

CHAPTER 151: DEVELOPMENT CODE

Editor's Note:

This development code, adopted by Ord.6-2451 on December 2, 1996, has been amended by Ords. 97-2465, 97-2472, and 97-2488.

However, this code does not designate which sections in particular have been amended.

Consequently, the section histories contain reference only to Ord. 96-2451, while the amending ordinances indicated above are set out exclusively in this editor's note.

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GENERAL PROVISIONS

§ 151.001 TITLE.

This chapter shall be known as the “Newberg Development Code.”
(Ord. 96-2451, passed 12-2-96)

§ 151.002 PURPOSE.

(A) The purpose of this code is to coordinate city regulations governing the development and use of land and to implement the Newberg Comprehensive Plan.

(B) The Newberg Development Code constitutes the development and land use regulations for the incorporated area of the city, and are adopted to protect and promote the public health, safety, and general welfare, and to provide the economic and social advantages which result from an orderly, planned use of land resources. Such regulations are designed to achieve the following objectives:

(1) To implement the comprehensive plan for the city.

(2) To advance the position of the city as a regional center of commerce, industry, recreation and culture.

(3) To provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of population densities, with adequate provision for sunlight, fresh air and usable open spaces.

(4) To protect residential, commercial, industrial and civic areas from the intrusions of incompatible uses, and to provide opportunities for compatible uses to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.

(5) To ensure preservation of adequate space for commercial, industrial, agricultural, and other activities necessary for a healthy economy.

(6) To promote safe, fast and efficient movement of people and goods without sacrificing the quality of the City's environment, and to provide for adequate off-street parking.

(7) To achieve excellence and originality of design in all future developments and preserving the natural beauty of the city's setting.

(8) To stabilize expectations regarding future development, thereby providing a basis for wise decisions with respect to such development.

(9) To preserve and enhance the quality of the city's environment.

~~(10)~~ minimize street congestion, secure safely from fire, flood, geological hazards, pollution and other dangers.

~~(11)~~ provide adequate light and air, and to facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other services and facilities.

(Ord. 96-2451, passed 12-2-96)

§ 151.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUT. Contiguous to; for example, two lots with a common property line.

ACCESS. The place, means or way by which pedestrians or vehicles shall have safe, adequate and usable ingress and egress to a property, use or parking space.

ACCESSORY BUILDING. Any detached subordinate building the use of which is incidental, appropriate, and subordinate to that of the main building and separated from the main building by at least five feet. Buildings less than five feet from the main building shall be considered to be attached to the main building.

ACCESSORY USE. A use incidental and accessory to the primary use of the lot or a building located on the same lot.

ACCESS WAY. A drive or roadway which provides vehicular access within a mobile home park.

ADJUSTMENT. A limited adjustment to provisions of this code dealing with setbacks, spacing of trees, lot area, coverage, lot dimensions, parking and vision clearance (see also variance).

AFFECTED PARTY, TYPE I APPLICATIONS. The person or party submitting the application.

AFFECTED PARTY, TYPE II APPLICATION. The applicant, any party entitled to receive notice of the decision, anyone providing written comments within 14 days of the date of the notice, or anyone providing written comments prior to the decision.

AFFECTED PARTY, TYPE III APPLICATION. The applicant, any party entitled to receive notice of the hearing, anyone providing written or oral comments at the hearing, anyone providing written comments prior to the close of the hearing, or any Planning Commissioner or City Council member.

AIRPORT. A facility, either on land or water, where aircraft can take off and land, typically including hard-surfaced landing strips, a control tower, hangars, and accommodations for passengers and cargo.

AIRPORT APPROACH SAFETY ZONE. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface except as noted on Airport Overlay Map A. The inner edge of the

approach surface is the same width as the primary surface and extends to a width of: 1,250 feet for utility runway having only visual approaches; and 1,500 feet for a runway other than a utility runway having only visual approaches. The airport approach surface extends for a horizontal distance of 3,000 feet at a slope of 20 feet outward for each foot upward (20:1) for all utility and visual runways.

AIRPORT HAZARD. Any structure, tree or use of land which exceeds height limits established by the airport imaginary surfaces.

AIRPORT IMAGINARY SURFACES. Those imaginary areas in space which are defined by the Airport Approach Safety Zone, Displaced Threshold Approach Surface Zone, Transitional Zones, Horizontal Zone, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.

ALLEY. A public way not over 30 feet wide providing a secondary means of access for vehicular or service access to properties otherwise abutting on a street.

ALTER or ALTERATION.

(1) A change, addition or modification in construction or occupancy of a building or structure.

(2) The addition to, removal of or from, or physical modifications or repair of, any exterior part or portion of a landmark designated by the city; excluding, however, routine maintenance, painting, minor alterations subject to administrative review, and non-designated vegetative features. Signs and fences which are not specifically excluded shall be considered a form of alteration and shall be treated as such.

AMATEUR ("HAM") RADIO. Radio facilities operated for non-commercial purposes by licensed individuals interested in the construction and operation of radio equipment, usually as a hobby or avocation. For purposes of this code, **AMATEUR ("HAM") RADIO** shall include, but not be limited to, radio facilities that are licensed in accordance with civil air

patrol regulations or other similar organizations. The FCC definition is “A radio communication service established by the federal government for the purpose of self-training, intercommunication and technical investigations carried out by amateurs, that is, duly authorized persons interested in radio technique solely with a personal aim and without a pecuniary interest.”

AMENDMENT. A change in the wording, context or substance of this code, or a change in the zone boundaries or area boundaries upon the zoning map.

ANTENNA. The surface from which telecommunication signals are sent and received by a personal wireless service facility.

ANTENNA SUPPORT STRUCTURE. A tower, pole, mast or other structure deemed to be a structure under the Uniform Building Code of the State of Oregon that is intended to support a source of RF energy and accessory equipment.

APARTMENT HOUSE. See dwelling, multiple.

APPLICABILITY OF ZONING REGULATIONS. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant or other agreement between private parties, except that where the zoning regulations impose a greater restriction or higher standard than that required by such agreement the zoning regulations shall control.

APPLICANT. The owner, or the authorized agent acting on behalf of the owner.

ARTERIAL. A street so designated in the Newberg Transportation System Plan. **ARTERIALS** are intended to expedite the movement of traffic to and from major trip generators and between communities, and to collect and distribute traffic from expressways to collector streets, or directly to traffic generators. **ARTERIALS** are of two types:

(1) **MAJOR ARTERIAL.** An arterial typically with or planned to have more than one travel lane in each travel direction.

(2) **MINOR ARTERIAL.** An arterial typically with or planned to have one travel lane in each travel direction. (Fig. XXI)

AUTOMOBILE SALES. See motor vehicle, mobile home, and recreational vehicle sales area.

AWNING. Any stationary structure, permanent or demountable, used in conjunction with the mobile home or trailer, other than a window awning for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.

BASEMENT. That portion of a building between floor and ceiling which is partly below and partly above grade, but is so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling (Fig. I).

BED AND BREAKFAST ESTABLISHMENT. A structure designed and occupied as a residence in which sleeping rooms are provided on a daily or a weekly basis for use by travelers or transients for a charge or fee paid or to be paid for the rental or use of the facility.

BICYCLE STORAGE SPACE. A space for one standard bicycle within an adequately lighted, secure bicycle rack, placed in a covered and paved area.

BIKEWAY. Any road, path or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. The five types of bikeways are:

(1) **MULTI-USE PATH.** A paved way (typically 10 to 12-foot wide) that is physically separated from motorized vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.

(2) **BIKE LANE.** A portion of the street (typically four to six-foot wide) that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.

(3) **SHOULDER BIKEWAY.** The paved shoulder of a street that does not have curbs or sidewalks that is four feet or wider and is typically shared with pedestrians.

(4) **SHARED ROADWAY.** A travel lane that is shared by bicyclists and motor vehicles.

(5) **MULTI-USE TRAIL.** An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians.

BLOCK. A tract of land bounded by public or private street right-of-ways or public walkways.

BLOCK LENGTH. The distance measured along all that part of one side of a street which is between two intersecting or intercepting streets, or between an intersecting or intercepting street and a railroad right-of-way, water course, body of water, or undivided acreage.

BOARDING AND/OR ROOMING HOUSE. A building where lodging, with or without meals, is provided for compensation, but shall not include homes for the aged, nursing homes or group care homes.

BUILDING. A structure built and maintained for the support, shelter or enclosure of persons, motor vehicles, animals, chattels, or personal or real property of any kind. The word **BUILDING** shall include the word "structure."

BUILDING FACE. An exterior wall of a building that generally faces one direction and that is visible from the public right-of-way. A **BUILDING FACE** is broken by a change in building direction of 60 degrees or more, except for minor extensions or indentations that are shorter than 50% of the building frontage (Fig. XV).

BUILDING FRONTAGE. The longest horizontal distance between lines perpendicular to a building face (Fig. XVI).

BUILDING HEIGHT. The vertical distance from the grade to the highest point of the coping of a

flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

BUILDING LINES. The lines dedicated on the subdivision plat or otherwise described, delineating the area upon which structures may be erected.

BUILDING LINE, FRONT. A line extending parallel with and abutting the front of the closest building to a front lot line.

BUILDING - MAIN. A building within which is conducted the principal use permitted on the lot, as provided by this code.

BUILDING MANAGER. The Chief of the Building Division or his designee. The Building Manager is subordinate to the Director.

CABANA. A stationary light weight structure which may be prefabricated or demountable, with two or more walls, used adjacent to and in conjunction with a mobile home or trailer, to provide additional living space meant to be moved with a mobile home or a trailer.

CAMOUFLAGED. A telecommunication facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered "camouflaged".

CAMPUS LIVING ORGANIZATION (FRATERNITY, SORORITY OR DORMITORY). A living organization having six or more unrelated persons sharing a common kitchen, but providing facilities for student housekeeping, which has received official sanction from an institution of higher learning or hospital.

CARPORT. A stationary structure consisting of a roof with the supports and not more than one wall, or storage cabinet substituting for a wall, and used for sheltering a motor vehicle, boat, trailer, RV, or similar item.

CARRIER. A company that provides wireless service.

CELLAR. That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling (Fig. II).

CEMETERY. Land used or intended to be used for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries, when operated in conjunction with and within the boundary of such cemetery.

CITIZEN BAND (CB) RADIO. Two-way radio facilities operated for short-range personal and business communication at low power levels (15 W PEP TPO maximum) in the 27 megahertz (11 meter) band, without necessity of federal license, pursuant to 47 CFR Part 95.

CITY. The incorporated territory of the City of Newberg, Oregon.

CITY COUNCIL. The City Council of the City of Newberg. Composed of an elected body of officials responsible for overseeing the management of the city.

CITY COORDINATE SYSTEM. A system of monuments located at street intersections and various other points that are tied to the point of beginning at the center line intersection of Main Street and First Street in the city. Said point of beginning given a value of N 20,000 (ft) and E 40,000 (ft) with the north-south based on the grid system.

CLINIC. Single or multiple offices for physicians, surgeons, dentists, chiropractors, osteopaths and other members of the healing arts, including a dispensary in each such building to handle only merchandise customarily prescribed by occupants in connection with their practices.

CLINIC, SMALL ANIMAL. A business establishment in which veterinary services are rendered to small domestic pets on an outpatient basis with no overnight boarding allowed.

CODE. The Newberg Development Code, primarily including ordinances regulating zoning and subdivisions.

COLLECTOR. A street so designated in the Newberg Transportation System Plan. **COLLECTORS** are intended to channel traffic from local streets or other collectors to the arterial street system. They can also provide access to abutting properties. **COLLECTORS** are of two types:

(1) **MAJOR COLLECTOR.** A collector that is intended to serve through traffic, and that typically has sufficient traffic volume to warrant striped bike lanes.

(2) **MINOR COLLECTOR.** A collector that is not intended to serve through traffic, and that typically does not have sufficient traffic volume to warrant striped bike lanes. (Fig. XXII)

CO-LOCATION. The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier. Each service on a co-location is a separate personal wireless service facility, so that a “tri-location” is comprised of three personal wireless service facilities. A carrier may own all three services, but since the services are different, the facility is generally called a “co-location” and has three distinct personal wireless service facilities.

COMMISSION. The Planning Commission of the city.

COMMUNITY CENTER. A publicly-owned and/or publicly-operated facility that serves the community at-large and provides a venue for cultural events, entertainment, athletic, social, recreational, governmental and/or multi-purpose uses. Uses may include, but are not limited to commercial kitchens, classrooms, events involving social or fraternal gatherings, exercise areas, gymnasiums, meeting rooms, multi-purpose rooms, office spaces, public and non-profit social service organizations, spectator sports, swimming pools, and areas for public display, such as a museum, auditorium, theater and/or stage.

COMPREHENSIVE PLAN. The master plan or development plan adopted by the City Council for the guidance of physical, economic and social growth and improvement of the city.

CONCEPT MASTER SITE DEVELOPMENT PLAN. A master development plan for an institution or other large development which describes anticipated development over time in general terms, in lieu of detailed descriptions of each proposed phase of development. Such a concept plan can contain generic site development and design elements with which all future development will comply including but not limited to general architectural standards and materials, landscaping standards and materials, on-site vehicular and pedestrian circulation, institutional sign program, and/or baseline traffic and parking studies and improvement programs.

CONDITIONAL USE PERMIT. A discretionary permit for a use requiring special consideration due to items such as the size of area affected, the nature of the use, the creation of potential traffic problems, or the affect on adjoining land uses.

CONFERENCE CENTER. A building or group of buildings operated primarily for the accommodation of people engaged in a group study project which may be known as “symposium,” “seminary,” “conference,” “workshop,” or “short course” and which may have such incidental uses as those customarily found in hotels to serve those engaged in such a project. Rentals of living accommodations within the building may be made available independent of any group study project.

CONICAL SURFACE. Extends 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface (5,000 feet from the center of each end of the primary surface of each visual and utility runway at 150 feet above the airport elevation) and upward extending to a height of 350 feet above the airport elevation.

CONTINUING CARE RETIREMENT COMMUNITY. A facility which includes administrative offices, medical offices, ancillary

services, independent living units, residential care facilities, assisted living facilities, adult foster care, and nursing and long term care.

COUNCIL. City Council of the city.

COVERAGE. See lot coverage.

CROSS-POLARIZED (or dual polarized) ANTENNA. A low mount that has three panels flush mounted or attached very close to the shaft.

CUL-DE-SAC. A dead-end street intended for local traffic that typically terminates with a bulb or other vehicle turnaround.

CURB LINE. The line indicating the edge of the vehicular roadway within the overall right-of-way on improved streets.

DAY NURSERY. An institution, establishment or place in which children are given board, care or training apart from their parents or guardians for compensation or reward, consistent with Oregon Department of Human Resources standards for day care facilities.

DENSITY, GROSS. Density calculated including all buildable and unbuildable land such as streets, streams, slopes, open space, easements, and other rights-of-way. Generally expressed in units per gross acre.

DENSITY, NET. Density calculated excluding non-buildable land; such as streets, streams, slopes, open space, easements, and other rights-of-way. Generally expressed in units per net acre.

DESIGNATED CITY OFFICIAL. The City Manager or any officer or employee designated by the City Manager to perform duties outlined in this code.

DEVELOPMENT PERMIT. Any land use or construction permit which is required by this code.

DEVELOPMENT PLAN. Any plan adopted by the Planning Commission or City Council for the guidance of growth or improvement of the city.

DEVELOPMENT SITE.

(1) A lot of record existing on the effective date of this code; or

(2) A tract of land either unsubdivided or consisting of two or more contiguous lots of record, located within a single block which, on the effective date of this code, was in a single ownership; or

(3) A tract of land, located within a single block, which at the time of filing for a building permit (or, if no building permit is required, at the time of filing for a certificate of occupancy), is designated by its owner or developer as a tract, all of which is to be used, developed or built upon as a unit under single ownership. A ***DEVELOPMENT SITE***, therefore, may or may not coincide with a lot as shown on recorded subdivision plat or deed.

(4) For the purpose of this definition, ownership of a ***DEVELOPMENT SITE*** is deemed to include a lease of not less than 50 years duration, with an option to renew such lease so as to provide a total lease of not less than 75 years duration.

(5) A ***DEVELOPMENT SITE*** may be subdivided into two or more “development sites,” provided that all resulting development sites and all buildings thereon, shall comply with all the applicable provisions of this code. If such “development site,” however, is occupied by a nonconforming structure, such “development site” may be subdivided, provided such subdivision does not create a new noncompliance or increase the degree of noncompliance of such structure.

DIRECTOR. The Newberg Planning and Building Director or his designee.

DISPLACED THRESHOLD APPROACH SURFACE ZONE. The imaginary surface depicted on the Displaced Threshold Approach Surface Map (Map 3). In the plan view, the centerline of this surface extends 3,000 feet along the extended runway centerline. This surface extends upward at a slope of 20 feet outward for each foot upward (20:1). This

surface extends laterally 125 feet on each side of the centerline at the threshold and increases in width to 350 feet at a point 2,250 feet from the threshold; thereafter, it extends laterally 350 feet on each side of the centerline. The displaced threshold approach surface extends to the north and begins at the displaced threshold, 360 feet south of the end of the runway as it existed on July 9, 1990.

DORMITORY. A living organization housing six or more unrelated people who share a common kitchen either on the site or elsewhere.

DRAINAGE LAND. Land required for drainage ditches or required along a natural stream or water course for preserving the channel and providing for the flow of water therein, to safeguard the public against flood damage or the accumulation of surface water.

DRIVEWAY. An area that provides vehicular access to a site, except for public streets. A driveway begins at the property line and extends into the site. ***DRIVEWAYS*** include parking, maneuvering, or circulation areas in parking lots and parking spaces. See also “Private Drive” and “Service Drive”.

DRIVEWAY APPROACH. An area, construction or facility between the roadway of a public street and private property intended to provide access for vehicles from a roadway of a public street to private property (Fig. XII).

DUPLEX. See dwelling, two family (duplex).

