additional extensions beyond the first six-month extension may be granted by the planning commission subject to any conditions required to bring the project into compliance with current law(s) and make compatible with surrounding developments.
 - b. The applicant for a new WCF shall provide an affidavit, signed by the property owner, indicating that the owner has read, and understands subsection (E)(4)(a) of this section.

(Ord. 326 § 2, 2004; Ord. 283 § 7, 2001; Ord. 280 § 3, 2000; Ord. 273 § 7.030, 1998)

(Ord. No. 369, § 7, 8-13-2013)

17.52.040 Procedure for taking action on a conditional use application.

The procedure for taking action on an application for a conditional use shall be as follows:

- A. A property owner may initiate a request for a conditional use by filing an application with the city recorder, using forms prescribed pursuant to Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall accompany an application for a conditional use.
- B. Before the planning commission may act on a conditional use application, it shall hold a public hearing thereon in accordance with the provisions of Section 17.64.080 of this title.
- C. The city shall provide the applicant with written notice of the decision of the planning commission as outlined in Section 17.64.030 of this title.
- D. Appeals. The decision of the planning commission may be appealed to the city council as outlined in Section 17.64.050 of this title.

(Ord. 273 § 7.040, 1998)

(Ord. No. 358, § 6, 7-13-2010; Ord. No. 369, § 8, 8-13-2013)

17.52.050 Building permits for an approved conditional use.

Building permits for all or any portion of a conditional use shall be issued only on the basis of the plan for the conditional use as approved by the planning commission. Any proposed change in the approved plan shall be submitted to the planning commission as a new application for a conditional use. Building permits involving an approved conditional use shall not be issued until the appeal period as specified under Section 17.64.050 of this title has passed.

(Ord. 273 § 7.050, 1998)

17.52.060 Time limit on an approved conditional use application.

Authorization of a conditional use shall be void one year after the date of approval of a conditional use application, or such lesser time as the authorization may specify, unless a building permit has been issued and substantial construction pursuant thereto has taken place, or unless a use not involving construction has been initiated in some substantial manner. However, upon written request, the planning commission may extend authorization for an additional period not to exceed one year.

(Ord. 273 § 7.060, 1998)

17.52.070 Termination of a conditional use.

A conditional use may be revoked or modified by the planning commission, after public hearing, on any one or more of the following grounds.

- A. Approval of the conditional use was obtained by fraud or misrepresentation.
- B. The use for which approval was granted has ceased to exist.
- C. The use does not meet the conditions specifically established for it at the time of approval of the application.
- D. The use is in violation of any provision of this title or any other applicable statute, ordinance or regulation.

(Ord. 273 § 7.070, 1998)

17.52.080 Limitation on conditional use requests.

No request for a conditional use shall be considered by the planning commission within the one-year period immediately following a denial of such request, except the planning commission may consent to a new hearing, if in the opinion of the planning commission, new evidence of a change of circumstances warrants it.

(Ord. 273 § 7.080, 1998)

Chapter 17.56 VARIANCES

Sections:

[17.56.010 Authorization to grant or deny variances.](#)

[17.56.020 Conditions.](#)

[17.56.030 Criteria for granting a variance.](#)

[17.56.040 Procedure for taking action on a variance application.](#)

[17.56.050 Building permits for an approved variance.](#)

[17.56.060 Time limit on an approved variance application.](#)

[17.56.070 Termination of a variance.](#)

[17.56.080 Limitation on variance request.](#)

17.56.010 Authorization to grant or deny variances.

The planning commission may authorize variances from the requirements of this title, where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be created to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 8.010, 1998)

17.56.020 Conditions.

In granting any variance, the planning commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and otherwise achieve the purpose of this title. Such conditions shall apply to the applicant for such a variance and to any purchaser, renter, lessee or subsequent owner of the subject property.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 8.020, 1998)

17.56.030 Criteria for granting a variance.

The decision to approve or deny a variance shall be based on the following criteria.

- A. Unique or extraordinary circumstances apply to the property which do not generally apply to other properties in the same zone or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of property, since the enactment of this title, have no control.

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- B. The variance is necessary for the preservation and enjoyment of the same property right as possessed by owners of other property in the same zone and vicinity.
- C. The variance is not in conflict with the general purpose and intent of this title, or to property in the same zone or vicinity in which the property is located.
- D. The variance is consistent with the goals and policies in the comprehensive plan.
- E. Variance to Residential Design Standards. For a variance to the residential design standards specified in Section 17.12.080 or 17.16.080, the decision to approve or deny the variance shall be based on the following criteria in lieu of subsections A through D of this section:
 - 1. The variance is consistent with the intent of the residential design standards to create attractive neighborhoods by allowing structures that have distinctive architectural features and curb appeal; and
 - 2. The planning commission finds the building plans submitted by the applicant include architectural design elements on the street side of the building which will enhance the residential character of the neighborhood.
- F. The hearing body shall not approve a variance to any provision of Section 17.24.090 (Oregon Highway 22-Access Management Plan conformity) without also finding that the variance would not conflict with the purposes under Section 17.24.090(A). Where a variance to a streetscape or landscaping standard is proposed, the approval body shall consider whether approving the variance would adversely impact the appearance or function of the highway. The approval body may require mitigation to address adverse impacts, consistent with the purposes under Section 17.24.090(A).

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 320 § 7, 2004; Ord. 273 § 8.030, 1998)

17.56.040 Procedure for taking action on a variance application.

The procedure for taking action on an application for a variance shall be as follows:

- A. A property owner may initiate a request for a variance by filing an application with the city, using forms prescribed pursuant to Section 17.64.060 of this title and providing the necessary filing fee in accordance with Section 17.64.070 of this title. The applicant shall submit evidence that the circumstances for granting a variance as outlined in Section 17.56.030 of this chapter apply to the variance request.
- B. Before the planning commission may act on a variance application, it shall hold a public hearing thereon in accordance with the provisions in Section 17.64.080 of this title.
- C. The city shall provide the applicant with written notice of the decision of the planning commission as outlined in Section 17.64.030 of this title.
- D. Appeals. The decision of the planning commission may be appealed to the city council as outlined in Section 17.64.050 of this title.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 8.040, 1998)

(Ord. No. 358, § 7, 7-13-2010; Ord. No. 369, § 9, 8-13-2013)

17.56.050 Building permits for an approved variance.

Building permits for all or any portion of an application involving an approved variance shall be issued only on the basis of the plan for the variance as approved by the planning commission. Any proposed change in the approved plan shall be submitted to the planning commission as a new application for a variance.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 8.050, 1998)

17.56.060 Time limit on an approved variance application.

Authorization of a variance shall be void one year after the date of approval of a variance application, or such lesser time as the authorization may specify, unless a building permit has been issued and substantial construction pursuant thereto has taken place. However, upon written request, the planning commission may extend authorization for an additional period not to exceed one year.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 8.060, 1998)

17.56.070 Termination of a variance.

A variance may be revoked or modified by the planning commission, after a public hearing, on any one or more of the following grounds.

- A. Approval of the variance was obtained by fraud or misrepresentation.
- B. The use for which approval was granted has ceased to exist.
- C. The use does not meet the conditions specifically established for it at the time of approval of the application.
- D. The variance is in violation of any other applicable statute, ordinance or regulation.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 8.070, 1998)

17.56.080 Limitation on variance request.

No request for a variance shall be considered by the planning commission within the one-year period immediately following a denial of such request except the planning commission may consent to a new hearing, if in the opinion of the planning commission, new evidence of a change of circumstances warrants it.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 8.080, 1998)

Chapter 17.60 AMENDMENTS

Sections:

[17.60.010 Procedure for submitting amendment requests.](#)

[17.60.020 Public hearings on amendments.](#)

[17.60.030 Criteria applicable to zoning amendment.](#)

[17.60.040 Record of amendments.](#)

[17.60.050 Limitation.](#)

17.60.010 Procedure for submitting amendment requests.

- A. Initiation of Amendment Requests. A request of an amendment to the text of the ordinance codified in this title or to a zoning map may be initiated by the city council, the planning commission or by application of a property owner.
- B. Filing of Amendment Requests. The request by a property owner for an amendment shall be accomplished by filing an application with the city recorder using forms prescribed pursuant to

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Section 17.64.060 of this title. A filing fee in accordance with the provisions of Section 17.64.070 of this title shall accompany an application by a property owner for an amendment.