DWELLING. A building or portion thereof which is occupied in whole or in part as a home, residence, or sleeping place, either permanently or temporarily by one or more families, but excluding hotels, motels and tourist courts.

DWELLING, MULTIPLE. A building designed and used for occupancy by three or more families, all living independently of each other, and having separate housekeeping facilities for each family.

DWELLING ROOM.

(1) An enclosed room containing more than 70 square feet of floor space and commonly used for living purposes, but excluding:

(a) Lobbies, halls, closets, storage space.

(b) Unfinished attics, cellars or basements.

(c) Bathrooms, utility rooms or kitchens or other cooking spaces.

(d) Dinette alcoves, dinettes or other dining spaces, if these are not separated by walls or doors from other dwelling rooms or cooking spaces.

(e) Dining rooms in dwellings containing three or more bedrooms.

(2) The room count for any dwelling unit is the number of dwelling rooms plus the constant figure of one and one-half, which represents the non-dwelling rooms listed above. The minimum count for a dormitory or hotel type of structure shall be two for each dwelling room.

DWELLING, SINGLE FAMILY. A detached building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family.

DWELLING, TWO FAMILY (DUPLEX). A building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping facilities for each family.

DWELLING UNIT. A single unit of one or more habitable rooms providing complete independent facilities for occupants, including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING UNIT, ACCESSORY. One or more rooms with private bath and kitchen facilities

comprising an independent, self-contained dwelling unit within or attached to an existing or new single family dwelling.

DWELLING UNIT, SINGLE FAMILY ATTACHED. A single family dwelling having one or more walls attached to and in common with one or more single family dwellings.

EASEMENT. A right of use across or through a block, lot, tract or parcel.

ENFORCEMENT OFFICIAL. An official designated by the Director that has the responsibility for enforcing the provisions of this code.

ENVIRONMENTAL ASSESSMENT (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

EX PARTE CONTACT. Contact from one side of an issue affecting a land use proceeding without the benefit of hearing the other point of view.

EXPRESSWAY. A highway designated in the Newberg Transportation System Plan that is intended to provide safe and efficient high speed and high volume traffic movements. Its primary function is to provide for inter-urban travel and connections with minimal interruptions. A secondary function is to provide for long distance intra-urban travel. Access is limited to designated public street interchanges.

FALL ZONE. The area on the ground within a prescribed radius from the base of a personal wireless service facility. The **FALL ZONE** is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FAMILY. An individual, or two or more persons related by blood or marriage, or a group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit. **FAMILY** may include two or more people with disabilities as defined in the Fair Housing

Amendments Act of 1988 living as a single housekeeping unit.

FINAL PLAN INVENTORY OF HISTORIC RESOURCES. The list of significant resources which are included in the comprehensive plan. The final inventory includes an evaluation of the economic, social, environmental, and energy consequences of conflicting uses.

FIXTURE, FULLY SHIELDED. An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixtures.

FIXTURE, OUTDOOR LIGHTING. An electrically powered illuminating device or other outdoor lighting fixture including all parts used to distribute the light and/or protect the lamp, permanently installed or portable, used for illumination. Such devices shall include, but are not limited to, search, spot flood and area lighting.

FLAG. A fabric that is attached to a pole on one end only that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

FLAG DISPLAY. One or more flags attached to a single pole.

FULLY SHIELDED FIXTURE. An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixtures.

FUNCTIONAL CLASSIFICATION. The classification given to streets and highways in the Newberg Transportation System Plan. The classification is intended to describe the purpose of the street relative to access and mobility. Classifications include, from highest to lowest, expressways, major and minor arterials, major and minor collectors, local commercial, industrial and residential streets.

GARAGE, PRIVATE PARKING. A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles for the tenants, employees or owners of the property for which the parking spaces contained in or on said garage are required by this code, and are not open for use by the general public.

GARAGE, PUBLIC PARKING. A publicly or privately owned structure having one or more tiers of height, used for the parking of automobiles and open for use by the general public, either free or for remuneration. Public parking garages may include parking spaces for customers, patrons or clients which are required by this code; provided said parking spaces are clearly identified as free parking spaces for the building or use required to provide said spaces.

GARAGE, REPAIR. A building used for the care and repair of motor vehicles, including major and minor work such as body and fender work or engine and transmission overhaul, and incidental storage or parking of vehicles.

GARAGE, SINGLE CAR. A covered parking space enclosed on all four sides designed for the parking of one motor vehicle. A **SINGLE CAR GARAGE** shall have a minimum inside width of ten feet by 20 feet.

GARAGE, TWO CAR. A covered parking space enclosed on all four sides designed for the parking of two motor vehicles. A **TWO CAR GARAGE** shall have a minimum inside width of 20 feet by 20 feet.

GLARE. Light that causes annoyance, discomfort, or loss in visual performance and ability.

GRADE (ADJACENT GROUND ELEVATION). The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line, if it is less than five feet distance from said wall. In case walls are parallel to and within five feet of a public sidewalk, alley or public way, the grade shall be the elevation of the sidewalk, alley or public way.

GROSS ACRE. See density, gross.

GROSS FLOOR AREA. The floor area of a building, except areas used exclusively for the service of the building, such as: mechanical equipment spaces and shafts; elevators; stairway, escalators and ramps; public rest rooms, loading docks or ramps.

GROUP CARE FACILITIES. An institution that maintains facilities for rendering board and domiciliary care for compensation to physically, mentally or socially disabled persons or delinquent or dependent persons. Assisted living facilities are considered group care facilities. **GROUP CARE FACILITIES** provide care for six to 15 individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents.

GROUP CARE HOME. Any dwelling unit maintained, licensed and operated for the care alone or in conjunction with treatment or training or a combination thereof for physically, mentally or socially disabled persons or delinquent or dependent persons, by any person who is not the parent or guardian of and who is not related by blood, marriage or legal adoption to such persons. **GROUP CARE HOMES** shall provide care for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of home residents and need not be related to each other or to home residents. Consistent with the Fair Housing Act, group care homes which provide housing for disabled persons, including the aged, occupying a structure as one housekeeping unit shall be considered a single family use with densities governed by adopted city building codes.

GUYED TOWER. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

HEARING. A time set to review a land use application by Planning Commission or Council.

HEARING BODY. The Planning Commission or City Council of the City of Newberg.

HEARING, LEGISLATIVE. A hearing on a matter that is reviewed under the Type IV procedures, usually relates to a change in a land use regulation or comprehensive plan amendment that is not site specific.

HEARING, NEW. A hearing in which new testimony and other evidence may be submitted for consideration.

HEARING, RECORD. A hearing in which no new evidence or testimony is considered. These hearings shall be a review of the existing "record" or evidence previously submitted.

HEARING, QUASI-JUDICIAL. A hearing that is reviewed through the Type III procedure, usually relating to a land use action or permit affecting one parcel or a small number of parcels.

HEARINGS OFFICER. The referee responsible for hearing appeals of expedited land division decisions made by the decision body (the Director in the case of partitions and the Planning Commission in the case of subdivisions).

HELIPAD. A transportation structure or area used for the landing and ascending of a helicopter, typically associated with a single use, such as a hospital.

HELIPORT. A facility used for landing and ascending of helicopters, typically with a control tower, hangars, and accommodations for passengers and cargo.

HIGH DENSITY PUBLIC USE. Structure or place which the public may enter for such purposes as deliberation, education, worship, entertainment, amusement, awaiting transportation or similar activity where the occupant load is greater than one person per 15 square feet of gross building lot coverage.

HOME OCCUPATION. An occupation or profession carried on by a member of the family residing on the premises.

HORIZONTAL SURFACE. A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of the primary surface of each visual or utility runway and connecting the adjacent arcs by lines tangent to those arcs.

HOSPITALS. Institutions devoted primarily to the rendering of healing, curing and/or nursing care, which maintain and operate facilities for the diagnosis, treatment and care of two or more non-related individuals suffering from illness, injury or deformity or where obstetrical or other healing, curing and/or nursing care is rendered over a period exceeding 24 hours.

HOSPITAL, SMALL ANIMAL. A building, together with animal runs, in which veterinary services, clipping, bathing, boarding and other services are rendered to dogs, cats and other small animals and domestic pets.

HOTEL (MOTEL, MOTOR HOTEL, TOURIST COURT). A building or group of buildings used for transient residential purposes containing six or more guest rooms without housekeeping facilities (not including kitchenettes) which are designed to be used, or which are used, rented or hired out for sleeping purposes.

HOUSING PROJECT. Any work or undertaking of a non-profit sponsor or limited dividend housing corporation for the purpose of operating, rehabilitating or constructing decent, safe and sanitary housing for families and individuals which cannot obtain such shelter in the open market for 25% of the gross family income.

INITIAL INVENTORY OF HISTORIC RESOURCES. A 1985 census of historical, architectural, archeological or cultural buildings, structures, objects, vegetation, sites, districts and signs. Each resource (i.e. building, structure, and the like) was documented in terms of location, a written description and a discussion of the resource's significance.

INTERESTED PARTY (APPEAL). See affected party definition.

INSTITUTION. A religious, public or quasi-public use, such as a church, library, college, university, public or private school, hospital, continuing care retirement facility, or government-owned or government-operated building, structure, or land used for public purposes.

KENNEL. A lot or premises on which three or more adult dogs are kept, whether by owners of the dogs or by persons providing facilities and care, whether or not for compensation. An adult dog is one that has reached the age of four months.

LANDING FIELD. A facility, either on land or water, where aircraft can take off and land, typically excluding hard-surfacing, control towers, hangars, or accommodations for passengers and cargo. See also "Airport".

LANDMARK. Properties selected from the Historic Inventory that are of individual importance based on architectural, historical, and/or environmental criteria. The "H" overlay designation shall be applied to landmark properties.

LANDSCAPE. The improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

LATTICE TOWER. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

LEASE. A written contract for the use, possession and occupancy of the property.

LICENSED CARRIER. A company authorized by the FCC to construct and operate a commercial mobile radio services system.

LIMITED USE OVERLAY SUB-DISTRICT. A sub-district of a zoning classification that places specific limits on the uses of properties in that area as defined in § 151.123 creating the sub-district.

LOADING SPACE. An off-street space or berth on the same lot with a main building or contiguous to a group of buildings, for the temporary parking of commercial vehicles while loading or unloading, and which shall abut a street, alley or other appropriate means of ingress and egress.

LOT.

(1) A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide yards and other open spaces as herein required. Such lot may consist of:

- (a) A single lot of record.
- (b) A portion of a lot of record.
- (c) A combination of complete lots of records, or complete lots of record and portions of lots of record.

(d) A parcel of land described by metes and bounds; provided, that in case of division or combination there shall have been approval given to said division or combination under the conditions set forth in the subdivision ordinance.

(2) For zoning purposes as covered by this code, the word **LOT(S)** and **PARCEL(S)** are used interchangeably (see also lot types).

LOT, COVERAGE. That portion of a lot which, when viewed directly from above, would be covered by a building, or any part of a building, except any area covered by a structure where 50% or more of the perimeter of such structure is open from grade.

LOT FRONTAGE. That portion of a lot nearest the street. For the purpose of determining yard requirements, all sides of a lot adjacent to a street shall be considered frontage and yards shall be provided as indicated under “Yard” in this code.

LOT LINE, FRONT. A property line contiguous with the street line (Fig. V).

LOT MEASUREMENTS.

(1) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front, and the rearmost points of the side lot lines in the rear (Fig. V).

(2) Width of lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that the width between side lot lines at their foremost points (where they intersect with the street

line) shall not be less than 80% of the required lot width, except in the case of lots on the outer radius of cul-de-sacs, where the 80% requirement shall not apply (Fig. V).

LOT OF RECORD. A lot shown as part of a recorded subdivision, or any parcel of land described by metes and bounds in a recorded deed, record of survey or other appropriate document recorded in the office of the County Recorder; except, that no lot or parcel of land created without complying with the provisions of the land division requirements of the state and this code is entitled to the waiver of this section.

LOT TYPES.

(1) **CORNER LOT.** A lot or development site situated at the intersection of two streets.

(2) **INTERIOR LOT.** A lot or development site other than a corner lot with frontage only on one street (Fig. VI).

(3) **THROUGH LOT.** A lot or development site other than a corner lot with frontage on more than one street. Through lots with frontage on two streets may be referred to as “double frontage” lots (Fig. VII).

(4) **ZERO LOT LINE LOT.** A lot that is designated to have a “zero” interior yard setback.

MANUFACTURED HOME. A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of construction.

MANUFACTURED HOME PARK. Any place where four or more manufactured homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to offer space free in connection with securing the trade or patronage of such person.

MASTER SITE DEVELOPMENT PLAN. A detailed plan for the construction or redevelopment of a site which will be undertaken in two or more phases.

MOBILE HOME. A vehicle or structure constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities, is intended for human occupancy and is being used for residential purposes. A manufactured relocatable living unit.

MOBILE HOME ACCESSORY BUILDING OR STRUCTURE.

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

(2) Prefabricated and site-built mobile home accessory buildings and structures not dependent in whole or in part upon the mobile home for structural support.

MOBILE HOME PARK. Any place where four or more mobile homes are located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to offer space free in connection with securing the trade or patronage of such person.

MOBILE HOME SPACES. A plot of ground within a mobile home park designed for the accommodation of one mobile home.

MODULAR HOME. A dwelling meeting Uniform Building Code standards constructed and inspected prior to installation on a pre-formed foundation. **MODULAR HOMES** are not constructed with attached wheels and are not intended for moving on the highway without a special trailer.

MONOPOLE. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

MOTEL OR TOURIST COURT. See hotel.

MOTOR VEHICLE, MOBILE HOME AND RECREATIONAL VEHICLES SALES AREA. A lot used for display, sale or rental of any new or used motor vehicles, mobile homes or recreational vehicles, where no repair work is done except minor, incidental repairs of motor vehicles, mobile homes or recreational vehicles to be displayed, sold or rented for use off the premises.

MOUNT. The structure or surface upon which antennas are mounted, including the following four types of mounts:

(1) Roof-mounted. Mounted on the roof of a building.

(2) Side-mounted. Mounted on the side of a building.

(3) Ground-mounted. Mounted on the ground.

(4) Structure-mounted. Mounted on a structure other than a building.

NET DENSITY. See density, net.

NOISE SENSITIVE AREAS. Within 1,500 feet of an airport or within established noise contour boundaries exceeding 55 Ldn.

NON-CONFORMING LOT. A parcel of land which lawfully existed as a lot on the effective date of this code, or which is legally created after the effective date of this code, but in either case, does not conform to the lot area and lot dimension standards for the district in which it is located.

NON-CONFORMING USE. A use of a building or land which lawfully existed on the effective date of this code, and which is not a use permitted in the district in which it is located.

NURSING HOME. A home, place or institution which operates and maintains facilities providing convalescent or chronic care or both, for a period exceeding 24 hours for 15 or more ill or infirm patients not related to the nursing home administrator or owner by blood or marriage. Convalescent and chronic care may include, but need not be limited to, the procedures commonly employed in nursing and caring for the sick.

ODOT. The Oregon Department of Transportation.

OFFICIAL MAP. The map established by the City Council on which the planned locations, particularly of streets, are indicated with detail and exactness so as to furnish the basis for property acquisition, building restrictions, building permits, zoning, or other uses, the original whereof is on file in the office of the City Recorder.

OMNIDIRECTIONAL (WHIP) ANTENNA. A thin rod that beams and receives a signal in all directions.

OUTDOOR LIGHTING FIXTURE. An electrically powered illuminating device or other outdoor lighting fixture including all parts used to distribute the light and/or protect the lamp, permanently installed or portable, used for illumination. Such devices shall include, but are not limited to, search, spot, flood and area lighting.

OUTDOOR LIVING AREA. Outdoor or semi-outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, paved or rooftop areas, balconies, porches, patios, terraces, verandas or similar areas developed for active or passive recreational activities. That portion of exterior balconies which serves as required exits for the building shall not be considered as **OUTDOOR LIVING AREAS.**

OWNER. The owner of record of real property as shown on the latest tax rolls of the county or by deed record of the county for a person who is

purchasing the parcel of property under recorded contract.

PANEL ANTENNA. A flat surface antenna usually developed in multiples.

PARCEL. A unit of land that is created by a partitioning of land.

PARKING, LONG TERM. A designated parking area for the purpose of parking vehicles for a length of time greater than four hours.

PARKING AREA, PRIVATE. Privately or publicly owned property, other than streets and alleys, used for parking by the tenants, employees, or owners of the property for which the parking area is intended, and not open for use by the general public.

PARKING AREA, PUBLIC. Privately or publicly owned property, other than streets or alleys, identified for parking used by the general public either free or for remuneration. **PUBLIC PARKING AREAS** may include but are not limited to parking lots intended for retail customers, patrons and clients.

PARKING LOT, COMMERCIAL. A parking area specifically designated for commercial public parking.

PARKING SPACE. A permanently maintained space with proper access for one standard size automobile.

PARTITION. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year.

(1) **PARTITION** does not include divisions of land resulting from the creation of cemetery lots; and **PARTITION** does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable code.

(2) **PARTITION** does not include the sale of a lot in a recorded subdivision, even though the lot may have been acquired with other contiguous lots or property by a single owner.

PARTITION PLAT. A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a major or minor partition.

PARTY TO A HEARING. Anyone determined to have legal standing at a hearing, generally for purposes of appeal. This would typically include the applicant, anyone providing written comments prior to the close of a hearing, and anyone providing oral testimony during the public comment portion of a hearing.

PERSON. Any individual, firm, partnership, corporation, company, association, syndicate or other legal entity, and including trustees, receiver, assignee or other similar representative thereof.

PERSONAL WIRELESS SERVICE FACILITY. Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

PERSONAL WIRELESS SERVICES. Commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996.

PLANNING COMMISSION. The Planning Commission of the City of Newberg. A body of officials appointed by and serving the City Council by overseeing planning issues affecting the city.

PLANNING MANAGER. The Superintendent of the Planning Division. The Planning Manager is subordinate to the Director.

PLAT. A final subdivision plat, replat or partition plat.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface

extends 200 feet beyond each end of the runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is 250 feet for utility runways having only visual approaches and 500 feet for other than utility runways.

PRIVATE DRIVE. A private way which affords principal means of access to two or fewer lots (see also service drive).

PRIVATE STREET. A private way which affords principal means of access to three or more lots (see also service drive).

PROPERTY CONSOLIDATION. The elimination of common property lines between two or more abutting properties.

PROPERTY LINE ADJUSTMENT. The relocation of common property lines between two or more abutting properties.

PUBLIC BUILDING. A building used by a governmental agency, municipal corporation, or any public utility to serve the general public. It includes fire stations, substations and pump stations. It does not include any other use listed elsewhere in this code, such as schools, colleges, churches, or day nurseries.

RADIO. A generic term referring to communication of impulses, sounds, and pictures through space by means of an electromagnetic wave, including but not limited to short-wave, FM, AM, land mobile, common carrier, low and high power television, and microwave transmissions.

RADIO FREQUENCY ENERGY (RF). Energy, consisting of related electric and magnetic fields, produced by alternating currents of sufficiently high frequency, which may be emitted or collected by an antenna and which presents a self-sustaining, self-propagating electromagnetic wavefront. RF energy may, among other uses, be modulated (encoded) so as to convey intelligence such as voice, digital data, and still or moving pictures, between radio frequency facilities. The RF spectrum occupies, for practical

purposes, but not exclusively, wavelengths from 10 km to 10 mm, representing a frequency range of 3 kHz to 300 GHz.

READERBOARD. A portable sign with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. **READERBOARDS** do not include animated signs, nor do they include signs where less than 20% of the sign area can be so changed or rearranged.

RECREATIONAL VEHICLE. A vacation trailer or other unit with or without motive power which is designed for human occupancy and to be used temporarily for recreational or emergency purposes and has a floor space of less than 220 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms. The unit shall be identified as a recreational vehicle by the manufacturer.

RECREATIONAL VEHICLE PARK. A parcel or parcels of land upon which two or more recreational vehicle spaces are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreational purposes.

RECREATIONAL VEHICLE SPACE. A plot of ground within a recreational vehicle park intended for the accommodation of either a recreational vehicle, tent, or other individual camping unit on a temporary basis.

REDEVELOPMENT. A remodel or addition that requires a Type II application.

REPLAT. A final plat of the reconfiguration of lots and easements of a recorded subdivision or partition plat and other writings containing all the descriptions, location, specifications, dedications and provisions and information concerning a recorded subdivision.

RESERVE BLOCK. A strip of land usually one foot in width, reserved across the end of a street or alley terminating at the boundary of a subdivision or

a strip of land between a dedicated street of less than full width and adjacent acreage, in either case reserved or held for future street extension or widening.

RESTAURANT. A place where meals are served to the public either for dining in or take-out which does not include a walk-up or drive-up window.

RESTAURANT, DRIVE-UP, DRIVE-THROUGH, OR WALK-UP. A restaurant which serves all or a portion of its meals to the public, for purposes of take-out, via a drive-up, drive-through, or walk-up window.

RIGHT-OF-WAY. A strip of land over which public facilities such as streets, railroads, or power lines are built.

RUNWAY PROTECTION ZONE. Extends from the primary surface to a point where the approach surface is 50 feet above the runway end elevation. Where the Runway Protection Zone meets the primary surface, the width is 250 feet. The outer width of the Runway Protection Zone is 450 feet and is measured 1,000 feet from the primary surface.

SERVICE DRIVE. A vehicular access which provides ingress and egress from a driveway approach to an improved parking space. A **SERVICE DRIVER** is either a private street or a private drive as defined in this code.

SERVICE STATION OR GAS STATION. A place or station selling motor fuel and oil for motor vehicles, selling, servicing and installing tires, batteries, accessories and related products, furnishing minor repair and service when conducted entirely within an enclosed building, and at which incidental services are conducted. **SERVICE STATION OR GAS STATION** often includes the sale of other retail products such as food and snacks and the provision of a car wash. **MINOR REPAIR SERVICE**, as used in this definition, shall be understood to exclude activities such as painting, body work, steam cleaning, tire recapping, major engine or transmission overhaul, or repair involving removal of a cylinder head or crankcase, and mechanical car washing which necessitates equipment to wash more than one car at a time.

SIDEWALK. A pathway adjacent to a public or private street with a durable, hard, smooth surface intended for pedestrian use.

SIGN. Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public. **SIGNS** include banners, flags, balloons with graphics, letters, or advertising, and murals.

SIGN, ANIMATED. A sign that has a display that changes more than once in any ten minute period.

SIGN, AREA. The area of a sign which is computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the requirements of this code and is clearly incidental to the display itself. The sign area for a sign with more than one face shall be computed by adding the area of all sign faces visible from any one point. When two sign faces are placed back to back or at an angle of less than 45 degrees to one another so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of the largest face (Fig. XVI).

SIGN, ATTACHED. Any sign attached to any part of a building, as contrasted to a freestanding sign. **ATTACHED SIGNS** are of two types:

(1) Minor attached: A sign not to exceed six square feet in area (three square feet in Residential Zones) that does not extend above the roofline of the building it is attached to.

(2) Major attached: All other attached signs.

SIGN, FREESTANDING. Any sign supported by structures or supports that are anchored in the ground and that are independent from any other building or structure. **FREESTANDING SIGNS** are of two types:

(1) Minor freestanding: A freestanding sign that is less than or equal to six square feet in area (three square feet in Residential Zones) and three feet in height.

(2) Major freestanding: All other freestanding signs.

SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: signs designed to be transported by means of wheels; signs connected to A- or T-frames; menu and sandwich board signs; umbrellas, balloons, flag, or banners containing signs; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said sign is permanently affixed to the vehicle and said vehicle is licensed for movement on public streets.

SIGN, PUBLIC. Any sign that is placed within public right-of-way by or under direction of a governmental agency.

SIGN, TEMPORARY. A portable sign that is limited by law to placement for a specified period of time.

SKIRTING. Enclosure for area between floor of a mobile home or manufactured home and the ground.

STORY. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level

directly above a basement, cellar or unused underfloor space is more than six feet above grade, as defined herein, for more than 50% of the total perimeter, or is more than 12 feet above grade, as defined herein, at any point, such basement, cellar or unused underfloor shall be considered as a story.

STORY, HALF. A basement or cellar, except as provided in this code, which has less than six feet of its height above grade.

STREAM. A body of running water flowing within the boundaries of the Stream Corridor Overlay Zone.

STREAM CORRIDOR. An area including the stream bed and a required strip or buffer of land on each side of the stream bed. The width of the stream corridor area varies with the site conditions and shall be determined by on-the-ground investigation as provide by this code.

STREET. A public thoroughfare or right-of-way dedicated, deeded or condemned, other than an alley, which affords the principal means of access to abutting property including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare. The word ***STREET*** shall include all arterial highways, freeways, traffic collector streets, and local streets.

STREET LINE. A lot line separating a street from other land (Fig. V).

STRUCTURE. Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SUBDIVISION. To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year (see also partition).

SUBDIVISION PLAT. A final plat and other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

SUN EXPOSURE PLANE. A sun exposure plane is an imaginary, inclined plane (Fig. VIII):

(1) Northerly exposure: Beginning on a line parallel to a front, side or rear property line and 10 feet within the abutting property or properties northerly from the northerly line or lines of the development site to which the sun exposure plane applies and projecting thence due south at a 30-degree slope over the applicable development site.

(2) Easterly, westerly and southerly exposures: Beginning on lines parallel to front, side or rear property lines, and five feet within the abutting property or properties easterly, westerly and southerly from the easterly, westerly and southerly lines of the development site to which the sun exposure plane applies and projecting thence due west from the easterly line, due east from the westerly line, and due north from the southerly line, at a 60-degree slope over the applicable development site to a maximum distance of 30 feet measured horizontally from each development site line.

TELECOMMUNICATION FACILITY. A land use which generates, detects or processes radio frequency (RF) energy for purposes of wireless telecommunication and which provides commercial transmission capabilities to convey intelligence such as voice, digital data, still or moving pictures. Services include cellular communication, personal communication services (PS), enhanced specialized mobile radio, specialized mobile radio and paging. The facility may include a cellular tower or monopole; antennas; feedlines; structures to support antennas, feedlines, and other receiving and/or transmitting devices; transmitters, receivers and transceivers; accessory equipment, development and structures; and the land on which they are situated. This definition does not include amateur radio and citizen band radio equipment (see ***AMATEUR (“HAM”) RADIO***).

TELECOMMUNICATION FACILITY EQUIPMENT SHELTER. An enclosed structure, cabinet, shed or box at the base of the pole or tower within which are housed batteries and electrical equipment.

TELECOMMUNICATION FACILITY SECURITY BARRIER. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass to the facility.

TOP HAT ANTENNA. A triangular or square platform for mounting purposes.

TRAILER OR TRAVEL TRAILER. A device that is towed by a passenger vehicle and is licensed to travel on public roads. **TRAVEL TRAILERS** typically include a bath and/or cooking facilities and are intended for temporary occupancy as a residence.

TRANSIT CENTER. A location for boarding or departing of passengers from buses, trains, taxis or similar common passenger carriers (excluding aircraft), typically for several fixed routes. **TRANSIT CENTER** may include accessories such as multiple shelters, restrooms, food vending, parking lots, offices for transit personnel, and transit vehicle storage and repair areas.

TRANSIT STOP. A location for boarding or departing of passengers from buses, trains, taxis or similar common passenger carriers (excluding aircraft), typically for one or two fixed routes. **TRANSIT STOP** may include accessories such as a single shelter, passenger parking for up to 20 vehicles, trash receptacles and a restroom. See also "Transit Center".

TRANSITIONAL ZONES. Extend seven feet outward for each one foot upward (7:1) beginning on each side of the primary surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (horizontal surface).

TRANSPORTATION FACILITIES AND IMPROVEMENTS. The physical improvements used to move people and goods from one place to another. **TRANSPORTATION FACILITIES AND IMPROVEMENTS** include the following:

(1) Construction of streets, walkways, and associated improvements as part of an approved

subdivision, partition, design review, or similar application.

(2) Projects identified in the city's adopted Transportation System Plan.

(3) Installation of culverts, pathways, medians, fencing, guardrails, walls, lighting, and similar types of improvements.

(4) Normal operation, maintenance, repair, and preservation activities of existing transportation facilities.

(5) Landscaping as part of a transportation facility.

(6) Transit stops.

TRANSPORTATION FACILITIES AND IMPROVEMENTS do not include airports, landing fields, heliports, helipads, transit centers, or parking areas.

TYPE I PROCEDURE - ADMINISTRATIVE DECISION. These actions shall be decided by the Director without public notice or public hearing. These actions include, but are not limited to design review permits, home occupation permits, signs, adjustments, and processing final land division maps and plats.

TYPE II PROCEDURE. These actions shall be decided by the Director. Type II actions shall include, but not be limited to future street plans, site design review, partitions, subdivisions, variances, and manufactured-mobile home parks.

TYPE III PROCEDURE - QUASI JUDICIAL HEARING. All Type III decisions shall be heard and decided by the Planning Commission. In addition, some Type III actions may be forwarded to the City Council for additional hearing. Type III actions include, but are not limited to appeals of Type I or Type II decisions, future street plans, conditional use permits, planned unit developments, establishment of a historic landmark, comprehensive plan map

amendments, zoning map amendments, and annexations.

TYPE IV PROCEDURE - LEGISLATIVE HEARING. All Type IV decisions shall be heard and decided by both the Planning Commission and City Council. Type IV actions include, but are not limited to amendments to the comprehensive plan text, amendments to the Newberg Development Code and the creation of any land use regulation.

USE. The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied, or maintained.

UTILITY RUNWAY. A runway that is constructed and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

UTILITIES. Any water, gas, sewer, electrical, telephone and wire communication service, and all persons and companies supply the same.

VARIANCE. An exception to provisions of this code where strict or literal interpretation of the ordinances contained herein would result in practical difficulty and unnecessary physical hardship.

VISION CLEARANCE AREA. A triangular area of a corner lot at the intersection of two front lot lines, and through which it is necessary to retain vision clearance in the interest of public safety. The two legs of the triangle are of equal length and coincide with the curb or street lines. The apex is located at the intersection of the curb or street lines, extended if necessary. The base of the triangle extends diagonally across the corner of the lot intersecting the two legs an equal distance from the apex (Fig. IX).

WALKWAY. See “Walkway, Public”, “Walkway, Private” and “Sidewalk”.

WALKWAY, PRIVATE. A pathway within a lot with a durable, hard, smooth surface intended for

pedestrian use, including general pedestrian areas such as plazas and courts.

WALKWAY, PUBLIC. A pedestrian path within a public right-of-way or a dedicated public easement other than sidewalks adjacent to a street, that is designed to allow travel through a block.

WRECKING YARD, MOTOR VEHICLES AND BUILDING MATERIALS. A premise used for the storage, dismantling or sale of either used motor vehicles, mobile homes, recreational vehicles, machinery and/or building materials, or parts thereof.

YARD. Required space on the same lot with a building, unoccupied and unobstructed from a point 30 inches above grade upward, excepting as otherwise provided herein.

YARD, FRONT. A yard extending between lot lines which intersect a street line, the depth of which is the minimum horizontal distance between the street line and a line parallel thereto on the lot. It includes a yard adjacent to a private street on any lot that accesses that private street. It does not include a yard adjacent to an alley only (Figs. V and X).

YARD, INTERIOR. A yard adjacent to any lot line(s) which is not a street line the depth of which yard shall be the horizontal distance measured at right angles to the interior lot line(s) and a line(s) being parallel with said interior lot line(s) (Figs. V and X).

ZERO LOT LINE. A lot line having no setback or yard therefrom; primarily used in conjunction with single family attached dwelling units.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 99-2507, passed 3-1-99; Am. Ord. 99-2513, passed 8-2-99; Am. Ord. 99-2519, passed - - 99; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2000-2537, passed 11-6-00; Am. Ord. 2001-2550, passed 5-21-01; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2565, passed 4-1-02; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.004 SCOPE AND COMPLIANCE.

(A) A parcel of land or structure may be used, developed, and occupied only as this code allows. In addition to complying with the requirements of this code, each development shall comply with the Newberg comprehensive plan and implementing ordinances by and through compliance with applicable implementation provisions of this code.

(B) The requirements of this code apply to the person undertaking a development, to the user of a development, and to the person's successors in interest.

(C) No land shall be divided within the corporate limits of the city except as provided by this code.

(D) No building permit or certificate of occupancy shall be issued for any lot which was created through a land division after the effective date of this code. No excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity to this code.
(Ord. 96-2451, passed 12-2-96)

§ 151.005 INTERPRETATION, CONFLICT AND SEPARABILITY.

Where the conditions imposed by a provision of this code are less restrictive than comparable conditions imposed by any other provisions of this code, the most restrictive provisions shall govern.

(A) In their interpretation and application, the provisions of this code shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

(B) Conflict with public and private provisions.

(1) *Public provisions.* The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this code imposes restriction different from those imposed by any other provision of this code or any other ordinance, rule or regulation, or other provision of

law, whichever provisions are more restrictive or impose higher standards shall control.

(2) *Private provision.* This code is not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this code are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this code shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirement of this code, or the determinations of the city in enforcing this code and such private provisions are not inconsistent with this code or determinations thereunder, then such private provisions shall be operative and supplemental to this code and determinations made thereunder.
(Ord. 96-2451, passed 12-2-96)

§ 151.006 SAVING PROVISION.

This code shall not be construed as abating any action now pending under, or by virtue of, prior existing land use and development regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of this code, or as vacation, by lawful action of the city except as shall be expressly provided for in this code.
(Ord. 96-2451, passed 12-2-96)

§ 151.007 CONDITIONS.

Regulation of zoning, land division and land use provisions are an exercise of valid police power by the city. The owner has the duty of compliance with reasonable conditions laid down by the city for design, dedication, improvement, land division and restrictive use of the land so as to conform to the physical and economical development of the city and to the safety and general welfare of the future lot owners and the city at large.
(Ord. 96-2451, passed 12-2-96)

§ 151.008 AMENDMENTS.

For the purpose of providing the public health, safety and general welfare, the city may from time to time amend the provisions imposed by this code.
(Ord. 96-2451, passed 12-2-96)

(B) *Abatement.* Any use which is established, operated, erected, moved, altered, enlarged, painted or maintained contrary to the zoning regulations shall be and is hereby declared to be unlawful and a public nuisance, and may be abated as such.

§ 151.009 FEE SCHEDULE.

In order to defray the expenses connected with the application for hearing requests, the city shall charge and collect a filing fee for each such application as established by resolution of the Council.

(A) The applicant shall be held responsible for submitting the required filing fee upon completion and submittal of an application.

(B) Whether the request is granted or denied by the Commission, hearing official, Council or Director, the petitioner shall not be entitled to the refund of the initial fee paid, except as allowed by O.R.S. 227.175(10)(b).
(Ord. 96-2451, passed 12-2-96)

§ 151.010 ENFORCEMENT.

All officials, departments, and employees of the city, vested with authority to issue permits, certificates or licenses, shall adhere to and require conformance with the zoning regulations.

(A) *Inspection and right of entry.* Whenever they shall have cause to suspect a violation of any provision of the zoning regulations, or when necessary to investigate an application for or revocation of any zoning approval under any of the procedures prescribed in this code, officials responsible for enforcement or administration of this code, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigations, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant. No owner or occupant or agent thereof, shall, after reasonable notice and opportunity to comply, refuse to permit such entry.

(C) *Enforcement official.* It shall be the duty of the designated City Enforcement Official to enforce the provisions of this code pertaining to land use and to the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures. The enactment of this code shall not invalidate any prior, existing or future prosecutions for violation of the regulations committed under previous, applicable city ordinances then in effect.