(Ord. 273 § 9.010, 1998)

17.60.020 Public hearings on amendments.

All requests for amendment to the text of zoning map of this title shall comply with the following public hearing procedures.

- A. The planning commission shall conduct a public hearing concerning the proposed amendment as outlined in Section 17.64.080 of this title.
- B. The planning commission shall, within forty (40) days after the initial meeting date recommend to the city council approval, disapproval or modification of the proposed amendment.
- C. After receiving the recommendation of the planning commission, the city council shall hold a public hearing on the proposed amendment as outlined in Section 17.64.080 of this title.
- D. Within five working days after a decision has been rendered with reference to an amendment, the applicant shall be provided with written notice of the decision.

This procedure shall apply to recommendations made by the planning commission and to final action made by the city council.

(Ord. 273 § 9.020, 1998)

17.60.030 Criteria applicable to zoning amendment.

A decision to approve or deny an application for a zoning amendment shall be based on the following criteria:

- A. The amendment shall be consistent with the applicable policies of the comprehensive plan.
- B. A zoning map amendment from R-1 to R-2 shall be accompanied by and be consistent with either site plan review procedures specified in Section 17.16.070 of this title or conditional use permit procedures specified in Chapter 17.52 of this title.

(Ord. 273 § 9.025, 1998)

17.60.040 Record of amendments.

The city recorder shall maintain records of amendments to the text and zoning map of the ordinance codified in this title.

(Ord. 273 § 9.030, 1998)

17.60.050 Limitation.

No application of a property owner for an amendment to the text of the ordinance codified in this title or to the zoning map shall be considered by the planning commission within the one-year period immediately following a previous denial of such request, except the planning commission may permit a new application, if in the opinion of the planning commission, new evidence of a change of circumstances warrants it.

(Ord. 273 § 9.040, 1998)

Chapter 17.64 ADMINISTRATION AND ENFORCEMENT

Sections:

[17.64.010 Administration.](#)

[17.64.020 Authorization of similar uses.](#)

[17.64.025 Decision authority.](#)

[17.64.030 The decision process.](#)

[17.64.040 Consolidation of procedures.](#)

[17.64.050 Appeals.](#)

[17.64.060 Forms of petitions, applications, and appeals.](#)

[17.64.070 Fees.](#)

[17.64.080 Notice of public hearing.](#)

[17.64.090 Public hearing notice and procedure.](#)

[17.64.100 One hundred twenty-day time limit.](#)

[17.64.110 Interpretation.](#)

[17.64.120 Abatement and penalty.](#)

[17.64.130 Alternative remedies.](#)

[17.64.140 Procedures for processing violations of the zoning ordinance.](#)

[17.64.150 Public works standards.](#)

17.64.010 Administration.

The zoning official shall have the power and duty to enforce the provisions of this title.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 10.010, 1998)

(Ord. No. 358, § 2, 7-13-2010)

17.64.020 Authorization of similar uses.

The zoning official may permit in a particular zone a use not listed in this title, provided the use is of the same general type as the uses currently permitted by this title. This section does not authorize the inclusion in a zone, where it is not listed, of a use specifically listed in another zone. The decision of the zoning official may be appealed to the planning commission as outlined in Section 17.64.050 of this chapter. A decision of the planning commission may be appealed to the city council as outlined in Section 17.64.050 of this chapter.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 10.020, 1998)

(Ord. No. 358, § 2, 7-13-2010)

17.64.025 Decision authority.

- A. The zoning official shall be the final decision authority for the following administrative decisions under this title, unless the decision is appealed to the planning commission as outlined in Section 17.64.050 of this chapter:
 - 1. Building permit and/or development permit for uses permitted outright, unless a site plan review is required.
 - 2. Recreational vehicle use during construction of a new home. [17.44.020.G]
 - 3. Home occupation permit. [17.44.130]
 - 4. Replacement of a nonconforming use if destroyed. [17.48.060]
 - 5. Code interpretation. [17.64.010 and 17.64.020]
 - 6. Sign permit, except as required in Section 17.68.030(G) of this title.
- B. The planning commission shall be the final decision authority for the following decisions under this title, unless the decision is appealed to the city council as outlined in Section 17.64.050 of this chapter:
 - 1. Site plan review.
 - 2. Special planned development (SPD) zone site development plan.
 - 3. Historic structure alteration or demolition permit.
 - 4. Recreational vehicle use for a park host in the public zone.
 - 5. Residential community plan.
 - 6. Land use action adjacent to the North Santiam River.
 - 7. Conditional use permit.
 - 8. Variance.
- C. The city council shall be the final decision authority for the following decisions under ORS 222 (Annexations), Chapter 2.44 (Comprehensive Plan) of Title 2 and Title 17.
 - 1. Annexation.
 - 2. Comprehensive plan amendment.
 - 3. Zoning code amendment.

(Ord. No. 358, § 2, 7-13-2010)

17.64.030 The decision process.

- A. Basis for Decision. Approval or denial of an application shall be based on standards and criteria in this chapter and when appropriate, to the comprehensive plan for the city.
- B. Findings and Conclusions. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.
- C. Form of Decision. For decisions listed under Section 17.64.025(B) and (C) of this chapter, the decision authority shall issue a final written order containing the findings and conclusions which either approves, denies, or approves with specific conditions. The decision authority may also issue appropriate intermediate rulings when more than one permit or decision is required.
- D. Decision-Making Time Limits. A final order shall be filed with the city recorder or designee within ten (10) business days after the close of the deliberation.

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- E. Notice of Decision. Written notice of a decision shall be mailed to the applicant and to all participants of record within ten (10) business days after the hearings body decision. A copy of the planning commission's notices of decision will also be provided to the city council. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.
- F. Final Decision and Effective Date. The decision of the hearings body on any appeal or application is final for purposes of appeal on the date a notice of decision is mailed by the city. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the city council. The notification and hearings procedures for applications on appeal to the city council shall be the same as for the initial hearing. An appeal of a land use decision to the state land use board of appeals must be filed within twenty-one (21) days of the city council's written decision.
- G. Final Decision for Annexations and Legislative Amendments. An annexation, a legislative amendment to the comprehensive plan and a zoning code amendment shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 10.030, 1998)

(Ord. No. 358, § 2, 7-13-2010; Ord. No. 369, § 10, 8-13-2013)

17.64.040 Consolidation of procedures.

- A. Except as provided in subsection (B) of this section, decisions on land use actions which involve more than one application shall be handled under a consolidated review procedure in which:
 - 1. All applications shall be decided using one proceeding;
 - 2. If any of the applications require city council action, the council shall take final action on all of the applications.
- B. Plan map amendments are not subject to the one hundred twenty-day decision making period prescribed by state law; therefore, the city shall not be required to consolidate a plan map amendment and a zone change or other permit applications requested unless the applicant requests the proceedings be consolidated and signs a waiver of the one hundred twenty-day time limit.
- C. If the proceedings are consolidated:
 - 1. The notice of public hearing shall identify each action to be taken;
 - 2. The decision on a plan map amendment shall precede the decision on the proposed zone change and other actions;
 - 3. Separate action shall be taken on each application.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 10.035, 1998)

(Ord. No. 358, § 2, 7-13-2010)

17.64.050 Appeals.

- A. An appeal from a ruling of the zoning official regarding a requirement of this title may be made to the planning commission. Any action or ruling of the zoning official shall become final fifteen (15) days after approval or disapproval is given unless the decision is appealed to the planning commission. Written notice of the appeal shall be filed with the zoning official. If the appeal is filed, the planning commission shall receive a report and recommendation thereon from the zoning official and shall hold a public hearing on the appeal as outlined in Sections 17.64.080 and 17.64.090 of this chapter.