(D) *Legal proceedings by City Attorney.* The City Attorney, upon request of the City Council or City Manager, shall institute any necessary legal proceedings to enforce the provisions of this code.

(E) *Enforcement by Chief of Police.* The Chief of Police and his authorized representatives shall have the power, upon request of the City Manager, to assist in the enforcement of the provisions of this code.

(F) *Suits in equity to enjoin violations.* On directions of the designated city official, the City Attorney may institute a suit in equity in the Circuit Court of the State of Oregon, to enjoin the maintenance of any provision of this code.

(G) *Remedies cumulative.* It is the intent that the remedies provided for within this code pertaining to enforcement of the provisions of this code shall be cumulative and not mutually exclusive.
(Ord. 96-2451, passed 12-2-96)

§ 151.011 ADOPTION OF ZONING MAP.

In addition to the provisions of this code, this code includes a land use map which designates use districts and sub-districts to specific areas. The map is entitled “Newberg, Oregon Zoning Map,” and is hereby adopted as a part of this code and referenced by this section number.
(Ord. 96-2451, passed 12-2-96)

PROCEDURE TYPES AND DETERMINATION OF PROPER PROCEDURES

§ 151.020 PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS.

All development permits shall be classified as one of the following: Type I, Type II, Type III, or Type IV procedures.
(Ord. 96-2451, passed 12-2-96)

§ 151.021 TYPE I PROCEDURE; ADMINISTRATIVE DECISION.

(A) Type I development actions shall be decided by the Director without public notice or public hearing. Notice of a decision shall be provided to the applicant.

(B) Type I actions include, but are not limited to:

(1) Design review permits for single family dwellings, duplexes, additions, accessory structures, or other additions specifically listed in § 151.191(A)(1).

(2) Home occupation permits.

(3) Signs, not in conjunction with a new development or major remodel.

(4) Adjustments.

(5) Processing final land division maps and plats.

(6) Determining compliance with the conditions of approval for a land use action processed under a Type II or Type III procedure.

(C) A Type I decision may be appealed by an affected party, Type I in accordance with §§ 151.055 et seq.

(D) The Director shall make a decision-based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Newberg comprehensive plan and this code. The Director may add conditions to the permit to ensure compliance with all requirements of this code, the comprehensive plan and other relevant policies and regulations. (Ord. 96-2451, passed 12-2-96)

§ 151.022 TYPE II PROCEDURE; EXCEPT SUBDIVISIONS.

(A) Type II development actions shall be decided by the Director.

(B) Type II actions include, but are not limited to:

- (1) Site design review.
- (2) Variances.
- (3) Manufactured home parks and mobile home parks.
- (4) Partitions consisting of three or less new lots.

(C) The applicant shall provide notice pursuant to the requirements of §§ 151.070 et seq.

(D) The Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of this code. The Director may add conditions to the permit to ensure compliance with all requirements of this code.

(E) Appeals may be made by an affected party, Type II in accordance with §§ 151.055 et seq. All Type II development action appeals shall be heard and decided by the Planning Commission.

(F) If the Director's decision is appealed as provided in division (E), the hearing shall be conducted pursuant to the Type III quasi-judicial hearing procedures as identified in § 151.024.

(G) The decision of the Planning Commission on any appeal may be further appealed to the City Council by an affected party, Type III in accordance with §§ 151.055 et seq. and shall be a review of the record supplemented by written or oral arguments relevant to the record presented by the parties.

(H) An applicant shall have the option to request at the time the development permit application is submitted that the proposal be reviewed under the Type III procedure. (Ord. 96-2451, passed 12-2-96)

§ 151.023 TYPE II PROCEDURE; SUBDIVISIONS.

(A) Type II subdivisions shall be decided by the Director unless a hearing is requested pursuant to division (G) of this section. In order to qualify as a Type II subdivision, the applicant shall demonstrate that the following criteria have been satisfied:

(1) The land must be exclusively zoned for residential uses and be fully within the urban growth boundary.

(2) The land is solely for purposes of residential use, including recreational or open space uses accessory to residential use.

(3) The land does not include areas which contain Goal 5 Resources which are mapped and designated in the comprehensive plan and land use regulations. These resources include but are not limited to open spaces, scenic and historic areas, and natural resources.

(4) The proposed land division complies with the minimum street connectivity standards specifically identified in §§ 151.241.1 et seq.

(5) The proposed land division provides enough lots or parcels to allow building residential units at 80% or more of the maximum net density permitted in the zoning designation on the site.

(B) Type II subdivisions are limited to:

(1) Subdivisions meeting the criteria in division (A) of this section.

(2) Future street plans filed in conjunction with a subdivision.

(C) The applicant shall provide notice pursuant to the requirements of §§ 151.070 et seq.

(D) The Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of this code. The Director may add conditions to the permit to ensure compliance with all requirements of this code.

(E) Appeals may be made by an affected party, Type II in accordance with §§ 151.055 et seq. All Type II subdivision appeals shall be heard and decided by the Planning Commission.

(F) An applicant shall have the option to request, at the time the development permit application is submitted, that the proposal be reviewed under the Type III procedure.

(G) During the 14 day notice period provided in §§ 151.070 et seq., anyone may request that a hearing be held before the Planning Commission. The Type II subdivision then becomes converted to a Type III process with the Planning Commission serving as the approval body rather than the Director. Requests to hold a hearing must be submitted in writing prior to the close of the noticing period and must include an identification of the item that a hearing is requested on (either by file number or general description), and an identification of the issues that should be addressed. (Ord. 96-2451, passed 12-2-96)

§ 151.024 TYPE III PROCEDURE; QUASI-JUDICIAL HEARING.

(A) All Type III decisions shall be heard and decided by the Planning Commission. The Planning Commission's decision shall be final unless the

decision is appealed or the decision is a recommendation to the City Council.

(B) Type III actions include, but are not limited to:

(1) An appeal of a Type I or Type II decision. This action of the Planning Commission is a final decision unless appealed to the City Council.

(2) Future street plan, where the review is in conjunction with a Type III review of a subdivision or where the review is processed independently. This action is a final decision unless appealed.

(3) Conditional use permits: This action is a final decision unless appealed.

(4) Planned unit developments: This action is a final decision unless appealed.

(5) Substantial change to the exterior appearance of a historic landmark: This action is final unless appealed.

(6) Establishment of a historic landmark: This is a final decision by the Planning Commission, unless appealed.

(7) Establishment of a historic landmark subdistrict: This is a recommendation to the City Council.

(8) Comprehensive plan map amendments: This action is a recommendation to the City Council.

(9) Zoning map amendments and designation of sub-districts: This action is a recommendation to the City Council.

(10) Annexation: This action is a recommendation to City Council.

(11) Subdivisions that either:

(a) Do not meet the criteria in § 151.023(A); or

(b) Subdivisions proposed for Type III review by the applicant; or

(c) Subdivisions which are converted from a Type II to a Type III process pursuant to § 151.023(G).

(C) Planning Commission decisions and recommendation actions.

(1) *Planning Commission decision.* Development actions shall be decided by the Planning Commission for those land use actions that require a Type III procedure and do not require the adoption of an ordinance. The decision shall be made after public notice and a public hearing is held in accordance with the requirements of §§ 151.040 et seq. A Type III decision may be appealed to the City Council by a Type III, affected party in accordance with §§ 151.055 et seq.

(2) *Planning Commission recommendation to City Council.* Land use actions that would require the adoption of an ordinance shall be referred to the City Council by the Planning Commission together with the record and a recommendation. The recommendation shall be made after public notice and a public hearing is held in accordance with the requirements of §§ 151.040 et seq.

(D) City Council action: If a recommendation to the City Council is required, the matter shall be reviewed by the City Council as a new hearing. The final decision on these actions is made by the City Council.

(E) The applicant shall provide notice pursuant to §§ 151.070 et seq.

(F) The hearing body may attach certain conditions necessary to ensure compliance with this code.

(G) If the application is approved, the Director shall issue a building permit when the applicant has

complied with all of the conditions and other requirements of this code.

(H) If a Type III application is denied, or if the applicant wishes to make substantive modifications to an approved application, the applicant may modify his application after the Planning Commission hearing, and request a new Planning Commission hearing to consider the application. An application so modified shall be considered a new application for purposes of the 120-day time limit for processing applications in accordance with § 151.041 and state statutes. The applicant shall acknowledge in writing that this is a new application for purposes of the 120-day rule. The City Council shall establish a fee for such a reconsideration or modification by resolution. Application of this provision is limited to three times during a continuous calendar year.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 2002-2565, passed 4-1-02; Am. Ord. 2003-2590, passed 11-6-03)

§ 151.025 TYPE IV PROCEDURE; LEGISLATIVE.

(A) Type IV actions are legislative: The Planning Commission shall hold a public hearing and make a recommendation to the City Council. The City Council shall hold another public hearing and make a final decision.

(B) Legislative actions include, but are not limited to:

- (1) Amendments to the Newberg comprehensive plan text;
- (2) Amendments to the Newberg Development Code;
- (3) The creation of any land use regulation.

(C) The public hearing before the Planning Commission shall be held in accordance with the requirements of this code. Notice of a hearing on a legislative decision need not include a mailing to property owners or posting of property (refer to §§ 151.070 et seq.).

(D) Interested persons may present evidence and testimony relevant to the proposal. If criteria are involved, the Planning Commission shall make findings for each of the applicable criterion.

(E) The City Council shall conduct a new hearing pursuant to this code. At the public hearing, the staff shall present the report of the Planning Commission and may provide other pertinent information. Interested persons shall be given the opportunity to present new testimony and information relevant to the proposal that was not heard before the Planning Commission.

(F) To the extent that a finding of fact is required, the City Council shall make a finding for each of the applicable criterion and in doing so may sustain or reverse a finding of the Planning

Commission. In granting an approval, the City Council may delete, add, or modify any of the provisions in the proposal or attach certain conditions beyond those warranted for the compliance with standards if the City Council determines that the conditions are necessary to fulfill the approval criteria.

(G) The City Council's decision shall become final upon the effective date of the ordinance or resolution.
(Ord. 96-2451, passed 12-2-96)

§ 151.026 LEGISLATIVE ENACTMENTS NOT RESTRICTED.

Nothing in this code shall limit the authority of the City Council to make changes to the Newberg comprehensive plan and/or implementing ordinances as part of an extensive revision of the comprehensive plan and/or implementing ordinances.
(Ord. 96-2451, passed 12-2-96)

§ 151.027 DETERMINATION OF PROPER PROCEDURE TYPE.

(A) The Director shall determine the proper procedure for all development actions. If there is a question as to the appropriate type of procedure, the Director shall resolve it in favor of the higher procedure type number.

(B) An application that involves two or more procedures may be processed collectively under the highest numbered procedure required for any part of the application or processed individually under each of the procedures identified by this code. The applicant may determine whether the application shall be processed collectively or individually. If the application is processed under the individual procedure option, the highest numbered type procedure must be processed prior to subsequent lower numbered procedure.
(Ord. 96-2451, passed 12-2-96)

***PROCESSING TYPE I - IV
DEVELOPMENT ACTIONS***

§ 151.040 DEVELOPMENT PERMIT APPLICATION.

Applications for development permits shall be submitted upon forms established by the Director. An application shall consist of all materials required by this code, including the following information:

(A) A completed development permit application form.

(B) Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all owners of the affected property.

(C) Other information required by this code.

(D) The applicable fees.
(Ord. 96-2451, passed 12-2-96)

§ 151.041 SUBMISSION AND ACCEPTANCE OF APPLICATIONS FOR LAND USE DECISIONS.

(A) A decision on a development permit application, including all local appeals, shall be completed within 120 days of the date the application is found to be complete. If the city fails to meet the 120 day time period, the applicant may file a writ of mandamus with the Circuit Court of Yamhill County to compel the city to issue the approval. The 120 day time period can be extended upon the request of the applicant. The 120 day time period only applies to decisions wholly within the authority of the city and does not apply to amendments to the Newberg comprehensive plan text, adoption of land use regulations, or adoption of a new land use regulation that is forwarded to the Director of the Department of Land Conservation and Development.

(B) Applications shall be submitted to the office of the Director. The date of submission shall be

indicated on the material submitted. The Director shall determine whether the application is complete or incomplete. Acceptance of an application only represents an acceptance of the information for review. If the Director determines that the application is incomplete, the Director shall provide the applicant with a complete list of the information that needs to be submitted to complete the application. An applicant shall have 180 days to submit the necessary information to complete the application. If the Director fails to determine whether the application is complete or incomplete; or, if the applicant refuses in writing to submit additional information required by the Director, the application will be considered complete for review on the 31st day after the Director received the application. Resubmitted applications shall be subject to another ten day completeness check. If the applicant does not submit the required information within the 180 day period and does not in writing refuse to do so, the Director shall make findings and issue a decision, according to the Type I procedure, that the application is denied based upon the lack of information necessary to complete the review.

(C) If an applicant either refuses in writing to submit the additional information requested by the Director or submits the information but the Director determines that it is incomplete, the application will be considered complete on the 31st day after the Director received the application. The application shall then be processed in accordance with the provisions of this code. However, the Planning Commission must make a finding that the application is in fact complete or the Planning Commission may either deny the application based on insufficient information or continue the hearing in order to allow the applicant time to provide the additional information that was requested.

(D) When a development permit application is complete, the Director shall accept it and note the date of acceptance. The city's review of an application will be based on the applicable standards and criteria that were in effect at the time the application was first submitted.

(Ord. 96-2451, passed 12-2-96)

§ 151.042 RESPONSIBILITY OF DIRECTOR.

The Director shall:

(A) Determine the type of procedure to be used in accordance with the provisions of this code.

(B) Schedule development permit applications for review and/or hearing.

(C) Provide notice for Type II, III, and IV development permit applications pursuant to §§ 151.070 et seq.

(D) Prepare minutes for Type III, and IV proceedings to include the decision on the matter heard and the reasons for the decision.

(E) Mail a copy of the decision to those required by this code to receive such information. (Ord. 96-2451, passed 12-2-96)

§ 151.043 REFERRAL OF DEVELOPMENT PERMIT APPLICATIONS.

Within five working days of accepting an application, the Director shall do the following:

(A) On Type I procedures, the Director is only required to make referrals to the extent necessary to make a decision on the development permit.

(B) On Type II and Type III procedures, the Director shall transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including ODOT and others responsible for determining compliance with state and federal requirements. The affected agencies and city departments shall have 15 calendar days to comment. The referral agency or city department is presumed to have no comments if comments are not received within the specified time period. The Director shall grant an extension only if the application involves unusual circumstances. Any extension shall only be for a maximum of 15 additional days.

(C) On Type IV procedures, the Director shall provide referrals to ODOT and other agencies in compliance with state law and as otherwise determined by the city.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.044 PERMIT DECISION - TYPE I.

(A) The Director shall approve or deny the development permit for Type I action within 60 days of accepting a complete permit application.

(B) The decision of the Director shall be based upon the application, the evidence, comments from referral agencies, and approvals required by others.

(C) The Director shall approve a permit application if applicable approvals by others have been granted and the proposed development or land use request otherwise conforms to the requirements of the Newberg comprehensive plan and this code.

(D) The Director shall deny the permit application if required approvals are not granted or the application otherwise fails to comply with code requirements.

(E) The Director shall notify the applicant of the disposition of the application. The notice shall indicate that the decision is final unless appealed by the applicant. The notice shall describe the right of appeal pursuant §§ 151.055 et seq. (Ord. 96-2451, passed 12-2-96)

§ 151.045 PERMIT DECISION - TYPE II.

(A) The Director shall approve or deny the development permit for a Type II action within 60 days of accepting a complete permit application, unless it is a subdivision which has been converted to a Type III process pursuant to § 151.023(G).

(B) The applicant shall provide notice pursuant to §§ 151.070 et seq. together with a 14-day comment period for the submission of written comments prior to the decision.

(C) The decision of the Director shall be based upon the application, the evidence, comments from referral agencies, and approvals required by others.

(D) The Director shall notify the applicant and others entitled to notice of the disposition of the application. The notice shall indicate the date that the decision will take effect and describe the right of appeal pursuant to §§ 151.055 et seq. A decision on a Type II development shall take effect on the fifteenth day following the notice of a decision unless an appeal is filed pursuant to §§ 151.055 et seq.

(E) Approval or denial of a Type II development permit application shall be accompanied by written findings that explain the criteria, facts and justification for the decision.

(F) The Director shall approve a permit application if applicable approvals by others have been granted and the proposed development or land use request otherwise conforms to the requirements of this code. The Director may add conditions to the permit to ensure compliance with all requirements of this code.

(G) The Director shall deny the permit application if required approvals are not obtained or the application otherwise fails to comply with code requirements.

(H) Notice of approval or denial of a Type II decision shall be provided to the applicant, parties providing written testimony, or anyone requesting such notice. Notice shall include a description of the item, the decision, conditions that may have been added, and the rights of appeal.

(I) Type II applications are required to be reviewed under the Type III procedures at the request of the applicant, or the application is a subdivision which has been converted to a Type III process pursuant to § 151.023(G), or through an appeal of the Director's decision. Type II development permit applications that require a Type III procedure must conclude the hearing procedure before a land use or construction permit application can be considered to be complete by the Director. Upon receiving a final decision by the hearing body on a Type III

application, the subsequent review of a permit application may be reviewed by the Director as a Type I process.

(Ord. 96-2451, passed 12-2-96)

§ 151.046 DECISION, FINDINGS AND ORDER - TYPE III AND IV.

(A) Following the hearing for review of a development permit, the hearing body shall approve, conditionally approve, or deny the application. If the hearing is an appeal, the hearing body shall affirm, reverse, or remand the decision that is on appeal.

(B) The hearing body shall prepare written findings of fact and an order which shall include:

(1) A statement of the applicable criteria against which the proposal was tested.

(2) A statement of the facts that the hearing body found establishing compliance or noncompliance with each applicable criteria and assurance of compliance with applicable standards.

(3) The reasons for a conclusion to approve or deny.

(4) The decision to approve the proposed change with or without conditions; or, the decision to deny the proposed change.

(C) The Director shall notify the applicant and others entitled to notice of the disposition of the application. This shall include the applicant, anyone providing written testimony prior to the close of the hearing, anyone providing oral testimony at the hearing, or anyone requesting such notice. The notice shall include a description of the item, indicate the date that the decision will take effect and describe the right of appeal pursuant to §§ 151.055 et seq.

(Ord. 96-2451, passed 12-2-96)

APPEALS**§ 151.055 APPEAL PROCEDURES.**

(A) *Type I.* An appeal of a Type I decision by the Director may be appealed within 14 calendar days of the date of the decision by the Director. Appeals may be made only by an affected party, Type I (the person or party submitting the application). Appeals of a Type I application are processed as a Type III procedure and proceed to the Planning Commission.

(B) *Type II.* An appeal of a Type II decision by the Director may be appealed within 14 calendar days of the date of the decision. Appeals may be made only by an affected party, Type II (the applicant, any party entitled to receive notice of the decision, or anyone providing written comments within 14 calendar days prior to the date of the decision). Appeals of a Type II application are processed as a Type III procedure and proceed to the Planning Commission.

(C) *Type III.* An appeal of a Type III decision by the Planning Commission may be appealed within 14 calendar days of the notice of the decision. Appeals may be made only by an affected party, Type III.
(Ord. 96-2451, passed 12-2-96)

§ 151.056 NOTICE OF APPEAL - TYPE I, II AND III.

(A) An appeal for Type I, II, and III decisions shall include an identification of the decision sought to be reviewed, the date of the decision and shall be accompanied by a notice of appeal form provided by the Planning and Building Department. The notice of appeal shall be completed by the applicant and shall contain:

(1) An identification of the decision sought to be reviewed, including the date of the decision.

(2) A statement of the interest of the person seeking review and that they were a party to the initial proceedings.

(3) A detailed statement of the specific grounds on which the appeal is filed.

(B) Notice shall be filed with the Community Development Department together with the filing fee and deposit for transcript costs.
(Ord. 96-2451, passed 12-2-96)

§ 151.057 SCOPE OF REVIEW.

(A) The initial appeal of a Type I or Type II decision shall be a new hearing. Any second appeal to the City Council of a Type I or Type II decision shall be a record hearing. Appeal of a Type II decision must be based on the written comments raised prior to the expiration notice comment period pursuant to § 151.072.

(B) Type III actions that require an ordinance to be adopted in order to become effective shall be reviewed by the City Council as a new hearing. The City Council shall receive the recommendation from the Planning Commission to the City Council on these actions. The action will not be considered final for the purpose of appeals, until a final decision is rendered by the City Council.

(C) The scope of review for an appeal of a Type III decision that does not require the adoption of an ordinance shall be a record hearing.

(D) The record shall include:

(1) A factual report prepared by the Director.

(2) All exhibits, material, pleadings, memoranda, stipulations, and motions submitted by any party and reviewed or considered in reaching the decision under review.

(3) The minutes of the hearing and a detailed summary of the evidence.

(E) For a record hearing, no new testimony or evidence may be presented. Written argument will be allowed only from parties who testified at the prior evidentiary hearings. Written argument must be limited to evidence already in the record. No oral argument will be allowed at the Council level. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2003-2590, passed 11-3-03)

§ 151.058 REVIEW BODY DECISION ON APPEAL OF A TYPE I, II OR III.

(A) Upon review, the review body may by order affirm, reverse, or modify in whole or in part a determination or requirement of the decision that is under review. When the review body modifies or renders a decision that reverses a decision of a hearing body, the review body, in its order, shall set forth its findings and state its reasons for taking the action encompassed in the order. When the review body elects to remand the matter to the hearing body for further consideration, it shall include a statement explaining the error that materially affected the outcome of the original decision and the action necessary to rectify it.

(B) The review body shall render its decision no later than 45 days after the filing of the request for review and shall file that decision with the Director within ten days after it is rendered.

(C) A party aggrieved by the final determination may appeal the decision to the Land Use Board of Appeals. (Ord. 96-2451, passed 12-2-96)

NOTICE

§ 151.070 COMPLIANCE REQUIRED.

Notice on all Type I through Type IV actions, including appeals, shall be conducted in accordance with this subchapter. (Ord. 96-2451, passed 12-2-96)

§ 151.071 MAILED NOTICE.

Mailed notice shall be provided as follows:

(A) Type I actions: No public notice is required because no public hearing is required.

(B) Type II and Type III actions: The applicant shall provide public notice to:

(1) The owner of the site for which the application is made; and

(2) Owners of property within 500 feet of the entire site for which the application is made. The list shall be compiled from the most recent property tax assessment roll. For purposes of review, this requirement shall be deemed met when the applicant can provide an affidavit or other certification that such notice was deposited in the mail or personally delivered.

(3) To the owner of a public use airport, subject to the provisions of O.R.S. 215.416 or 227.175.

(C) The Director may request that the applicant provide notice to people other than those required in this section if the Director believes they are affected or otherwise represent an interest that may be affected by the proposed development. This includes, but is not

limited to, neighborhood associations, other governmental agencies, or other parties the Director believes may be affected by the decision.

(D) The Director shall provide the applicant with the following information regarding the mailing of notice:

(1) The latest date by which the notice must be mailed;

(2) An affidavit of mailing (to be signed and returned) certifying that the notice was mailed, acknowledging that a failure to mail the notice in a timely manner constitutes an agreement by the applicant to defer the 120-day process limit and acknowledging that failure to mail will result in the automatic postponement of a decision on the application; and

(3) A sample notice.

(E) The notice of a Type II and Type III development application shall be reasonably calculated to give actual notice and shall:

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

(2) List, by commonly used citation, the applicable criteria for the decision;

(3) Include the name and phone number of a local government contact person, the telephone number where additional information may be obtained and where information may be examined;

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

(5) State that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at a reasonable cost.

(F) Prior to mailing or posting any notice required by this code, the applicant shall submit a copy of the notice to the Director.

(G) The applicant shall mail the notice for Type II actions at least 14 days before a decision is rendered. The applicant shall file with the Director an affidavit of mailing as identified in division (D) of this section within two business days after notice is mailed.

(H) The applicant shall mail the notice for Type III actions at least 20 days before the first new hearing, or if two or more new hearings are allowed, ten days before the first new hearing. The applicant shall file with the Director an affidavit of mailing as identified in division (D) of this section within two business days after notice is mailed.

(I) All public notices shall be deemed to have been provided or received upon the date the notice is deposited in the mail or personally delivered, whichever occurs first. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to notify all persons entitled to notice. An affidavit of mailing issued by the person conducting the mailing shall be conclusive evidence of a good faith attempt to contact all persons listed in the affidavit.

(J) Failure to mail the notice and affirm that the mailing was completed in conformance with the code shall result in:

(1) Postponement of a decision until the mailing requirements have been met; or

(2) Postponement of the hearing to the next regularly scheduled meeting or to such other meeting as may be available for the hearing; or

(3) The entire process being invalidated; or

(4) Denial of the application.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 2003-2581, passed 7-7-03)

**§ 151.072 ADDITIONAL NOTICE
PROCEDURES OF TYPE II DEVELOPMENT
APPLICATIONS.**

In addition to the requirements of § 151.071, mailed notice for development actions shall also contain the following:

(A) Provide a 14-day period from the date of mailing for the submission of written comments prior to the decision;

(B) State that issues that may provide a basis for appeal must be raised in writing during the comment period;

(C) State that issues must be raised with sufficient specificity to enable the local government to respond to the issue;

(D) State the place, date and time that comments are due;

(E) State that notice of the decision, including an explanation of appeal rights, will be provided to any person who submits comments under division (A) of this section;

(F) Briefly summarize the local decision-making process.

(G) Type II notice for subdivisions shall also include a description of how an interested party may request a public hearing before the Planning Commission.

(Ord. 96-2451, passed 12-2-96)

**§ 151.073 ADDITIONAL NOTICE
PROCEDURES FOR TYPE III
QUASI-JUDICIAL HEARING.**

In addition to the requirements of § 151.071, mailed notice for Type III development actions shall also contain the following:

(A) State that an issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final new hearing on the proposal before the city. Such issues shall be raised with sufficient specificity so as to afford the hearing body, and the parties an adequate opportunity to respond to each issue;

(B) State the date, time and location of the hearing;

(C) State that the failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the hearing body an opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals on that issue;

(D) State that a copy of the staff report will be available for inspection at no cost at least seven calendar days prior to the hearing and will be provided at reasonable cost;

(E) Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
(Ord. 96-2451, passed 12-2-96)

§ 151.074 ADDITIONAL NOTICE FOR TYPE III, QUASI-JUDICIAL HEARING FOR ANNEXATIONS.

In addition to notice requirements in §§ 151.071 and 151.073, annexations are required to be published each week for two consecutive weeks prior to the day of the first new hearing before the City Council, in a newspaper of general circulation in the city, and shall also be noticed by posting notice of the hearing in four public places in the city for a like period. (Ord. 96-2451, passed 12-2-96)

§ 151.075 NOTICE PROCEDURES FOR TYPE IV LEGISLATIVE HEARING.

(A) There is no requirement for mailed notice to property owners or posting of property.

(B) Notice shall be provided to the Department of Land Conservation and Development as follows:

(1) *When LCDC goals apply.* When the city determines that the statewide land conservation and development goals do apply to a proposal to amend the Newberg comprehensive plan, this code, or adoption of a new land use regulation, the proposal shall be forwarded to the director of the Department of Land Conservation and Development at least 45 days before the final hearing on adoption. The proposal shall contain the text and any supplemental information that the city believes is necessary to inform the Director as to the effect of the proposal.

(2) *When emergency circumstances require expedited review.* The city may submit an amendment or new regulation to the Director of the Department of Land Conservation and Development with less than 45 days notice if the city determines that there are emergency circumstances requiring expedited review.

(3) *When LCDC goals do not apply.* When the city determines that the statewide land conservation and development goals do not apply to a proposal to amend the Newberg comprehensive plan, this code, or adoption of a new land use regulation, notice to the Director of the Department of Land Conservation and Development is not required. (Ord. 96-2451, passed 12-2-96)

§ 151.076 PROCEDURE FOR POSTED NOTICE FOR TYPE II AND III PROCEDURES.

(A) *Posted notice required.* Posted notice is required for all Type II and III procedures. The notice

shall be posted on the subject property by the applicant.

(B) *Notice information provided by city.* The Director shall provide the applicant with the following information regarding the posting of notice:

- (1) The number of notices required;
- (2) The latest date by which the notice must be posted;
- (3) An affidavit of posting (to be signed and returned) certifying that the notice was posted on site, acknowledging that a failure to post the notice in a timely manner constitutes an agreement by the applicant to defer the 120 day process limit and acknowledging that failure to post will result in the automatic postponement of a decision on the application; and
- (4) A sample notice.

(C) *Submission of notice.* Prior to posting any notice required by this Section, the applicant shall submit a copy of the notice to the Director for review.

(D) *Size, number and location requirements.* A waterproof notice which measures a minimum of two feet by three feet shall be placed on each frontage of the site. If a frontage is over 600 feet long, a notice is required for each 600 feet, or fraction thereof. If possible, notices shall be posted within ten feet of a street lot line and shall be visible to pedestrians and motorists in clear view from a public right-of-way. Notices shall not be posted in a public right-of-way or on trees.

(E) *Contents of notice.* The posted notice shall only contain the following information: planning action number, brief description of the proposal, phone number and address for contact at the Newberg Planning and Building Department.

(F) *Standards and timing, Type II actions.* The applicant shall post the notice at least 14 days before a decision is rendered. The applicant shall file with the Director an affidavit of posting as identified in

division (B) of this section within two business days after notice is posted.

(G) *Standards and timing, Type III actions.* The applicant shall post the notice at least ten days before the first scheduled hearing. The applicant shall file with the Director an affidavit of posting as identified in division (B) of this section within two business days after notice is posted.

(H) *Removal of notice.* The applicant shall not remove the notice before the final decision. All posted notice shall be removed by the applicant within ten days following the date of the final decision on the request.

(I) *Failure to post notice.* The failure of the posted notice to remain on the property shall not invalidate the proceedings. Failure by the applicant to post a notice and affirm that the posting was completed in conformance with the code shall result in:

- (1) Postponement of a decision until the mailing requirements have been met; or
 - (2) Postponement of the hearing to the next regularly scheduled meeting or to such other meeting as may be available for the hearing; or
 - (3) The entire process being invalidated; or
 - (4) Denial of the application.
- (Ord. 96-2451, passed 12-2-96)

§ 151.077 PROCEDURE FOR PUBLISHED NOTICE ON TYPE III AND TYPE IV PROCEDURES.

(A) Notice shall be provided within a newspaper of general circulation within the city at least ten days prior to the first public hearing on the action.

(B) The notice shall reasonably describe:

(1) *Type III proceedings.* The proposed development permit request, location, file number, the name and phone number of a local government contact

person and the location where information may be examined.

(2) *Type IV proceedings.* The nature of the proposed final action of an amendment to the Newberg comprehensive plan, code or new land use regulation.

(C) The notice shall include a statement that all interested persons may appear and provide testimony and that only those persons who participate either orally or in writing in the hearing proceedings leading to the adoption of the action may appeal the decision.

(D) The notice shall state the place, date and time of the hearing.

(E) See § 151.074 for Type III notice for annexations.
(Ord. 96-2451, passed 12-2-96)

HEARING

§ 151.090 CHALLENGES TO IMPARTIALITY.

(A) Except for Type IV hearings, an affected party or a member of a hearing body may challenge the qualifications of a member of the hearing body to participate in the hearing and decision. The challenge shall state by affidavit the facts relied upon by the challenger relating to a person's bias, prejudice, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. Except for good cause shown, challenge shall be delivered by personal service to the Director not less than 48 hours preceding the time set for the public hearing.

(B) The Director shall attempt to notify the person whose qualifications are challenged prior to the meeting. The challenged person shall have an opportunity to respond orally and in writing to the challenge. The challenge shall be incorporated into the record of the hearing.
(Ord. 96-2451, passed 12-2-96)

§ 151.091 DISQUALIFICATION.

Except for Type IV hearings, no member of a hearing body may participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

(A) Any of the following have a direct or substantial financial interest in the proposal: the member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

(B) The member owns property within the area entitled to receive notice of the public hearing.

(C) The member has a direct private interest in the proposal.

(D) For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.
(Ord. 96-2451, passed 12-2-96)

§ 151.092 PARTICIPATION BY INTERESTED OFFICERS OR EMPLOYEES.

No officer or employee of the city who has a financial or other private interest in a proposal may participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of such interest.
(Ord. 96-2451, passed 12-2-96)

§ 151.093 EX PARTE CONTACTS.

Except for Type IV hearings, the general public has a right to have hearing body members free from pre-hearing or ex parte contacts on the matter to be heard. It is recognized that a countervailing public right is free access to public officials on any matter.

Therefore, hearing body members shall reveal any significant pre-hearing or ex parte contacts with regard to any matter at the commencement of the public hearing on the matter. If such contacts have impaired the members' impartiality or ability to vote on the matter, the member shall so state and shall abstain from voting. In addition, parties who had the communication with the member have the right to rebut the substance of the communication, on the subject to which the communication relates, with the member at the commencement of the public hearing on the matter.

(Ord. 96-2451, passed 12-2-96)

§ 151.094 ABSTENTION OR DISQUALIFICATION.

Except for Type IV hearings, disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion and shall not participate in the deliberation of the hearing body.

(Ord. 96-2451, passed 12-2-96)

§ 151.095 RIGHTS OF ABSTAINING OR DISQUALIFIED MEMBER.

(A) An abstaining or disqualified member of the hearing body shall be counted for purposes of forming a quorum. A member who represents a personal interest at a hearing may do so only by abstention from voting on the proposal, vacating the seat on the hearing body, physically joining the audience, and making full disclosure to the hearing body.

(B) If all members of a hearing body abstain or are disqualified, all members present after stating their reasons for abstention or disqualification shall be requalified and shall proceed to resolve the issues.

(C) Except for Type IV hearings, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision

unless the member has reviewed the evidence received.

(Ord. 96-2451, passed 12-2-96)

§ 151.096 BURDEN AND NATURE OF PROOF.

Except for Type IV determinations, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable requirements of this code.

(Ord. 96-2451, passed 12-2-96)

§ 151.097 ORDER OF PROCEEDINGS.

An order of proceeding for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

(A) Before receiving information on the issue, the following shall be determined:

(1) Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the hearing body has the discretion to proceed or terminate.

(2) Any abstentions or disqualifications shall be determined.

(B) The presiding officer may take official notice of known information related to the issue, such as:

(1) A provision of the charter, state law, ordinance, resolution, rule, or officially promulgated policy of the city.

(2) Other public records and facts judicially noticeable by law.

(C) Matters officially noticed need not be established by evidence and may be considered by the hearing body in the determination of the matters. Parties requesting notice shall do so on the record. However, the hearing body may take notice of matters

listed in division (B) of this section if stated for the record. Any matter given official notice may be rebutted.

(D) The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner, and circumstances of such view in the record.

(E) Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

(F) When the hearing has ended, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.
(Ord. 96-2451, passed 12-2-96)

§ 151.098 RECORD OF PROCEEDINGS.

The secretary to the hearing body shall take minutes at each hearing and shall cause the proceedings to be recorded on audio or video tape.

(A) Minutes from the meeting shall be transcribed and made available for public review within 45 days of the proceeding.

(B) The hearing body shall, where practicable, retain as part of the hearing record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the item and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be release to the person identified on the exhibit, or otherwise disposed of.

(C) Included in the record shall be a brief statement that explains the criteria and standards

considered relevant to the decision; states the facts relied upon in rendering the decision; and explains the justification for the decision based on the criteria, standards and facts set forth.

(D) Any person shall have access to the record of proceedings, copies of which shall be made available for a reasonable price.
(Ord. 96-2451, passed 12-2-96)

DEVELOPMENT PERMIT

§ 151.110 DEVELOPMENT PERMIT REQUIRED.