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- B. An action or ruling of the planning commission pursuant to this title may be appealed to the city council within fifteen (15) days after the planning commission has rendered its decision. If the appeal is not filed within the fifteen-day period, the decision of the planning commission shall be final. Written notice of the appeal shall be filed with the zoning official. If the appeal is filed, the city council shall receive a report and recommendation thereon from the planning commission and shall hold a public hearing on the appeal as outlined in Sections 17.64.080 and 17.64.090 of this chapter.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 10.040, 1998)

(Ord. No. 358, § 2, 7-13-2010)

17.64.060 Forms of petitions, applications, and appeals.

- A. Petitions, applications and appeals provided for in this title shall be made on forms prescribed by the city.
- B. Applications shall be accompanied by plans and specifications, drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the sites and locations on the lot of all existing and proposed structures; the intended use of each structure; the number of families, if any, to be accommodated thereon; the relationship of the property to the surrounding area; and such other information as is needed to determine conformance with this title.
- C. If an application for a permit or zone change is incomplete, the city shall notify the applicant of exactly what information is missing within five days of the time of submittal, and the applicant shall have thirty (30) days to submit the missing information. The application shall be deemed complete when the missing information is received and accepted by the city.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 10.050, 1998)

(Ord. No. 358, § 2, 7-13-2010)

17.64.070 Fees.

- A. Application and Filing Fees. The city council shall, by resolution, determine application filings fee schedules for those land use actions which require a fee. The initial fee shall be paid upon filing the application and shall not be refundable.
- B. Deposit for Additional Services. In addition, each applicant may be required to pay an additional deposit to cover potential costs the city may incur in processing the application including assistance on the case involving time provided by the city planner, the city engineer, and city attorney; and time of city staff related to pre-hearing, hearing, and post hearing activities. The additional deposit shall be paid to the city at the time of application. If the deposit is more than required to cover the city's costs, then the difference shall be refunded to the applicant within thirty (30) days of the issuance of a notice of decision. If the deposit is insufficient to cover all of the costs incurred by the city in processing the application, then the city may require the applicant to provide an additional deposit to cover the estimated costs of processing the application or bill the applicant for additional costs incurred by the city. If at the time of the issuance of a notice of decision, the deposit does not provide sufficient funds to cover the actual costs incurred by the city in processing the application, then the city may bill the applicant for the additional costs within thirty (30) days of the issuance of a written notice of decision.
- C. The city may withhold the issuance of building permits or connection to city utilities until all fees due to the city are paid in full.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 10.060, 1998)

(Ord. No. 358, § 2, 7-13-2010; Ord. No. 369, § 11, 8-13-2013)

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17.64.080 Notice of public hearing.

- A. Notices of public hearing shall be provided to the applicant, affected property owners, agencies and interested parties as required by this chapter.
- B. A notice of hearing for a land use action specified by this title shall be provided or mailed to the applicant and to all owners of property located a specified distance from the exterior boundaries of the property for which the land use action is requested, in accordance with the following:

Type of Land Use Action	Distance From Exterior Property Boundary For Which Land Use Action is Requested
Comprehensive plan map amendment	500 feet
Zoning map amendment	300 feet
Conditional use	200 feet
Variance	100 feet
Site plan review: R-2 zone multifamily	100 feet
Site plan review: Highway commercial (CH) zone	200 feet
Site plan review: Other	500 feet
Buffering or screening: Industrial (I) zone	100 feet
Historic structure alteration or demolition	100 feet
Medical hardship manufactured dwelling	100 feet
Residential community plan	200 feet
Special home occupation review	100 feet
Land use change involving N. Santiam River	100 feet
Appeal of zoning official decision	100 feet
Appeal of planning commission decision	Same distance as for land use action being appealed

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All land use actions where the subject property is located outside the city urban growth boundary and is not within a farm or forest zone	250 feet
All land use actions where the subject property is located outside the city urban growth boundary and is within a farm or forest zone	500 feet

- C. For the purpose of providing or mailing notices of public hearings, the city shall use the list of property owners from the most recent property assessment tax roll of the county where the property is located.
- D. The notice of hearing shall be provided or mailed at least twenty (20) days before the evidentiary hearing; or if two or more evidentiary hearings are allowed, at least ten (10) days before the first evidentiary hearing.
- E. For each public hearing, the city shall prepare an affidavit of notice which certifies that the notice of hearing was provided or mailed as required by this title. The list of owners together with their addresses shall be attached to the affidavit. The affidavit shall be retained with the permanent record of the hearing.
- F. Failure of a person to receive notice of a public hearing shall not invalidate such proceeding if the city can demonstrate by affidavit that such notice was given.
- G. The notice provisions of this chapter shall not restrict the giving of notice by other means, including mail, the posting of property, publication in a newspaper, radio, television, posting on the city's website or electronic communication.
- H. Notice of an application to amend the comprehensive plan or a land use regulation shall be transmitted to the department of land conservation and development.
- I. Notice shall also be provided to affected special or school districts, federal, state, county, and regional agencies, any neighborhood or community organization recognized by the city council as having an interest in land use or community development issues as they pertain to a particular neighborhood or to a community of interest within the city.
 - 1. Such agency notice shall be transmitted a minimum of twenty-one (21) days prior to the date of public hearing to allow affected agencies and departments sufficient time to comment on the proposed amendment.
 - 2. All agency and department comments received by the city shall be made a part of the hearing record and shall be considered during the public hearing.
 - 3. Failure of an affected agency or department to receive notice of public hearing on a proposed amendment to the comprehensive plan shall not invalidate a recommendation by the commission or a final decision by the council.
- J. If there is a conflict between the notice provisions of this section and the notice provisions as required by state law, notice shall be given as required by state law.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 344 § 2, 2007: Ord. 293 § 1, 2002: Ord. 280 § 4, 2000: Ord. 273 § 10.070, 1998)

(Ord. No. 358, § 2, 7-13-2010; Ord. No. 363, § 2, 4-24-2012; Ord. No. 369, § 12, 8-13-2013)

17.64.090 Public hearing notice and procedure.

- A. The notice of public hearing provided or mailed to the applicant and to owners of property entitled to receive notice shall:
 - 1. Explain the nature of the hearing and the proposed use or uses which could be authorized;
 - 2. List the applicable criteria from this title and the comprehensive plan that apply to the application;
 - 3. Set forth the street address or other geographical reference to the subject property;
 - 4. State the date, time, and location of the hearing;
 - 5. State that failure of an issue to be raised in a hearing, either in person or by letter, or failure to provide statements or evidence sufficient to afford the decision making body an opportunity to respond to the issue precludes an appeal to the state land use board of appeals based on that issue;
 - 6. Include the name and telephone number of the city staff person who can provide additional information;
 - 7. State that the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at city hall at no cost, and a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that these materials will be provided at a reasonable cost;
 - 8. Include an explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.
- B. At the commencement of a public hearing, a statement shall be made to those in attendance that:
 - 1. Lists the applicable criteria;
 - 2. States that testimony, arguments and evidence must be directed toward the criteria which applies to the decision or other criteria in the plan or land use regulation which the person testifying believes to apply to the decision; and
 - 3. States that failure to raise an issue accompanied by arguments, statements or evidence sufficient to afford the decision maker and the parties involved in the case an opportunity to respond to the issue precludes appeal to the state land use board of appeals based on that issue.
- C. All documents or evidence relied upon by the applicant shall be submitted to the city and be made available to the public at the time the mailed notice of the public hearing is provided.
- D. Any staff report used at the hearing shall be available at least seven days prior to the hearing. If additional documents or evidence is provided in support of the application, any party shall be entitled to a continuance of the hearing. Such a continuance shall not be subject to the one hundred twenty-day time limit as specified in Section 17.64.100 of this chapter.
- E. 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. Such an extension shall not be subject to the one hundred twenty-day time limit as specified in Section 17.64.100 of this chapter.
- F. When the record is reopened to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.
- G. An issue which may be the basis for an appeal to the state land use board of appeals shall 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 city council or planning commission and the parties an adequate opportunity to respond to each issue.

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(Ord. 353 § 2 Exh. B (part), 2008; Ord. 344 § 3, 2007; Ord. 273 § 10.071, 1998)

(Ord. No. 358, § 2, 7-13-2010; Ord. No. 369, § 13, 8-13-2013)

17.64.100 One hundred twenty-day time limit.

The city shall make a final decision on all land use actions authorized by this title within one hundred twenty (120) days after the application is deemed complete, unless the applicant requests or consents to additional time. The one hundred twenty-day period may be extended for a specified period of time at the written request of the applicant. The total of all extensions, except as provided for mediation, may not exceed two hundred forty-five (245) days. The one hundred twenty-day time period applies only to decisions wholly within the authority and control of the city council and does not apply to an amendment to the comprehensive plan, an amendment to an acknowledged land use regulation, or adoption of a new land use regulation that was forwarded to the department of land conservation and development under ORS 197.610 or to an exception to this requirement as specified in Sections 17.64.090(D) and (E) of this chapter.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 10.080, 1998)

(Ord. No. 363, § 3, 4-24-2012)

17.64.110 Interpretation.

Where a provision of this title is less restrictive than a provision of another ordinance or requirement of the city, the provision or requirement which is more restrictive shall govern.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 10.090, 1998)

17.64.120 Abatement and penalty.

A person violating a provision of this title shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500.00) for such offense. A violation of this title shall be considered a separate offense for each day the violation occurs.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 10.100, 1998)

17.64.130 Alternative remedies.

In case a structure is located, constructed, maintained, repaired, altered or used, or land is used in violation of this title, the structure or land thus in violation shall constitute a nuisance. The city may, as an alternative to other remedies that are legally available for enforcing this title, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

(Ord. 353 § 2 Exh. B (part), 2008; Ord. 273 § 10.110, 1998)

17.64.140 Procedures for processing violations of the zoning ordinance.

- A. Within ten (10) days after determining that a violation of this title exists, the zoning official shall notify the property owner of such violation.
- B. Where the violation does not involve a structure, action to rectify such shall be made within thirty (30) days. Where the violation involves a structure, action to rectify shall be made within sixty (60) days.
- C. If no action has been taken to rectify the violation within the specified time, the zoning official shall notify the city council of such.

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- D. The city council shall set the date for a hearing with the person violating this title and with the zoning official to consider whether subsequent legal action should be taken to rectify the violation. If necessary, legal action shall be taken as required to insure compliance with this title.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 273 § 10.120, 1998)

17.64.150 Public works standards.

- A. Unless specifically exempted or modified by another section of this title, improvements to be installed within any public right-of-way, public utility easement, or as a part of the construction or development of a use authorized by this title, whether as a use permitted outright, a conditional use, or a use subject to site plan review, shall comply with the city public works design standards which have been authorized through adoption of Ordinance No. 276, and adopted by Resolutions No. 518 and 519, or any subsequent amendment or readoption of the ordinance or resolutions.
- B. The city may require an applicant to enter into a development agreement with the city regarding the public improvements to be installed by the applicant as part of an approved development. The agreement may require the applicant to provide a performance guarantee or security, insurance certificates and indemnification, warranty bond and a financial deposit to cover the estimated costs for engineering review of plans, city inspection services and administrative and legal costs related to the project.

(Ord. 353 § 2 Exh. B (part), 2008: Ord. 283 § 8, 2001: Ord. 273 § 10.200, 1998)

(Ord. No. 369, § 14, 8-13-2013)

Chapter 17.68 SIGN CODE

Sections:

[17.68.010 Title—Purpose.](#)

[17.68.020 Definitions.](#)

[17.68.030 Administration and enforcement.](#)

[17.68.040 Signs prohibited or exempted.](#)

[17.68.050 Sign districts.](#)

[17.68.060 Sign construction and maintenance.](#)

[17.68.070 Removal of signs in violation.](#)

[17.68.080 Variances.](#)

17.68.010 Title—Purpose.

- A. Title. This chapter shall be known as the sign code of the city of Mill City, Oregon.
- B. Purpose. The city council finds and declares that it is necessary to regulate the construction, erection, maintenance, electrification, illumination, type, size, height, clearance, number, and location of signs in order to:
1. Protect the health, safety, property and welfare of the public;
 2. Maintain the neat, clean, orderly and attractive appearance of the city;
 3. Provide for the safe erection and maintenance of signs;

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4. Preserve the safe flow of traffic in Mill City;
5. Preserve and enhance the unique scenic beauty of Mill City.

(Ord. 278 § 1 (part), 1999; Ord. 273 § 11.010(1, 2), 1998)

17.68.020 Definitions.

The following words and phrases, where used in this chapter, shall have the meanings given to them in this section.

"Area" or "area of sign" means the area within an established sign edge, frame, or perimeter which encloses the limits of any writing, representation, emblem, figure or character. The area of a sign having no such perimeter, or the area of a sign having an irregular shape, shall be computed by enclosing the surface area within a circle, square, rectangle, and/or triangle. The area of all signs in existence at the time of the enactment of the ordinance codified in this title, whether conforming or nonconforming, shall be counted in establishing the permitted sign area of all new signs to be allowed for an individual business on a premises. Where a sign is of a three-dimensional or round or irregular solid shape, the largest cross section shall be used, as though it were a flat surface, to determine sign area.

"Clearance" is measured from the highest point of the grade below the sign to the lowermost point of the sign.

"Display surface" means the area made available by the sign structure for the purpose of displaying the message.

"Erect" means to build, construct, attach, place, suspend, or affix and shall also include the painting of wall signs.

"Face of a building" means all window and wall area of a building in one plane.

"Flag" means any fabric, banner or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

"Frontage" means the length of the property line of any one premises along each public street it borders. Each portion of the premises abutting a separate street shall be considered a separate frontage.

"Height" is measured from the highest point of the grade below the sign to the topmost point of the sign.

"Maintain" means to permit a sign, sign structure, or part thereof to continue, or to repair or refurbish a sign, sign structure, or part thereof.

"Parapet" or "parapet wall" means the part of any exterior wall which extends above the roof line.

"Permittee" means a person who has applied for a city sign permit to allow placement or erection of a sign covered by this chapter, or a person who has not as yet applied for a sign permit, but will be required to do so due to an intent to place or erect a sign covered by this chapter, or by the premature placement or erection of a sign covered by this chapter.

"Premises" means a lot, parcel, or tract of land occupied, or to be occupied, by a building or unit or group of buildings and its accessory buildings. If more than one business or activity is located on the lot, parcel, or tract of land, each separate business shall be considered a separate premises.

"Projection" means the distance by which a sign extends from its supporting structure.

"Sign" means a presentation or representation by words, letters, figures, designs, pictures, or colors displayed out-of-doors in view of the general public so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid or other message. This definition includes, but is not limited to, billboards, ground signs, free-standing signs, projecting signs, flashing signs, wall-mounted signs, wall-painted signs, banners, pennants, roof signs, fence signs, window signs, and street clocks, and includes the surface upon which the message is displayed.

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Sign, Abandoned. "Abandoned sign" means any sign located on a premises when the business or activity to which it relates is no longer conducted or in existence on the premises.

Sign, Banner. "Banner sign" means a sign of lightweight fabric or similar material that can be mounted both on a permanent or temporary basis. A banner sign shall be considered as a wall sign provided that the appropriate wall sign standards are met. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

Sign, Changing (Automatic). "Automatic changing sign" means a sign such as an electronically or electrically controlled public service, time, temperature, and date sign, message center, or reader board, where different copy changes are shown on the same lamp bank.

Sign, Externally Illuminated. "Externally illuminated sign" means a sign illuminated by an exterior light source or luminous tubing which is primarily designed to illuminate only the sign.

Sign, Fence. "Fence sign" means a sign attached to the side of a fence on a permanent basis.

Sign, Flashing. "Flashing sign" means any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. Automatic change signs such as public service, time, temperature, and date signs or electronically controlled message centers are classed as "changing signs", not "flashing signs."