(A) Except as excluded by § 151.111, no person may engage in or cause to occur a development without first obtaining a development permit through the procedures set forth in this code.

(B) No person shall create a street or dedicate land to the public without first obtaining a development permit.

(C) No land may be divided without first obtaining a development permit.

(D) If a proposed development complies with the requirements of this code, the Director shall issue a development permit.

(E) Unless appealed, a decision on a development permit shall be final upon the expiration of the period provided for filing an appeal or, if appealed, upon a decision by the reviewing body.
(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.111 EXCLUSIONS FROM DEVELOPMENT PERMIT REQUIREMENT.

The following activities do not require a development permit, except as required by §§ 151.465 through 151.478 of this code.

(A) Landscaping not involving a structure. Landscaping does not include the paving of a parking lot.

(B) An emergency measure necessary for the immediate safety of persons or the protection of property. An application for a development permit shall be filed promptly if the action otherwise would require a development permit but for the emergency.

(C) Farming.

(D) The establishment, construction, maintenance, or termination of the following authorized public facilities and utilities:

(1) Streets, sidewalks, sanitary sewers, storm sewers and water lines if constructed by a governmental entity within an existing street right-of-way;

(2) Electrical power and gas distribution lines located outside of a street right-of-way;

(3) Telephone and television cable transmission lines located outside of a street right-of-way.

(E) Excavations or filling of land not regulated by Chapter 70 of the Oregon Structural Specialty Code.

(F) Exclusion from a development permit does not exempt the development or its use from complying with all other applicable requirements of this code, or the laws of the state or federal government. (Ord. 96-2451, passed 12-2-96)

DISTRICTS AND THEIR AMENDMENT

§ 151.120 ESTABLISHMENT AND DESIGNATION OF USE DISTRICTS AND SUB-DISTRICTS.

In order to classify, regulate, restrict and segregate the uses of lands and buildings, to regulate and restrict the height and size of buildings, to regulate the area of yards and other open spaces about buildings, and to regulate the density of population, the following classes of use districts and sub-districts are established:

(A) Use districts.

(1) R-1 Low Density Residential District.

(2) R-2 Medium Density Residential District.

(3) R-3 High Density Residential District.

(4) RP Residential Professional District.

(5) C-1 Neighborhood Commercial District.

(6) C-2 Community Commercial District.

(7) C-3 Central Business District.

(8) C-4 Riverfront District.

(9) CF Community Facilities District.

~~(10)~~ Institutional District.

~~(M1)~~ Limited Industrial District.

(12) M-2 Light Industrial District.

(13) M-3 Heavy Industrial District.

(14) SD Springbrook District.

(B) Sub-districts of use districts.

- (1) AO Airport Overlay Sub-district.
- (2) CC Civic Corridor Overlay Sub-district.
- (3) H Historic Landmarks Sub-district.
- (4) IO Institutional Overlay Sub-district.
- (5) LU Limited Use Overlay Sub-district.
- (6) RF Riverfront Sub-district.
- (7) SC Stream Corridor Overlay Sub-district.
- (8) SP Specific Plan Sub-district.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 2001-2550, passed 5-21-02; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2564, passed 4-15-02)

§ 151.121 ESTABLISHMENT OF DISTRICTS.

On the effective date of this code, the provisions of this code shall apply to and govern the use or maintenance of any land or other property in the city, exclusive of streets, alleys, and public lands used or reserved for governmental purposes as provided by law. The city shall be divided by the City Council into parts and each such part may be subdivided into units, for the purposes of imposing or establishing districts and sub-districts on land and property. Such parts of units may be zoned and rezoned whenever the City Council, after investigation and report by the Commission, finds that criteria in § 151.122 are satisfied.

(Ord. 96-2451, passed 12-2-96)

§ 151.122 PROCEDURES FOR COMPREHENSIVE PLAN MAP AND ZONING MAP AMENDMENTS.

This section describes the procedures and criteria that apply to any application to amend the land use designations identified on the comprehensive plan map, zoning map and land use regulations.

(A) *Type III Plan and zoning map amendments - one parcel or small group of parcels.*

(1) Property owners or the city may initiate a map amendment for one parcel or a small group of parcels under the Type III procedure. May be initiated by a resolution of the Planning Commission or City Council. Unlike other Type III procedures, the decision of the Planning Commission on a Type III plan map amendment shall be in the form of a recommendation to the City Council. The City Council shall hold another new hearing and make a final decision.

(2) Where an application has been denied, no new application for the same purpose shall be filed within one year of the date of the previous denial unless the City Council for good cause shall grant permission to do so.

(3) Amendment criteria. The applicant must demonstrate compliance with the following criteria:

(a) The proposed change is consistent with and promotes the goals and policies of the Newberg Comprehensive Plan and this code;

(b) Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change.

(c) Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.

(4) The property owner who desired to have his property reclassified has the burden of

establishing that the requested classification meets the requirements of this section. As part of the application, the property owner requesting a change shall file a waiver stating that the owner will not file any demand against the city under Ballot Measure 37, approved November 2, 2004, that amended O.R.S. Chapter 197.

(5) A traffic study shall be submitted for any proposed change that would significantly affect a transportation facility, or that would allow uses that would increase trip generation in excess of 40 trips per p.m. peak hour. This requirement may be waived by the Director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed, which adequately mitigate any traffic impacts and/or the proposed use is not in a location, which is adjacent to an intersection, which is functioning at a poor level of service. A traffic study may be required by the Director for changes in areas below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg Design Standards.

(B) *Type IV plan and zoning map amendments - large area of the city and multiple ownerships.*

(1) The city may initiate plan map amendments affecting large areas and multiple ownerships under the Type IV procedure. No public notice is required to initiate the amendment. Initiation must be done by resolution of the Planning Commission or City Council. These map changes include those that have widespread and significant impact beyond the immediate area of change.

(2) Amendment criteria. The city must demonstrate:

(a) The proposed change is consistent with and promotes the objectives of the Newberg Comprehensive Plan and this code;

(b) There is a public need for a change of the kind in question;

(c) The need will be best served by changing the classification of the particular piece of property in question as compared with other available property.

(d) Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.

(C) *Amendment of land use regulation.* A change in requirements, general provisions, exceptions or other provisions of a land use regulation may be initiated by a resolution of the Planning Commission or the City Council. No notice is required to initiate the amendment. Amendments to land use regulation shall be reviewed under the Type IV procedure. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2004-2612, passed 12-6-04; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.123 SUB-DISTRICTS.

Sub-districts of each of the use districts may be established. The parent residential district requirements shall apply to those respective sub-districts except those regulations pertaining to lot area per dwelling unit or density.

(A) *Suffix numbers noting density.* Suffix numbers, including but not limited to the following examples, shall be noted on the zoning map indicating the maximum number of dwelling units permitted per gross acre. The following are examples of suffixes for sub-districts and their density equivalents:

<i>Suffix</i>	<i>Density Maximum</i>
5/A	5 dwelling units per gross acre
6/A	6 dwelling units per gross acre
7.5/A	7½ dwelling units per gross acre
.33/A	1 dwelling unit per 3 gross acres

As further examples of sub-districts:

(1) The sub-district of an R-1 District which permits five dwelling units per gross acre is R-1-5/A.

(2) The sub-district of an R-1 District which permits one dwelling unit per five gross acres is R-1-.2/A.

(B) *AO Airport Overlay Sub-district.* An Airport Overlay Sub-district may be applied within any zoning district. The sub-district shall be designated by the suffix “AO” added to the symbol of the parent district. The “AO” symbol shall be added to the zoning map for properties affected by the airport imaginary sur-faces. Except as may otherwise be limited by this code, all uses permitted in the parent zone shall be allowable in the “AO” Sub-District.

(C) *CC Civic Corridor Overlay Sub-district.* The CC Sub-district is intended to emphasize the civic and historic character of that portion of downtown Newberg generally bounded by Sherman Street on the north, Blaine Street on the west, 5th Street on the south and Howard and School Streets on the east and as depicted on the zoning map. The sub-district overlay may be applied within any zoning district. The sub-district shall be designated by the suffix “CC” added to the symbol of the parent district.

(D) *H Historic Landmarks Overlay Sub-district.* The Historic Landmarks Overlay Sub-district may be created within any zoning district. The overlay shall be designated by the suffix “H” added to the symbol of the parent district. All uses permitted in the parent zone shall be allowable in the “H” Overlay Zone except as otherwise may be limited by this code.

(E) *I Institutional Overlay Sub-district.* The Institutional Overlay Sub-district may be created within any zoning district. The overlay shall be designated by the suffix “IO” added to the symbol of the parent district. All uses permitted in the parent zone shall be allowable in the “IO” Overlay Zone except as otherwise may be limited by this code.

(F) *RF Riverfront Overlay Sub-district.* The Riverfront Overlay Sub-district may be applied to R-1, R-2, C-4, and CF zoning districts. This Sub-district may be applied to lands within close proximity to the Willamette River. The overlay shall be designated by the suffix “RF” added to the symbol

of the parent district. All uses permitted in the parent zone shall be allowable in the “RF” overlay zone except as otherwise may be limited in this code. Where provisions of the Sub-district are inconsistent with the parent district, the provisions of the Sub-district shall govern.

(G) *SC Stream Corridor Overlay Sub-district.* The Stream Corridor Overlay Sub-district may be created within any zoning district. The Stream Corridor Sub-district is applied to areas which are classified as Statewide, Goal 5 Resources. The overlay shall be designated by the suffix “SC” added to the symbol of the parent district. The SC sub-district provides additional land use regulations which govern properties located within the sub-district. Where the provisions of the sub-district are inconsistent with the parent district, the provisions of the sub-district shall govern.

(H) *SP Specific Plan Sub-district.* The SP Sub-district identifies the area in which a specific plan has been approved. The sub-district overlay may be applied within any zoning district. The sub-district shall be designated by the suffix “SP” added to the symbol of the parent district. Uses allowed in the parent district may be limited or expanded under the approved specific plan.

(I) *LU Limited Use Overlay Sub-district.* The Limited Use overlay Sub-district identifies an area where special use restrictions or standards apply. These restrictions or standards are defined in the ordinance creating the LU Sub-district, and may include prohibiting uses otherwise allowed in the underlying zone, requiring conditional use permits for certain uses that are otherwise permitted outright, or creating special standards, such as special setbacks or height restrictions. The sub-district overlay may be applied within any zoning district.

(J) *Bypass Interchange (BI) Overlay.* The Bypass Interchange Overlay shall apply to lands within the city limits and within approximately one-quarter mile of the end of ramps of the East Newberg and Oregon 219 interchanges to the Bypass. The Bypass Interchange Overlay may be applied in combination

with any zoning district. The overlay shall be designated by the suffix "BI" added to the symbol of the parent district. All uses permitted in the parent zone shall be allowed within the Bypass Interchange Overlay except as specifically limited by this code. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2537, passed 11-6-00; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2564, passed 4-15-02; Am. Ord. 2004-2602, passed 9-20-04)

§ 151.124 CONTINUANCE OF USE.

Any variance or permit of any kind and any nonconforming use existing pursuant to any repealed district classification may continue under the applicable new district classification but shall not in any manner be extended or enlarged in time or rights, except as provided in 151.140 et seq. (Ord. 96-2451, passed 12-2-96)

§ 151.125 ESTABLISHMENT OF DISTRICTS AND SUB-DISTRICTS BY MAP.

The location and geographical boundaries of various districts and sub-districts shall be shown on a map or maps, setting forth the district and sub-district classifications applicable to the land and property contained in the zoning map. (Ord. 96-2451, passed 12-2-96)

§ 151.126 DIVISION OF ZONING MAP.

The zoning map may for convenience of use and for purposes of more readily identifying locations within such zoning map, be subdivided into units; and such parts and units may be separately employed for identification purposes when amending the zoning map or for any official reference to the zoning map. (Ord. 96-2451, passed 12-2-96)

§ 151.127 UNCERTAINTY OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of any district as shown on any zoning map or part thereof, the following rules shall apply:

(A) Where such boundaries are indicated as approximately following street lines, alley lines or lot lines, such lines shall be construed to be such boundaries.

(B) In the case of un-subdivided property and where a zone boundary divides a lot, the locations of such boundaries, unless the same are indicated by dimensions, shall be determined by the use of the scale appearing on such zoning map.

(C) Where a public street or alley is officially vacated, the zoning regulations applicable to abutting property on each side of the center lines shall apply up to the center line of such vacated street or alley on each respective side thereof.

(D) Areas of dedicated streets or alleys and railroad rights-of-way, other than those designated on the zoning map as being classified in one of the districts provided in this code, shall be deemed to be unclassified and, in the case of railroad rights-of-way, permitted to be used solely for the purpose of accommodating tracks, signals, and other operative devices and the movement of rolling stock. (Ord. 96-2451, passed 12-2-96)

NON-CONFORMING USES AND BUILDINGS

§ 151.140 PURPOSE.

(A) Within the zones established by this code, there exist lots, structures, and uses of land and structures which were lawful before this code was passed or amended, but which are now prohibited, regulated, or restricted under the terms of this code and amendments.

(B) It is the intent of this code to permit these non-conformities until they are removed or abandoned, but not to encourage their survival. Such uses are declared by this code to be incompatible with permitted uses in the zones involved. It is further the intent of this code that non-conformities shall not be enlarged upon, significantly modified, expanded, or extended, except as provided for in this code.

(C) To avoid undue hardship, nothing in this code shall be deemed to require change in plans, construction, or use of any building on which a building permit in accordance with this code has been legally issued prior to the effective date or amendment of this code, except that applications for extension of a building permit shall not be approved to exceed a period of one year from the date of adoption or amendment of this code.

(Ord. 96-2451, passed 12-2-96)

§ 151.141 NON-CONFORMING USE OF LAND AND AGRICULTURAL EXCEPTION.

(A) *Use to be abated when no main building involved:* Where no main buildings are used in connection with the non-conforming use of land, or where the only buildings are accessory or incidental to such use, the non-conforming use of such land shall be discontinued not later than three years after such use becomes non-conforming, and all uses thereafter shall conform to the regulations of the applicable district classification and the provisions of this code.

(B) *Expansion:* A non-conforming use of land shall not be expanded or extended in any way either on the same or any adjoining land.

(C) *Discontinue or change:* The discontinuance of a non-conforming use of land or a change of a non-conforming use of land to some other kind of a non-conforming use constitutes abandonment and termination of the non-conforming use, and thereafter the use of the land must conform to the regulations of the applicable district classification.

(D) Legally occurring agricultural uses; including, but not limited to, orchards, hay or grain farming, row crops, or other similar uses; may be allowed to retain their non-conforming status indefinitely.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.142 NON-CONFORMING USE ABANDONMENT (EXCLUDING SINGLE-FAMILY).

Legally existing, non-conforming uses may not be expanded, changed, modified, or altered, in any way, except that a use may be modified to be less intensive in nature. Should a non-conforming use be abandoned for a period of at least 12 months, the non-conforming status of the use is lost, except as follows. Provided that there are extenuating circumstances (as determined by the Planning Commission), the Planning Commission may, through the use permit process, allow the re-establishment of the non-conforming use subject to conditions and an agreement on a specific date (not to exceed ten years) at which time the non-conforming use will be permanently abandoned.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.143 NON-CONFORMING USES AND MODIFICATIONS TO EXISTING BUILDINGS.

Legally existing, non-conforming use of buildings or structures may be maintained subject to the following conditions; provided that said building or structure is not abated, or specifically regulated by this and other chapters of this code. No additions, or enlargements shall be made to a non-conforming use of a building or structure except:

(A) Additions or enlargements required by law.

(B) Additions or enlargements to existing churches and schools if such otherwise conform to the regulations then in effect for the district in which

located, including height, yard and area provisions. (Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.144 NON-CONFORMING BUILDINGS WITH LEGALLY CONFORMING USES.

Unless completely or partially destroyed, pursuant to § 151.146, non-conforming buildings or structures with legal, conforming uses may be altered or modified subject to any of the following requirements. This shall be processed as a Type I application for single family homes and duplexes and as a Type II application for all commercial, industrial, and multi-family uses.

(A) The addition or modification affects a part of the structure which will meet the current setback, height, yard or similar regulations and the addition or modification will not worsen the non-conforming status of the building.

(B) The addition or modification provides a logical expansion of the building and is within the existing building setback lines where:

(1) In the opinion of the Director, the expansion or modification will not adversely affect neighboring properties;

(2) Building Code requirements can be met;

(3) The expansion or modification proposed is similar to other non-conforming buildings or structures in the area; and

(4) Reasonable provisions have been made to minimize the impact of the non-conforming status of the building or structure.

(C) A building or parking area that is non-conforming to the standards of this code but otherwise conforms to the use provisions of the zoning district, may be expanded, provided that the portion of the building or parking area proposed for expansion complies with the provisions of this code.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

**§ 151.145 SINGLE FAMILY
NON-CONFORMING USE EXEMPTION.**

(A) Where a single family dwelling is a legal, non-conforming use in any zoning district, it may be rebuilt if partially or completely destroyed. This does not apply to any other type of residential use or other non-single family use (see § 151.146 for other types of uses). If a single family dwelling is completely or partially destroyed, it may be rebuilt either in conformance with the setback, height restriction, and other regulations of the district in which it is located or with the standards of the R-2 Zoning District. The minimum lot area requirement does not apply.

(B) In addition, if a structure was originally constructed and legally occupied as a single family dwelling, and it has since been converted to a different use, the structure may be reconverted back to a single family dwelling, subject to applicable building codes. The dwelling shall either meet current parking requirements, or shall provide the same parking that was provided prior to the conversion from dwelling to another use. No more than one dwelling unit per lot may be allowed under this provision.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 2002-2561, passed 4-1-02) Penalty, see § 151.999

**§ 151.146 PARTIALLY DESTROYED
BUILDINGS OR STRUCTURES.**

(A) (1) Whenever, in any district, a building or structure occupied by a non-conforming use is damaged or destroyed to the extent of 50% or less of its assessed value by fire, explosion or other casualty, it may be restored and the occupancy or use of such building or structure, or part thereof, which existed at the time of such partial destruction may be continued, if such restoration is started within a period of 12 months of such damage or destruction and is diligently prosecuted to completion.