Sign, Free-Standing. "Free-standing sign" means a sign wholly supported by a sign structure in the ground. "Free-standing signs" include pole signs and monument signs.

Sign, Internally Illuminated. "Internally illuminated sign" means a sign which is wholly or partially illuminated by an internal light source from which source light passes through the display surface to the exterior of the sign.

Sign, Nonconforming. "Nonconforming sign" means a sign in existence or under construction on the effective date of the ordinance codified in this title which does not conform to the provisions of this title, but which was or is being constructed, erected, or maintained in compliance with regulations in effect at the time the sign was constructed or erected.

Sign, Notice. "Notice sign" means a sign posted by either a public agency or private individuals intended to convey information of a legal nature pertaining to specific properties. Examples of notice signs include building permits, no trespassing notices, public hearing notices, and similar signs.

Sign, Pennant. "Pennant sign" means a shaped, lightweight sign, made of plastic, fabric, or other material (whether or not containing a message of any kind) suspended from a rope, wire, or string, usually in a series, designed to move in the wind.

Sign, Projecting. "Projecting sign" means and includes any sign which is attached to a building and extends more than twelve (12) inches beyond the line of the building or more than twelve (12) inches beyond the surface of that portion of a building to which it is attached.

Sign, Roof. "Roof sign" means a sign erected upon or above a roof or parapet of a building.

Sign, Temporary. "Temporary sign" means any sign, regardless of construction materials, which is not permanently mounted and is intended to be displayed on an irregular basis for a limited period of time.

Sign, Time and Temperature. "Time and temperature sign" means a sign providing only time and/or temperature information.

Sign, Unsafe. "Unsafe sign" means any sign determined to be a hazard to the public by the zoning official or duly authorize representative.

Sign, Wall-Mounted. "Wall-mounted sign" means any sign, attached to, or erected against a wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall, the angle of said wall not to exceed thirty (30) degrees from the vertical. Wall-mounted signs may not project more than twelve (12) inches from the wall to which they are attached.

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Sign, Wall-Painted. "Wall-painted sign" means a sign painted directly onto a wall of a building which is located in a commercial or industrial zone. A mural painted onto the side of a building is considered to be a wall-painted sign.

Sign, Window. "Window sign" means a sign, pictures, symbols, neon-tubing, or combination thereof, designed to communicate information that is placed within a window and directed towards the outside of the window. "Window signs" do not include painted or printed displays of a temporary nature associated with the holidays.

"Structural alteration" means any change in a sign or sign structure other than advertising message or normal maintenance.

"Written message" means the lettering, wording, numbers, and/or other symbols on a sign intended to convey a message. "Written message" does not include notation of the sign identifying the sign installer or artist, provided such identification is less than one square foot in area.

(Ord. 278 § 1 (part), 1999; Ord. 273 § 11.010(3), 1998)

17.68.030 Administration and enforcement.

- A. Permit Required. All signs erected after the effective date of the ordinance codified in this title, other than exempt signs, shall require a sign permit. All applications for sign permits shall be submitted to, and in such form as may be required by, the zoning official or duly authorized representative.
- B. Permit Fee. A fee as established by resolution of the city council shall be paid to the city upon filing an application. Such fee shall not be refundable.
- C. Interpretations. This chapter supercedes any provision dealing with signs in any previously adopted ordinance, resolution or regulation.
- D. Enforcement Authority. The zoning official shall have the power and duty to interpret and enforce the provisions of this chapter.
- E. Permit Expiration. Every permit issued by the zoning official under the provisions of this chapter shall become null and void if the building or work authorized by such permit is not commenced within one year from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. Before such work can be recommenced, a new permit shall first be obtained, and the fee thereof shall be one-half of the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceeded one year.
- F. Permit Suspension or Revocation. The zoning official may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit is issued on the basis of incorrect information supplied, or in violation of any applicable ordinance or regulation or any of the provisions of this title.
- G. Conditional Use, Site Plan Review or SPD Zone Signs. Signs for uses requiring conditional use or site plan review permits, or for uses in the special planned development (SPD) zone shall be reviewed by the planning commission regarding size, lighting, height, clearance, location and similar standards at the public hearing for conditional use, site plan review or SPD zone uses.
- H. Pre-Existing Signs. Signs constructed or placed on property prior to the date of the ordinance codified in this title shall be considered nonconforming and shall comply with the sign code requirements in effect at the time the sign was located on the property. If the sign is to be relocated or replaced, the replacement or relocated sign shall comply with the provisions of this chapter. Additional signs to be placed on the premises shall comply with the provisions of this chapter.

(Ord. 278 § 1, 1999; Ord. 273 § 11.020, 1998)

17.68.040 Signs prohibited or exempted.

- A. Exempted Signs. The following signs shall not require a sign permit but shall conform to all other applicable provisions of this chapter and shall be permitted in all zones, except as otherwise noted:
1. Signs not exceeding three square feet in area, nonilluminated, and not exceeding three feet in height if ground mounted. Such signs may include, but are not limited to property address or building numbers, names of occupants or premises, professional nameplates, on-site directional, and similar signs. Sign standards for home occupations are found in Section 17.44.130(B)(3)(i) of this title;
 2. Temporary signs which are non-illuminated, have an overall face area not exceeding sixteen (16) square feet in a residential or public zone or thirty-two (32) square feet in a commercial or industrial zone, are not permanently installed, and are intended to be located on property for short durations of time. Such signs may include, but are not limited to, real estate lease and sales, political signs, construction signs, and garage sale, open house, special event, and similar signs. Such signs shall only be posted for the duration of the activity. Sign requirements for temporary transient sales are in Section 17.44.080 of this title. No sign shall be extended into or extend over a street right-of-way except as provided in subsection (A)(6) of this section. See also subsection B of this section;
 3. Signs Placed for Purposes of Public Direction and Safety. Such signs may include, but are not limited to, traffic and municipal signs, directional signs for emergency services (such as hospitals, police stations and fire stations), legal notices, railroad crossing signs, danger signals, and similar signs. Such signs may be placed within the public right-of-way in such a manner as not to be a hazard to pedestrian, bicycle or motor vehicle safety;
 4. Temporary Display or Lights or Other Decorations Associated with Holidays. Such display shall be in place for a period of time not to exceed forty (40) days;
 5. Banners not exceeding a total display area of forty (40) square feet per face and pennants not to exceed a length of fifty (50) feet per site, used on premises in conjunction with temporary events and not in place longer than a period of thirty (30) days;
 6. Banners in Public Rights-of-Way. Banners to be placed in the street right-of-way which are intended to advertise or promote the community or region or an event planned to occur within the community or region, are permitted subject to the approval of the city public works supervisor and the State of Oregon Department of Transportation (ODOT) if the banners are to be located along Highway 22;
 7. Flags;
 8. Signs carved into a building or which are a part of materials which are an integral part of the building such as cornerstones, building names, and similar signs;
 9. Signs of public or legal notice;
 10. Window signs in commercial and industrial zones;
 11. Painted or printed displays in windows of a temporary nature associated with holidays;
 12. Promotional displays for special events, provided such displays shall be in place for a period not to exceed seven days;
 13. Fence signs which are located on the inside of a fence and are used in conjunction with athletic events for the sale of advertising on behalf of the athletic events occurring on the site.
- B. Prohibited Signs. It is unlawful for any person to erect, display or maintain, and no permit shall be issued for the erection, display, or maintenance of, any sign or advertising structure listed in this subsection.
1. Signs erected within the right-of-way of any street, along any driveway, or in any other location which do not meet the requirements of subsection A of this section; or by reason of the location,

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shape, color, animation, or message are likely to be confused with any traffic control device; or create a distracting or hazardous condition for motorists, bicyclists, or pedestrians;

2. Such advertising devices as banners, pennants, and balloons, except as permitted under subsection A of this section;
3. Temporary signs, except as permitted under subsection A of this section;
4. No sign shall be erected or maintained which by use of lights, illumination, sequential illumination, or other form of total or partial illumination creates an unduly distracting or hazardous condition to a motorist, bicyclist, or pedestrian;
5. No sign or portion thereof shall be placed so that it obstructs any fire escape, stairway, or standpipe; interferes with human exit through any window or any room located above the first floor of the building; obstructs any door or required exit from any building; or obstructs any required light or ventilation;
6. Fence signs exceeding one square foot of sign face per twenty (20) feet of fence length in residential and public zones or one square foot of sign face per five feet of fence length in commercial and industrial zones, excepting temporary signs intended for the sale or lease of the property containing the fence, and excepting internal fence signs as described in subsection (A)(13) of this section;
7. Signs affixed to power, utility, or traffic control poles other than city-approved traffic control signs and pole identification placards;
8. Searchlights.

(Ord. 278 § 1 (part), 1999; Ord. 273 § 11.030, 1998)

17.68.050 Sign districts.

- A. Residential or Public Zones. No signs shall be erected or maintained in an R-1, R-2 or P zone, except as allowed under Section 17.68.040(A) of this chapter, or as otherwise noted in this section.
 1. Permanent apartment, condominium, subdivision, manufactured home park, conditional use permit or P zone signs:
 - a. Area. A sign may have a maximum area of two square feet per dwelling unit to a maximum of thirty-two (32) square feet and sixteen (16) square feet per display surface area;
 - b. Subdivisions, manufactured home parks, and conditional uses may have one sign per vehicular entry to the property, provided the total sign area for all display surfaces shall be no more than sixty-four (64) square feet;
 - c. Height and/or Clearance. A free-standing sign shall be limited to a maximum height of six feet above grade;
 - d. Number. Limited to one sign per entrance;
 - e. Permanent apartment, condominium, or conditional use signs when the use has only one vehicular entry. Either one free-standing or one wall sign per street frontage permitted;
 - f. No wall sign shall extend above the roof line at the wall or the top of a parapet wall, whichever is higher;
 2. Illumination. Signs in R and P zones may have external illumination only. Par spot or reflective type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises;
 3. Subdivision, apartment, or condominium sign standards which apply in a residential zone shall also apply in a commercial and industrial zone;

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4. No sign shall project into the street right-of-way or into a vision clearance area.
- B. Commercial or Industrial Zones. No sign shall be erected or maintained in the CC, CH or I zones, except as allowed under Section 17.68.040(A) of this chapter, or as otherwise noted in this section.
 1. Free-Standing Sign.
 - a. Sign Area and Number of Signs. The maximum area for all free-standing signs on a premises zoned and used for commercial and industrial purposes shall be one hundred fifty (150) square feet for signs with one face and two hundred (200) square feet for signs with two faces. Only one free-standing sign shall be permitted for each premises;
 - b. Height and/or Clearance. Free-standing signs shall not exceed a total height of twenty (20) feet measured from the grade of the property where the sign is to be located, except if the grade of the property is lower than the grade of the street, the grade of the street immediately in front of the location for the sign shall be used to determine the height of the sign. The minimum clearance below the lowest portion of a free-standing sign and the ground below shall be fourteen (14) feet in any driveway or parking area;
 - c. Location. No free-standing sign, or any portion of any free-standing sign, shall be located on or be projected over the property line or within twenty-five (25) feet of any property line within a residential zone;
 2. Wall-Mounted and Wall-Painted Signs.
 - a. Area. Wall-mounted signs shall not exceed in gross area thirty (30) percent of the face of the building to which the sign is attached or on which the sign is maintained. Wall-painted signs may cover up to one hundred (100) percent of the area of one face of the building but shall not exceed thirty (30) percent of the area of all faces of the building;
 - b. Height and/or Clearance. No wall-mounted sign shall extend above the roof line at the wall or the top of the parapet wall, whichever is greater;
 - c. Number. No limit, dictated by area requirements;
 3. Projecting Signs.
 - a. Area. Projecting signs shall not exceed in gross area twenty (20) percent of the face of the building to which the sign is attached or on which the sign is maintained. However, if a projecting sign is located on the same building face as a wall sign, the total of all sign surfaces shall not exceed thirty (30) percent of the face of the building;
 - b. Height and/or Clearance. No projecting sign shall extend above the roof line at the wall or top of a parapet wall, whichever is higher. There shall be at least eight feet of clearance between the bottom of the sign and the grade. Signs shall not project more than four feet into the street right-of-way or over the street roadway;
 4. Roof Signs.
 - a. Area. Total sign area for roof signs shall not exceed one square foot for each two lineal feet of street frontage of the parcel of real property on which the sign is to be located;
 - b. Height and/or Clearance. The maximum height of a roof sign shall not exceed four feet above the highest point of the building;
 - c. Location. No roof sign shall be erected unless and until approved by the Mill City rural fire protection district after a finding that the site type, and location of the sign will not substantially interfere with fire fighting. Roof signs may not project over the parapet wall;
 5. Illumination. Signs in commercial and industrial zones may be illuminated internally, or the lights used to indirectly illuminate signs shall be placed, shielded, and deflected so as not to shine into a residential dwelling unit or to impair the vision of the driver of any vehicle;
 6. Fence Signs. Fence signs not exceeding one square foot in area per five feet of fence length;

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7. The following signs shall be permitted as conditional uses subject to Chapter 17.52 of this title: moving signs or flashing signs, electronic message center signs, changing signs (automatic) and revolving signs or any sign which has any visible moving part or visible mechanical movement of any description; excepting signs such as clocks, barber poles, or electronic time and temperature signs which are permitted outright. Sign requests subject to conditional use review as outlined in this section shall be submitted to the Oregon Department of Transportation (ODOT) as part of the conditional review process when such sign is located in the CH zone and the sign is for a business located adjacent to Highway 22;
 8. Off-premise signs shall be permitted on residentially used and vacant properties located within a commercial or industrial zone provided only one sign per street frontage is permitted, and that the maximum area for the sign is sixty-four (64) square feet for a two-faced sign and thirty-two (32) square feet per display surface.
- C. Signs in Special Planned Development (SPD) Zone. In approving signs in the special planned development (SPD) zone, the city shall use the standards for the particular use as a guideline (such as commercial zone standards for a commercial use), but the city may make the standards more restrictive in keeping with the nature of the proposed use in the zone and the development in the surrounding area.

(Ord. 278 § 1 (part), 1999; Ord. 273 § 11.040, 1998)

17.68.060 Sign construction and maintenance.

- A. Construction Requirements. Except as otherwise provided in this title, the construction of all signs or sign structures shall conform to the applicable provisions of the State of Oregon Building Code, Fire Code and Electrical Code.
- B. Maintenance Requirements. All signs and the site upon which they are located shall be maintained in a neat and attractive condition. All signs, together with their supports, braces, guys, and anchors, shall be constructed of materials that are durable and weather resistant, and shall be regularly maintained so as to exist at all times in a state of good repair.

(Ord. 278 § 1 (part), 1999; Ord. 273 § 11.050, 1998)

17.68.070 Removal of signs in violation.

- A. Abandoned Sign.
 1. Time Limit. Abandoned signs and their supporting structures shall be removed within one hundred eighty (180) days by the owner or lessee when the business activity which it advertises or identifies is no longer conducted on the premises;
 2. Notice Given. If the owner or lessee fails to remove the sign within the specified time period, the zoning official shall give the owners fifteen (15) days written notice to remove it, or the penalty provisions of Sections 17.64.120 to 17.64.140 go into effect.
- B. Unsafe Sign.
 1. Time Limit. The Linn County building official or the zoning official or duly authorized representative may cause any sign and/or sign support structure, which is determined to be a hazard to persons or property by reason of it or its support structure being or becoming unsound or in an unsafe condition; i.e. weakened or broken support, broken parts, including tubing, wiring, plastic, etc., to be removed summarily;
 2. Notice Given. Two days' notice shall be given, except that no notice is required if a determination is made that the sign and/or sign support structure poses an immediate peril to persons or property.