(2) An extension of the 12 month period may be approved by the Planning Commission through a Type III process. In order to approve an

extension the applicant must demonstrate compliance with the following criteria. The Planning Commission may deny the extension based on inadequate demonstration that all of the criteria can be met.

(a) There are unusual or extraordinary circumstances which prohibit the owner from beginning restoration;

(b) The owner or applicant has diligently pursued the restoration process and can adequately demonstrate their ability to continue to pursue the restoration;

(c) There are permits required from other agencies besides the city which have prevented the restoration process from occurring sooner; and

(d) The requested extension is no longer than one year from the date in which the first 12 month period expired.

(B) In the event such damage or destruction exceeds 50% of the assessed value of the building or structure occupied by a non-conforming use, no repair or reconstruction shall be made unless every portion of such building or structure is made to conform to the height, yard, parking area and use regulations of the district classification in which it is located.
(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.147 REPAIRS AND MAINTENANCE.

Nothing in this chapter shall be deemed to prevent the repair or maintenance of any building or part thereof.

(Ord. 96-2451, passed 12-2-96)

**§ 151.148 NON-CONFORMING USE WHEN
ANNEXED.**

When a non-conforming use is annexed into the city, at time of annexation, the applicant shall provide

the Planning Commission and City Council a schedule for the removal of the non-conforming use per § 151.266.
(Ord. 96-2451, passed 12-2-96)

§ 151.149 NON-CONFORMING SIGNS.

(A) *Compliance for temporary and portable signs.* All temporary or portable signs not in compliance with the provisions of this code shall be removed immediately.

(B) *Compliance for all other signs.* The owner of any sign that was placed legally but does not now conform to the requirements of this code shall either remove the sign or register it with the city on a form provided by the Director prior to January 1, 2000. All signs that do not comply with the standards of this code shall be removed prior to January 1, 2009. Exceptions are:

(1) Any legal, non-conforming sign that exceeds that maximum allowable size or height by less than 10% may remain.

(2) Prior to January 1, 2008, the owner of any legal, non-conforming sign may apply to allow the legal non-conforming sign to remain. Such requests shall be heard by the Planning Commission, or by an ad hoc committee appointed by the City Council, and shall be approved, approved with conditions, or denied based on the following:

(a) The sign is in a good state of repair and maintenance.

(b) The number, size, and height of signs to remain is minimal and contributes to an attractive appearance to the neighborhood.

(c) The use of bold and bright colors, lighting, and designs is minimal.

(d) Other elements of the site are well maintained and attractive.

(C) *Abandonment.* Any sign not in compliance with the provisions of this code shall be removed by

the owner if the site on which the sign is located is vacant for a period of one year or more. If the owner fails to remove the sign, the city may abate the sign as provided in § 151.010 of this code.

(D) *Site improvements.* Any sign not in compliance with the provisions of this code shall be removed if the buildings or site improvements on the site on which the sign is located are replaced or modified, except additions and remodels allowed under a Type I design review, § 151.191(A) of this code.

(E) *Sign modifications.* Signs not in compliance with the provisions of this code, when replaced, relocated, modified or altered, shall be brought into compliance with this code. For purposes of this section a modification or alteration shall not include the following:

(1) Maintenance and repairs such as cleaning, painting, refacing, replacing damaged portions of the sign, or similar activities that do not involve a change in copy.

(2) A change of a panel on a sign for three or more tenants designed to have removable panels.

(3) A modification of the existing cabinet and/or face of the sign that results in a reduction in size and/or height of the sign and that does not involve a change in copy.

(F) *Historic landmarks exemption.* The provisions of §§ 151.490 et seq. shall not apply to any sign located in a Historic Landmarks Sub-district or on a historic landmark.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98) Penalty, see § 151.999

VARIANCE PROCEDURES

§ 151.160 PURPOSE.

It is the intent that variances may be granted in order to prevent or to lessen practical difficulties and

unnecessary physical hardships inconsistent with the objectives of this code as would result from a strict or literal interpretation of this code.
(Ord. 96-2451, passed 12-2-96)

§ 151.161 AUTHORITY OF HEARING BODY.

(A) Variances may be used to allow modification to specific standards contained in this code if the approval authority finds the applicant has satisfactorily documented compliance with the approval criteria. If a variance request is approved, the approval authority may attach conditions to the final decision in order to mitigate adverse impacts which might result from the approval.

(B) The following regulations may not be varied:

- (1) The uses permitted in the land use district.
- (2) Definitions.
- (3) Restrictions on the use or development that contain the word "prohibited."
- (4) Signs.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98)

§ 151.162 APPLICATION.

The property owner desiring a variance shall file an application with the Director on a form prescribed by the Director, which shall include the following data:

(A) Statement of the precise nature of the variance requested and the practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Newberg comprehensive plan and code, which would result from a strict or literal interpretation and enforcement of a specified regulation of this code, together with any other data pertinent to the findings prerequisite to the granting of a variance prescribed in this chapter.

(B) When a requested variance is for aesthetic reasons, as they relate to the front yard, fences or walls, on the basis of a substitute plan of equal aesthetic value, a statement of the precise nature of the variance requested shall be submitted.

(C) An accurate scale drawing of the site and any adjacent property affected, showing all existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.

(Ord. 96-2451, passed 12-2-96)

§ 151.163 TYPE II VARIANCE CRITERIA.

The Type II procedure shall be used to process a variance request. The hearing body shall grant the variance if the following criteria are satisfied:

(A) That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of this code.

(B) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.

(C) That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.

(D) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

(E) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity.

(Ord. 96-2451, passed 12-2-96)

§ 151.164 CONDITIONS MAY BE ATTACHED.

The Director may attach any condition to the variance if such condition relates directly and specifically to the request for variance.
(Ord. 96-2451, passed 12-2-96)

§ 151.165 VARIANCE MUST BE EXERCISED TO BE EFFECTIVE.

A variance granted under this code shall be effective only when the exercise of the right granted thereunder shall be commenced within one year from the effective date of the decision. The Director may authorize an extension of the duration of the decision for an additional six months upon written application. In case such right is not exercised, or extension obtained, the variance decision shall be void. Any variance granted pursuant to this code is transferable to subsequent owners or contract purchasers of the property unless otherwise provided at the time of granting such variance.
(Ord. 96-2451, passed 12-2-96)

ADJUSTMENTS**§ 151.175 ADJUSTMENTS, POWERS AND DUTIES.**

Due to the inherent nature and limitation of the code, it is not possible to encompass all the different situations arising from the various properties treated by this code. Therefore, the Director may grant limited adjustments to the terms of the this code when such adjustments are within the limitations and conditions contained in this section. These provisions shall be used sparingly within the purpose and intent of the ordinance and the limitations shall not be exceeded under any circumstances.
(Ord. 96-2451, passed 12-2-96)

§ 151.176 TYPE I ADJUSTMENTS AND APPROVAL CRITERIA.

The Director may authorize adjustments from the following requirements through a Type I procedure subject to the following:

(A) Yard setback dimensions, lot area, percentage of lot coverage, lot dimensions.

(1) The Director may approve adjustments to:

(a) *Setbacks/street trees.* Maximum adjustment of 25% of the dimensional standards for front yard setback requirements and the spacing of street trees.

(b) *Lot area.* Maximum adjustment of 5% of the lot area required. A lot area adjustment shall not be granted thereby allowing a greater number of dwelling units than that permitted without the adjustment.

(c) *Percentage of lot coverage.* Maximum adjustment of two percent more than permitted for all land uses except the maximum parking area coverage for R-3 Districts may be increased up to 50%.

(d) *Lot dimensions.* Maximum of 10% of the required lot dimensions or frontages.

(2) Approval criteria: Approval of an adjustment shall be based on written findings. The Director shall find that approval will result in:

(a) More efficient use of the site.

(b) Preservation of natural features, where appropriate.

(c) Adequate provisions of light, air and privacy to adjoining properties.

(d) Adequate emergency access.

(e) The adjustment is consistent with the setbacks, lot area, and/or coverage of buildings or structures previously existing in the immediate vicinity.

(B) Interior yard setback requirements in residential zones.

(1) Except for lots designated as “zero lot line lots,” the Director may approve an adjustment in the interior yard requirements so that a distance not less than three feet is maintained.

(2) Approval criteria. Approval of an adjustment to the interior yard setback shall be based upon the following:

(a) A site plan is approved by the Director prior to issuance of a building permit. In approving a site plan, the Director may attach any conditions necessary to fulfill the purpose of this code.

(b) Adequate light, air and open space is provided on the lot.

(c) The building is limited to one story.

(d) The building is compatible with physical conditions and adjacent property.

(e) The adjustment is consistent with the setbacks, lot area, and/or coverage of buildings or structures previously existing in the immediate vicinity.

(C) Dimensional standards and minimum number of off-street parking spaces.

(1) The Director may approve adjustments to the dimensional standards of off-street parking spaces; standards for minimum number of off-street parking spaces; and, required spaces to be used for compact cars excepting handicapped parking requirements.

(2) Approval criteria. The Director shall find that approval will provide adequate off-street parking in relation to user demands. The following factors may be considered in granting an adjustment:

(a) Special characteristics of users which indicate low demand for off-street parking (e.g., low income, elderly).

(b) Opportunities for joint use of nearby off-street parking facilities.

(c) Availability of public transit.

(d) Natural features of the site (topography, vegetation and drainage) which would be adversely affect by application of required parking standards.

(e) Possible conversion of the site to other uses in the future.

(f) No adjustment shall be greater than 25% of the requirement from which the exception is granted.

(D) Vision clearance requirements on corner lots.

(1) Vision clearance requirements on corner lots may be waived by the Director.

(2) Approval criteria. In the case of a minor exception to the vision clearance requirements, the Director shall find that the following conditions are satisfied:

(a) Traffic entering the intersection is controlled by traffic signals or stop signs; and

(b) On-street vehicle parking, street trees or other plantings do not interfere with necessary vision clearance; or in lieu of these findings that;

(c) Topographic conditions are so extreme that it is not practical to provide required vision clearance.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98; Am. Ord. 99-2505, passed 2-1-99)

§ 151.177 CONDITIONS MAY BE ATTACHED.

The Director may attach any condition to the adjustment if such condition relates directly and specifically to the matter being adjusted.

(Ord. 96-2451, passed 12-2-96)

§ 151.178 ADJUSTMENT RIGHT MUST BE EXERCISED TO BE EFFECTIVE.

An adjustment granted under this code shall be effective only when the exercise of the right granted thereunder shall be commenced within one year from the effective date of the decision. The Director may authorize an extension of the duration of the decision for an additional six months upon written application. In case such right is not exercised, or extension obtained, the adjustment decision shall be void. Any adjustment granted pursuant to this code is transferable to subsequent owners or contract purchasers of the property unless otherwise provided at the time of granting such adjustment.

(Ord. 96-2451, passed 12-2-96)

SITE DESIGN REVIEW**§ 151.190 PURPOSE.**

These provisions provide for the review and approval process of the design of certain developments and improvements in order to promote functional, safe and innovative site development compatible with the natural and man-made environment. The following provisions are intended to discourage unsightly development, improve the quality of new development in the city, coordinate the site planning process with existing and proposed development, and provide a pleasant working and living environment in the city. Furthermore, these provisions are intended to coordinate the site development process through review of the architecture of the structure(s), signs, landscaping, and other design elements on the site.

(Ord. 96-2451, passed 12-2-96)

§ 151.191 SITE DESIGN REVIEW APPLICABILITY.

(A) *Applicability of requirements.* Site design review shall be required prior to issuance of building permits or commencement of work for all improvements noted below. Site design review permits shall be processed as either a Type I or Type II, as noted below.

(1) Type I.

(a) Single family dwellings;

(b) Duplexes;

(c) Institutional, commercial or industrial additions which do not exceed 1000 square feet in gross floor area;

(d) Multi-family additions which do not exceed 1,000 square feet in gross floor area and do not add any new units, or new construction incidental to the main use on an existing developed site which do not exceed 1,000 square feet in gross floor area and do not add any new units;

(e) Institutional, commercial or industrial interior remodels which do not exceed 25% of the assessed valuation of the existing structure;

(f) Multi-family remodels which do not exceed 25% of the assessed valuation of the existing structure and do not add any new units;

(g) Signs which are not installed in conjunction with a new development or remodel;

(h) Modifications, paving, landscaping, restriping, or regrading of an existing duplex, multi-family, institutional, commercial or industrial parking lot.

(i) Fences and trash enclosures.

(2) Type II.

(a) Any new development or remodel which is not specifically identified within § 151.191(A)(1) above.

(b) Telecommunication facilities.

(3) Exemptions to Type I and Type II process. The following development activities are exempt from Type I or Type II standards:

(a) Replacement of an existing item such as a roof, floor, door, window or siding.

(b) Plumbing and/or mechanical alterations which are completely internal to an existing structure.

(B) *Development in accord with plans.* Construction, site development, and landscaping shall be carried out in substantial accord with the plans, drawings, sketches, and other documents approved as part of a final decision on a site design review.

(C) *Site design review time limit.* An approved site design review plan intended to be constructed in a single phase shall be valid for one year from the date of the notice of final decision. A building permit must be acquired within this time period or the design review approval shall terminate. The Director under a Type I procedure may grant an extension for up to six months if the applicant files a request in writing prior to the expiration of the approval and demonstrates compliance with the following:

(1) The land use designation of the property has not been changed since the initial design review approval; and

(2) The applicable standards in this code which applied to the project have not changed.

(D) *Phased design review approval.* If a site plan is approved to be constructed in phases, completion of each phase shall extend the expiration of the original design review approval by 12 months from the date of its expiration. Prior to the expiration

of each phase, the applicant may apply for an extension to the phase which is about to expire through division (C) of this section. The extension of a phase under division (C) of this section shall also extend any subsequent phases. The total number of extensions shall not extend the original design review approval more than five years from its original approval date. An applicant with a project containing two or more phases may elect to submit a Master Site Development Plan, with the following options:

(1) The applicant may provide all of the detailed information for a Type II site design review approval, per the requirements of § 151.192(B), for all phases of the project. Once the Master Site Development Plan is approved:

(a) Each subsequent phase of development is permitted outright upon a showing that the proposed phase is being constructed in “substantial compliance” with the approved plan. This review of substantial compliance will be undertaken by means of a Type I procedure. A phase of development will be considered to be within substantial compliance if the actual characteristics of the project, e.g., total gross square feet of development, employees, vehicle trips, parking spaces, are within 5% of those projected in the approved Master Site Development Plan, providing that the project still is in compliance with all applicable development standards in effect at the time of the approval, or existing applicable development standards, if these are less stringent than the standards in effect at the time of approval. In lieu of minor modifications by the 5% rule established above, the applicant may request minor adjustments through the administrative adjustment provisions in §§ 151.175 et seq.

(b) If at the time of construction a subsequent phase of development is not in substantial compliance with the approved plan as defined above, the proposed changes will be subject to review by means of a Type II procedure, including any necessary variances to the applicable development standards in effect at the time of the new application. Those aspects of the phase which do not vary from the approved plan will be reviewed under the provisions of subdivision (b) above, and not subject to the review required in this subdivision.

(2) Institutions and other large developments that anticipate significant development over time but cannot provide detailed information about future projects or phases of development in advance, can develop a Concept Master Site Development Plan which addresses generic site development and design elements including but not limited to general architectural standards and materials, landscaping standards and materials, on-site vehicular and pedestrian circulation, institutional sign program, and baseline traffic and parking studies and improvement programs. The applicant will be required to undergo Type II site design review, per the requirements of § 151.192(B), for each project or phase of development at the time of construction, including demonstration of substantial compliance with the generic development and design elements contained within the approved Concept Master Site Development Plan. The more detailed and comprehensive the generic elements in the Concept Master Site Development Plan are, the more reduced is the scope of discretionary review at the time of actual construction of a project or phase of development. For purposes of this subdivision, substantial compliance will be defined as noted in subdivision (1)(a) above.

(3) An applicant that submits a Concept Master Site Development Plan which meets the requirements of subdivision (2) above, may at the same time submit a Master Site Development Plan for one or more of the initial phases contained in the Concept Master Site Development Plan, which are described in sufficient detail to receive complete design review approval in advance, under the provisions of subdivision (1) above. The Concept Master Site Development Plan and Master Site Development Plan will be filed as separate applications but reviewed concurrently.

(4) The approval(s) granted in this section shall be in effect as follows:

(a) Once a Master Site Development Plan has been approved, completion of

each phase shall extend the expiration of the original site design review approval by 12 months from the date of its expiration. Prior to the expiration of each phase, the applicant may apply for an extension to the phase which is about to expire through division (C) of this section. The extension of a phase under division (C) of this section shall also extend to any subsequent phases. The total number of extensions shall not extend the original site design review approval by more than five years from its original approval date.

(b) Institutions submitting a Concept Master Site Development Plan shall be held to the same requirement provided in subdivision (a) above, unless the plan specifically includes an expiration date. In no case shall a Concept Master Site Development Plan cover a period exceeding ten years.

(E) *Modification to an approved design review.* Following design review approval, an applicant may make modifications to the plan consistent with the following procedures. The Director will determine whether the proposed modification is a minor or a major modification.

(1) Minor modifications are those which are in substantial compliance with the layout, uses and conditions of the original design review. Generally, the characteristics of the project, such as the layout or size of buildings, number of units, number of parking spaces, landscaping areas, and similar changes, are within 5% of those in the original proposal. The Director may approve a minor modification under a Type I procedure upon finding that the modification is substantially consistent with the approved design review, is consistent with the provisions of this code and the conditions of approval, and do not have substantially greater impacts on surrounding properties than the original plan. Changes shall meet all Development Code requirements.

(2) Other modifications are major modifications. A change in the whole application or substantive parts of an application shall be considered

a new application. The modified application shall be reviewed under the same procedure as the original application. The criteria for approval shall be those for design review.