(Ord. 278 § 1 (part), 1999; Ord. 273 § 11.060, 1998)

17.68.080 Variances.

- A. Variances. Signs may exceed the limits imposed by this chapter up to a maximum of fifty (50) percent through application for an approval of a variance as outlined in Chapter 17.56 of this title. A variance may be granted upon the adoption of findings based on the following criteria rather than the criteria as specified in Section 17.56.030 of this title.
1. There are unique circumstances or conditions of the lot, building, or traffic pattern which result in undue hardship to the activity or use on the property in question;
 2. The granting of the variance compensates for those circumstances in a manner equitable with other properties in the immediate vicinity;
 3. The granting of the variance shall not decrease traffic safety nor be detrimental to the use and enjoyment of properties which are partially or fully within one hundred (100) feet of the exterior boundaries of the property where the sign is to be located;
 4. The variance shall not be the result of a self-imposed condition or hardship.

(Ord. 278 § 1 (part), 1999; Ord. 273 § 11.070, 1998)

Chapter 17.72 WETLAND PROTECTION AREA

Sections:

[17.72.010 Title.](#)

[17.72.020 Wetland protection areas—Wetland review applicability.](#)

[17.72.030 Wetland protection area—Purpose.](#)

[17.72.040 Wetland protection area—Definitions.](#)

[17.72.050 Prohibited activities within wetland protection areas.](#)

[17.72.060 Exempted activities within wetland protection areas.](#)

[17.72.070 Allowed activities within wetland protection areas.](#)

[17.72.080 Wetland review—Submittal requirements.](#)

[17.72.090 Approval criteria.](#)

[17.72.100 Decision process, approval period, extensions.](#)

[17.72.110 Variances.](#)

[17.72.120 Notification and coordination with state agencies.](#)

[17.72.130 Unauthorized alterations and enforcement.](#)

[17.72.140 Economic, social, environmental, energy \(ESEE\) provisions.](#)

17.72.010 Title.

This chapter shall be known as the wetland protection ordinance of the City of Mill City, Oregon.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.020 Wetland protection areas—Wetland review applicability.

- A. This chapter is applicable to all wetlands within the City of Mill City, whether on the local wetland inventory (LWI) map or not.
- B. Wetland review, as defined by this code, is applicable to development on parcels containing any wetland protection area(s); or where any portion of the proposed development is within twenty (20) feet of wetland protection area(s) on adjacent parcels as shown on the LWI map.
- C. Unless otherwise stated, the City of Mill City shall apply the provisions of Sections 17.72.020—17.72.140 in conjunction and concurrently with the requirements of any other development permit being sought by an applicant. If no other permit is being sought, the city recorder or designee shall serve as the approving authority.

Note: The twenty-foot measurement is not a buffer or setback. It is an allowance for LWI map inaccuracy when the expense of a precise delineation may not be warranted. Also note that compliance with state and federal wetland regulations for all wetlands, mapped or unmapped, remains the legal responsibility of the landowner.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.030 Wetland protection area—Purpose.

The purposes of establishing a wetland protection area are:

- A. To comply with goal 5 requirements.
- B. To implement the goals and policies of the City of Mill City comprehensive plan;
- C. To protect the City of Mill City's wetland areas, thereby protecting the hydrologic and ecologic functions these areas provide for the community;
- D. To protect water quality and natural hydrology, to control erosion and sedimentation, and to reduce the adverse effects of flooding;
- E. To protect fish and wildlife habitat;
- F. To protect the amenity values and educational opportunities of the City of Mill City's wetlands as community assets;
- G. To improve and promote coordination among local, state, and federal agencies regarding development activities in and near wetlands.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.040 Wetland protection area—Definitions.

The following definitions shall apply to Sections 17.72.010—17.72.140:

"Economic, social, environmental, energy (ESEE) analysis" means analysis required of local governments when protection measures for locally significant wetlands are developed to address the unique economic, social, environmental, and energy considerations within their community. ESEE consequences are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. [See OAR 660-023-0040 for more detail on ESEE decision process.]

"Delineation" means a determination of wetland presence that includes marking the wetland boundaries on the ground and/or on a detailed map prepared by professional land survey or similar accurate methods. A delineation is a precise map and documentation of actual wetland boundaries on a parcel, whereas wetland boundaries identified on a local wetland inventory boundary are approximated

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with an accuracy target of five meters (approximately sixteen and one-half (16.5) feet) [See OAR 141-90-005 et seq. for specifications for wetland delineation reports.]

"Determination" means a decision of the presence or absence of wetlands. A determination made in the office using existing available information including maps and aerial photography is an offsite determination and is considered advisory only. An onsite determination involves site-specific data collection consistent with the 1987 US Army Corps of Engineers Wetlands Delineation Manual and Regional Supplements.

"Locally significant wetlands" are determined to be locally significant wetlands based on Oregon Administrative Rules for Identifying Significant Wetlands (OAR 141-86-300 through 141-86-350). If the assessed wetland unit provides diverse wildlife habitat, intact fish habitat, intact water quality function, or intact hydrologic control function, then the wetland is locally significant. Locally significant wetlands are identified on the City of Mill City local wetland inventory as such. Locally significant wetlands also constitute the wetland protection area (unless otherwise indicated in this chapter).

"Local wetlands inventory (LWI)" means maps and reports adopted by the City of Mill City entitled Local Wetland Inventory Report, City of Mill City, Linn County, Oregon and any subsequent revisions as approved by the Oregon Department of State Lands. The LWI is a comprehensive survey and assessment of all wetlands over one-half acre in size within the urbanizing area. This includes both locally significant wetlands, and wetlands that are not identified as locally significant. This also includes probable wetlands, which are areas noted during the course of the LWI field work that appear to meet, or do meet, wetland criteria but are small or of undetermined size, and are mapped as a point rather than a polygon on the LWI map.

"Oregon Freshwater Wetland Assessment Methodology (OFWAM)" means a wetland function and quality assessment methodology developed by the Oregon Department of State Lands (DSL) to assess water quality, hydrologic control, fish habitat, and wildlife habitat.

"Wetland" means an area inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and which, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

"Wetland professional" means a professional with a background in wetland science and knowledgeable of the process for conducting wetland delineations and determinations.

"Wetland protection area" means an area subject to the provisions of this chapter that is constituted by wetlands determined to be locally significant as shown on the LWI map (unless otherwise indicated). The wetland protection area extends twenty (20) feet from the mapped LWI boundary unless an onsite or off-site determination or wetland delineation allows for a more refined estimation of the wetland boundary. (See Section 17.72.080(1).)

"Wetlands not subject to goal 5 protection" means all state jurisdictional wetlands including those in the City of Mill City, mapped or not, are subject to the state removal-fill law administered by the Oregon Department of State Lands (DSL). All wetlands are potentially jurisdictional wetlands. Wetlands on the LWI map which are not identified as locally significant are considered other potentially jurisdictional wetlands. These wetlands are not subject to the City of Mill City wetland protection area standards, but, like all wetland areas, are subject to DSL notice/review and potentially subject to DSL and the U.S. Army Corps of Engineers permitting.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.050 Prohibited activities within wetland protection areas.

Except as exempted or allowed in this code, the following activities are prohibited within a wetland protection area:

1. Placement of new structures or impervious surfaces.
2. Excavation, grading, fill, or removal of vegetation. (See Section 17.72.060.)

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3. Expansion of areas of landscaping with non-native species, such as a lawn or garden, into the wetland protection area.
4. Disposal or temporary storage of refuse, yard debris, or other material.
5. Any use not specifically allowed or exempted in Sections 17.72.060 and 17.72.070, or pursued through a variance under Section 17.72.110.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.060 Exempted activities within wetland protection areas.

The following activities and continuation and/or maintenance thereof are exempted from all wetland protection area regulations, provided that any applicable state or federal permits are secured:

1. Any use, except those identified as allowed uses under Section 17.72.070, that was lawfully existing on the date of adoption of this chapter, may continue within a wetland protection area. Such use or development may continue at a similar level and manner as existed on the date of adoption of this chapter per the standards for non-conforming development in Chapter 17.48 of this code;
2. The maintenance and alteration of pre-existing ornamental landscaping so long as no additional native vegetation is disturbed;
3. Restoration and enhancement of native vegetation;
4. Cutting and removal of trees which pose a hazard to life or property due to threat of falling;
5. Cutting and removal of trees to establish and maintain defensible space for fire protection;
6. Removal of non-native vegetation;
7. Maintenance and repair of existing utilities; or
8. Normal farm practices such as grazing, plowing, planting, cultivating, harvesting, and other practices under the review authority of Oregon Department of Agriculture.

The following activities are also exempted from wetland protection area regulations, but are subject to state or federal permits:

9. Maintenance of existing drainage ways, ditches, or other structures, to maintain flow at original design capacity and mitigate upstream flooding, provided that management practices avoid sedimentation and impact to native vegetation, any spoils are placed in uplands, and any applicable state permits are obtained (department of state lands); [u](#)
10. Emergency stream bank stabilization to remedy immediate threats to life or property (department of state lands);
11. Wetland restoration and enhancement activities (department of state lands).

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.070 Allowed activities within wetland protection areas.

The following activities and maintenance thereof are allowed within a wetland protection area upon city review and approval and provided any applicable state or federal permits are secured:

1. Replacement of a permanent, legal, nonconforming structure in existence on the date of adoption of this chapter with a structure on the same building footprint, or expansion of the original building footprint if it does not encroach into additional wetland area, and in accordance with the provisions of Chapter 17.48 of this code.

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2. Installation of interpretive/educational displays and/or public pedestrian paths, as long as these do not present an obstruction that would increase flood velocity or intensity.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.080 Wetland review—Submittal requirements.

Where wetland review is applicable (see Section 17.72.020), applicants shall submit the following materials (unless otherwise indicated):

1. A scale drawing that clearly depicts any local wetland inventory (LWI) map wetland boundary within the subject parcel and any wetland within twenty (20) feet of the development on an adjacent parcel, all surface water sources, existing trees and vegetation, property boundaries, and proposed site alterations including proposed excavation, fill, structures, and paved areas.
2. Written statement of compliance with approval criteria for any proposed allowed activities. Activities listed as allowed under Section 17.72.070 and which are acknowledged to occur within a wetland protection area, require a written statement of compliance but do not require any demonstration of avoidance as per Section 17.72.080(3).
3. Demonstration of wetland protection area avoidance. The placement of structures or impervious surfaces, vegetation removal or grading within the vicinity of any wetland protection area shall require demonstration that all impact to the wetland shall be avoided. Avoidance can be demonstrated by any one of the following:
 - a. Keeping all development activity including vegetation removal and grading at least twenty (20) feet from the edge of the wetland boundary shown on the LWI map;
 - b. Submitting an offsite determination, conducted by the department of state lands (DSL), that concludes the proposed activities will occur outside the wetland;
 - c. Submitting an onsite determination, conducted by a qualified wetland professional, that concludes the proposed activities will occur outside the wetland protection area; or
 - d. Submitting a current wetland delineation (completed within the last five years), certified by DSL, that shows the proposed activities will occur outside the wetland protection area.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.090 Approval criteria.

- A. Approval Criteria. In approving allowed activities under Section 17.72.070, and/or ensuring compliance with Section 17.72.050 (prohibited activities), the approving authority shall base its decision on the following criteria in addition to the required criteria for any other permit or approval that is being sought. Approvals shall be based on compliance with the following criteria:
 1. Demonstration of avoidance of impacts to wetland protection area as outlined under Section 17.72.080(3); or
 2. The proposed project will not result in excavation or filling of a wetland or reduction of wetland area that has been identified as part of a wetland protection area, except as exempted or allowed in criteria outlined specifically under Sections 17.72.060 and 17.72.070.
 3. Evidence of any applicable permit(s) from the Oregon Department of State Lands (DSL) or other state or other federal agency.
- B. Mapping Error and Corrections. The city recorder or designee may correct the location of the wetland protection overlay zone when the applicant has shown that a mapping error has occurred and the error has been verified by the department of state lands (DSL). Delineations verified by DSL shall be used to automatically update and replace local wetland inventory (LWI) mapping. A mapping

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correction is not considered to be a variance. No formal variance application or plan amendment is needed for map corrections where approved delineations are provided.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.100 Decision process, approval period, extensions.

- A. The city recorder shall be the final decision authority for administrative decisions under this chapter, unless the decision is appealed to the planning commission as outlined in Section 17.64.050.
- B. The planning commission shall be the final decision authority for variances and appeals under this chapter, unless the decision is appealed to the city council as outlined in Section 17.64.050.
- C. The administrative, public hearing, decision and enforcement procedures and requirements, which are part of the city zoning code codified in Chapter 17.64 are incorporated herein by reference and shall be applicable to actions taken under provisions of this chapter.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.110 Variances.

- A. The planning commission shall be the approving authority for applications for variances to the wetland protection area provisions. The procedures of Chapter 17.56 shall be followed for approval of a variance except that the variance criteria of this section in lieu of criteria in Chapter 17.56.
- B. Variances. The planning commission may grant a variance to the provisions of this chapter only when the applicant has shown that all of the following conditions exist: Through application of this chapter, the property has been rendered not buildable:
 - 1. The applicant has exhausted all other options available under this chapter to relieve the hardship;
 - 2. The variance is the minimum necessary to afford relief;
 - 3. All state and federal permits required for authorization of wetland impacts are obtained;
 - 4. No permitted type of land use for the property with less impact on the wetland is feasible and reasonable;
 - 5. There is no feasible on-site alternative to the proposed activities, including but not necessarily limited to; reduction in size, density or intensity, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts;
 - 6. The proposal utilizes to the maximum extent possible innovative construction, design, and development techniques, including pervious surfaces, which minimize to the greatest extent possible net loss of wetland functions and values; and
 - 7. The area of disturbance is limited to the area that has the least practical impact on the wetland functions and values.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.120 Notification and coordination with state agencies.

- A. The City of Mill City shall notify the Oregon Department of State Lands (DSL) in writing of all applications to the City of Mill City for development activities—including development applications, building permits, and other development proposals—that occur in, or within twenty (20) feet of, any wetland identified on the local wetlands inventory (LWI) map.

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- B. When conducting a wetland review under this chapter, the approving authority shall consider recommendations from the Oregon Department of Fish and Wildlife regarding OAR 635-415 "Fish and Wildlife Habitat Mitigation Policy." (Note: Recommendations from ODFW are advisory only.)

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.130 Unauthorized alterations and enforcement.

When a wetland has been altered in violation of this chapter, enforcement shall be conducted as outlined in Chapter 17.64. In instances where violations of department of state lands (DSL) requirements have occurred, DSL enforcement mechanisms apply. In some cases, both local and DSL enforcements may occur.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

17.72.140 Economic, social, environmental, energy (ESEE) provisions.

- A. Plan Amendment Option. Any owner of property affected by the wetland protection area may apply for a comprehensive plan amendment. This amendment must be based on a specific development proposal. A change in the boundary of the wetland protection area or a change in the allowed uses within the wetland protection area must be adopted through a plan amendment process. A proposed amendment must be supported by an environmental, social, economic and energy (ESEE) consequences analysis prepared in accordance with OAR 660-23-040. If the application is approved, then the ESEE analysis shall be incorporated by reference into the City of Mill City comprehensive plan, and the City of Mill City local wetland inventory map.

Plan amendment applications shall adhere to the following requirements:

1. The ESEE analysis must demonstrate to the ultimate satisfaction of the City of Mill City City/County Council that the adverse ESEE consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource;
2. The ESEE analysis must consider existing opportunities for accommodating a conflicting use outside of the wetland protection area.

(Ord. No. 368, § 3 (Exh. C), 6-11-2013)

FOOTNOTE(S):

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A fill-removal permit from the Oregon Department of State Lands is required when fifty (50) or more cubic yards of inorganic material is altered or removed. If the wetland is designated as an essential indigenous anadromous salmonid habitat (ESH), then no material may be removed without a permit from the Oregon Department of State Lands. ([Back](#))