(3) All applications for modifications under this provision shall be considered new applications for the purposes of the 120-day time limit for processing applications in accordance with § 151.041 and state statutes. The applicant shall acknowledge in writing that this is a new application for purposes of the 120-day rule.

(4) The City Council shall establish a fee for modification of approved design review by resolution. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2003-2590, passed 11-3-03)

§ 151.192 SITE DESIGN REVIEW REQUIREMENTS.

(A) *Type I.* Applications for Type I permit decisions shall be submitted upon forms established by the Director. The application shall include a site development plan, drawn to scale, with the following as appropriate to the nature of the use:

- (1) Access to site from adjacent right-of-way, streets and arterials;
- (2) Parking and circulation areas;
- (3) Location and design of buildings and signs;
- (4) Orientation of windows and doors;
- (5) Entrances and exits;
- (6) Private and shared outdoor recreation spaces;

- (7) Pedestrian circulation;
- (8) Outdoor play areas;
- (9) Service areas for uses such as mail delivery, trash disposal, above ground utilities, loading and delivery;
- (10) Areas to be landscaped;
- (11) Exterior lighting;
- (12) Special provisions for handicapped persons;
- (13) Other site elements and spaces which will assist in the evaluation of site development;
- (14) Proposed grading, slopes, and proposed drainage;
- (15) Location and access to utilities; and
- (16) Streets, driveways, and sidewalks.

(B) *Type II.* The following information is required to be submitted with all Type II applications for site design review.

- (1) *Site development plan.* A site development plan shall be to scale and shall indicate the following as appropriate to the nature of the use:
 - (a) Access to site from adjacent right-of-way, streets and arterials;
 - (b) Parking and circulation areas;
 - (c) Location and design of buildings and signs;
 - (d) Orientation of windows and doors;

- (e) Entrances and exits;
- (f) Private and shared outdoor recreation spaces;
- (g) Pedestrian circulation;
- (h) Outdoor play areas;
- (i) Service areas for uses such as mail delivery, trash disposal, above ground utilities, loading and delivery;
- (j) Areas to be landscaped;
- (k) Exterior lighting;
- (l) Special provisions for handicapped persons;
- (m) Other site elements and spaces which will assist in the evaluation of site development;
- (n) Proposed grading, slopes, and proposed drainage;
- (o) Location and access to utilities including hydrant locations; and
- (p) Streets, driveways, and sidewalks.

(2) *Site analysis diagram.* A site analysis diagram shall be to scale and shall indicate the following characteristics on the site and within 100 feet of the site.

- (a) Relationship of adjacent lands;
- (b) Location of species of trees greater than four inches in diameter at four feet above ground level;
- (c) Existing and proposed topography;

(d) Natural drainage and proposed drainage and grading;

(e) Natural features and structures having a visual or other significant relationship with the site.

(3) *Architectural drawings.* Architectural drawings shall be prepared which identify floor plans and elevations.

(4) *Landscape plan.* The landscape plan shall indicate:

(a) The size, species and approximate locations of plant materials to be retained or placed on the site together with a statement which indicates the mature size and canopy shape of all plant materials;

(b) Proposed site contouring; and

(c) A calculation of the percentage of the site to be landscaped.

(5) *Special needs for handicapped.* Where appropriate, the design review plan shall indicate compliance with handicapped accessibility requirements including, but not limited to, the location

of handicapped parking spaces, the location of accessible routes from the entrance to the public way, and ramps for wheelchairs.

(6) *Existing features and natural landscape.*

The plans shall indicate existing landscaping and existing grades. Existing trees or other features intended to be preserved or removed shall be indicated on the plans.

(7) *Drives, parking and circulation.*

Proposed vehicular and pedestrian circulation, parking spaces, parking aisles, and the location and number of access points shall be indicated on the plans. Dimensions shall be provided on the plans for parking aisles, back-up areas, and other items as appropriate.

(8) *Drainage.*

The direction and location of on and off-site drainage shall be indicated on the plans. This shall include, but not be limited to, site drainage, parking lot drainage, size and location of storm drain lines, and any retention or detention facilities necessary for the project.

(9) *Buffering and screening.*

Buffering and screening of areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking and similar accessory areas and structures shall be shown on the plans.

(10) *Signs and graphics.*

The location, colors, materials, and lighting of all exterior signs, graphics or other informational or directional features shall be shown on the plans.

(11) *Exterior lighting.*

Exterior lighting within the design review plan shall be indicated on the plans. The direction of the lighting, size and type of fixtures, and an indication of the amount of lighting shall be shown on the plans.

(12) *Trash and refuse storage.*

All trash or refuse storage areas, along with appropriate screening shall be indicated on the plans. Refuse storage areas must be constructed of brick, concrete block or other similar products as approved by the Director.

(13) *Roadways and utilities.* The proposed plans shall indicate any public improvements that will be constructed as part of the project, including but not limited to, roadway and utility improvements.

(14) *Traffic study.* A traffic study shall be submitted for any project that generates in excess of 40 trips per p.m. peak hour. This requirement may be waived by the Director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed which adequately mitigate any traffic impacts and/or the proposed use is not in a location which is adjacent to an intersection which is functioning at a poor level of service. A traffic study may be required by the Director for projects below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg Design Standards.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.193 CONDITIONS MAY BE REQUIRED.

Applications for site design review may be approved subject to such conditions as are necessary to fulfill the purpose and provisions of this code.

(Ord. 96-2451, passed 12-2-96)

§ 151.194 CRITERIA FOR DESIGN REVIEW (TYPE II PROCESS).

(A) *Type I.* The following criteria are required to be met in order to approve a Type I design review request:

(1) *Parking.* Parking areas shall meet the requirements of § 151.610.

(2) *Setbacks and general requirements.* The proposal shall comply with §§ 151.535 et seq. dealing with height restrictions and public access; and §§ 151.550 et seq. dealing with setbacks, coverage, vision clearance, and yard requirements.

(3) *Landscaping requirements.* The proposal shall comply with § 151.580 dealing with landscape requirements and landscape screening.

(4) *Signs.* Signs shall comply with §§ 151.590 et seq. dealing with signs.

(5) *Zoning district compliance.* The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in §§ 151.280 through 151.438 of this code.

(B) *Type II.* The following criteria are required to be met in order to approve a Type II design review request:

(1) *Design compatibility.* The proposed design review request incorporates an architectural design which is compatible with and/or superior to existing or proposed uses and structures in the surrounding area. This shall include, but not be limited to, building architecture, materials, colors, roof design, landscape design, and signage.

(2) *Parking and on-site circulation.* Parking areas shall meet the requirements of § 151.610. Parking studies may be required to determine if adequate parking and circulation are provided for uses not specifically identified in § 151.610. Provisions shall be made to provide efficient and adequate on-site circulation without using the public streets as part of the parking lot circulation pattern. Parking areas shall be designed so that vehicles can efficiently enter and exit the public streets with a minimum impact on the functioning of the public street.

(3) *Setbacks and general requirements.* The proposal shall comply with §§ 151.535 through 151.540 dealing with height restrictions and public access; and §§ 151.550 through 151.568 dealing with setbacks, coverage, vision clearance, and yard requirements.

(4) *Landscaping requirements.* The proposal shall comply with § 151.580 dealing with landscape requirements and landscape screening.

(5) *Signs.* Signs shall comply with § 151.590 et seq. dealing with signs.

(6) *Manufactured home, mobile home and RV parks.* Manufactured home, mobile home, and recreational vehicle parks shall also comply with the standards listed in §§ 151.655 et seq., in addition to the other criteria listed in this section.

(7) *Zoning district compliance.* The proposed use shall be listed as a permitted or conditionally permitted use in the zoning district in which it is located as found in §§ 151.280 through 151.438. Through this site review process, the Director may make a determination that a use is determined to be similar to those listed in the applicable zoning district, if it is not already specifically listed. In this case, the Director shall make a finding that the use shall not have any different or more detrimental effects upon the adjoining neighborhood area than those specifically listed.

(8) *Sub-district compliance.* Properties located within sub-districts shall comply with the provisions of those sub-districts located in §§ 151.450 through 151.525.

(9) *Alternative circulation, roadway frontage improvements and utility improvements.* Where applicable, new developments shall provide for access for vehicles and pedestrians to adjacent properties which are currently developed or will be developed in the future. This may be accomplished through the provision of local public streets or private access and utility easements. At the time of development of a parcel, provisions shall be made to develop the adjacent street frontage in accordance with city street standards and the standards contained in the transportation plan. At the discretion of the city, these improvements may be deferred through use of a deferred improvement agreement or other form of security.

(10) *Traffic study improvements.* If a traffic study is required, improvements identified in the traffic study shall be implemented as required by the Director.

(Ord. 96-2451, passed 12-2-96)

§ 151.195 ADDITIONAL REQUIREMENTS FOR MULTI-UNIT RESIDENTIAL PROJECTS.

The purpose of this section is to ensure that residential projects containing three or more units meet minimum standards for good design, provide a healthy and attractive environment for those who live there, and are compatible with surrounding development. As part of the site design review process, an applicant for a new multi-unit residential project must demonstrate that some of the following site and building design elements, each of which has a point value, have been incorporated into the design of the project. At least 14 points are required for attached single family projects of any size and smaller multi-family projects with six or fewer units and at least 20 points are required for multi-family projects with seven or more units. For more information and illustrations of each element, refer to *Newberg Residential Development Design Guidelines (July 1997)*.

(A) *Site design elements.*

(1) Consolidate green space to increase visual impact and functional utility. This applies to larger projects which collectively have a significant amount of open space areas which can be consolidated into children's play areas, gardens, and/or dog-walking areas. (3 Points)

(2) Preserve existing natural features, including topography, water features, and/or native vegetation. (3 Points)

(3) Use the front setback to build a street edge by orienting building(s) toward the street with a relatively shallow front yard (12-15 feet for two story buildings) to create a more "pedestrian-friendly" environment. (3 Points)

(4) Place parking lots to the sides and/or back of projects so that front yard areas can be used for landscaping and other "pedestrian-friendly" amenities. (3 Points)

(5) Create "outdoor" rooms in larger projects by grouping buildings to create well-defined outdoor spaces. (2 Points)

(6) Provide good quality landscaping. Provide coordinated site landscaping sufficient to give the site its own distinctive character, including the preservation of existing landscaping and use of native species. (2 Points)

(7) Landscape at the edges of parking lots to minimize visual impacts upon the street and surrounding properties. (2 Points)

(8) Use street trees and vegetative screens at the front property line to soften visual impacts from the street and provide shade. (1 Point)

(9) Use site furnishings to enhance open space. Provide communal amenities such as benches, playground equipment, and fountains to enhance the outdoor environment. (1 Point)

(10) Keep fences neighborly by keeping them low, placing them back from the sidewalk, and using compatible building materials. (1 Point)

(11) Use entry accents such as distinctive building or paving materials to mark major entries to multi-unit buildings or to individual units. (1 Point)

(12) Use appropriate outdoor lighting which enhances the nighttime safety and security of pedestrians without causing glare in nearby buildings. (1 Point)

(B) *Building design elements.*

(1) Orient buildings toward the street. For attached single family and smaller multi-family projects, this means orienting individual entries and porches to the street. In larger projects with internal circulation and grounds, this means that at least 10% of the units should have main entries which face the street rather than be oriented toward the interior. (3 Points)

(2) Respect the scale and patterns of nearby buildings by reflecting the architectural styles, building details, materials, and scale of existing buildings. (3 Points)

(3) Break up large buildings into bays by varying planes at least every 50 feet. (3 Points)

(4) Provide variation in repeated units in both single family attached and large multi-family projects so that these projects have recognizable identities. Elements such as color; porches, balconies, and windows; railings; and building materials and form, either alone or in combination, can be used to create this variety. (3 Points)

(5) Building materials. Use some or all of the following materials in new buildings: wood or wood-like siding applied horizontally or vertically as board and batten; shingles, as roofing, or on upper portions of exterior walls and gable ends; brick at the base of walls and chimneys; wood or wood-like sash windows; and wood or wood-like trim. (1 Point for each material described above)

(6) Incorporate architectural elements of one of city's historical styles (Queen Anne, Dutch Colonial Revival, Colonial Revival, or Bungalow style) into the design to reinforce the city's cultural identity. Typical design elements which should be considered include, but are not limited to, "crippled hip" roofs, Palladian-style windows, roof eave brackets, dormer windows, and decorative trim boards. (2 Points)

(7) Keep car shelters secondary to the building by placing them to the side or back of units and/or using architectural designs, materials, and landscaping to buffer visual impacts from the street. (2 Points)

(8) Provide a front porch at every main entry as this is both compatible with the city's historic building pattern and helps to create an attractive, "pedestrian-friendly" street scape. (2 Points)

(9) Use slope roofs at a pitch of 3:12 or steeper. Gable and hip roof forms are preferable. (2 Points)
(Ord. 99-2505, passed 2-1-99)

§ 151.196 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT IN THE C-2 ZONING DISTRICT.

The purpose of this section is to ensure that development in the C-2 Zoning District is designed to promote pedestrian and bicycle uses and improve aesthetics and compatibility. An applicant for a new development or redevelopment within the C-2 Zoning District, which is subject to the Site Design Review process, must demonstrate that the following site and building design elements have been incorporated into the design of the project. Exceptions to these additional development requirements may be granted if the requirements would result in construction that is out of character with surrounding development. Applicants for redevelopment of a designated landmark will not be subject to these additional requirements, except for requirements regarding parking and service drives.

(A) *Building entrances.* Each building on a lot shall have a primary pedestrian entrance oriented to the primary street. "Oriented to a street" means that the building entrance faces the street or is connected to the street by a direct and convenient pathway not exceeding 60 feet in length. "Primary street" means the highest classification street abutting the lot. On lots which abut two or more streets of equal classification, the primary street shall be the street which has the highest estimated volume of pedestrian traffic. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way. Such rear buildings shall have a primary entrance oriented to an internal sidewalk or pedestrian pathway system which is internally connected and provides a connection to the primary street.

(B) *Parking and service drives.* No off-street parking or service drives shall be placed within the required front yard setback. No off-street parking shall be placed between the front property line of the primary street, as defined in division (A) above, and the building. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way.

(C) *Exceptions.* The review body may approve exceptions to the above provided there are no reasonable alternatives that would allow access to or parking on the lot.

(D) *Building mass.* Where building elevations are oriented to the street in conformance with (A) above, architectural features such as windows, pedestrian entrances, building off-sets, projections, detailing, change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes.

(E) *Corner lots.* Buildings on corner lots shall have their primary entrance oriented to the street corner, or within 40 feet of the street corner (i.e., as measured from the lot corner). In this case, the street corner shall provide an extra-wide sidewalk or plaza area with landscaping, seating or other pedestrian

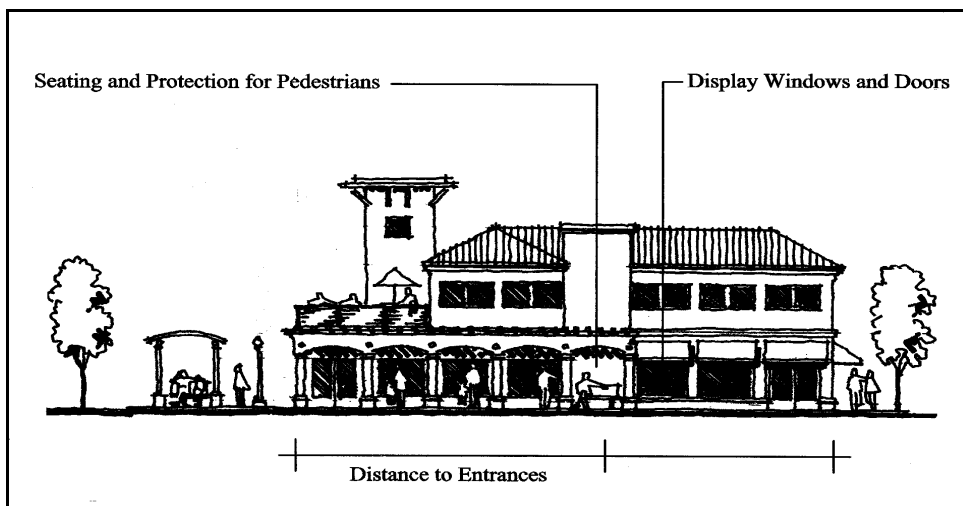
amenities. The building corner shall provide architectural detailing or beveling to add visual interest to the corner.

(F) *Pedestrian-scale building entrances.* Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian-scale.

(G) *Windows.* On commercial building facades facing a public street, windows shall comprise a minimum of 40% of the ground floor facade.

(H) *Design of large-scale buildings and developments.* Commercial buildings and uses comprising more than 40,000 square feet of total ground-floor building space shall additionally conform to the building orientation standards below:

(1) Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, or up-lighting); and similar features. *[Note: the example shown below is meant to illustrate these building design elements, and should not be interpreted as a required architectural style.]*



Design of Large-Scale Buildings and Developments (Typical)

(2) Every building elevation facing a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance no more than 100 from another entrance or end-wall; except that buildings elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way.
(Ord. 2002-2561, passed 4-1-02)

§ 151.197 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT IN THE C-3 ZONING DISTRICT.

The purpose of this section is to ensure that new development and redevelopment in the C-3 Zoning District maintains and promotes downtown Newberg as a desirable place to spend time. The standards below will help to assure continued quality and compatibility in construction and design. An applicant for a new development or redevelopment within the C-3 Zoning District, which is subject to the Site Design Review process, must demonstrate that seven out of ten of the following site and building design elements have been incorporated into the design of the project. Exceptions to these additional development requirements may be granted if the requirements would result in construction that is out of character with surrounding development. Applicants for redevelopment of a designated landmark will not be subject to these additional requirements.

(A) *Elements of the façade:*

(1) *Windows.* To maintain compatibility with historic proportions, windows facing public streets shall be primarily vertical. With the exception of transom windows, the width to height ratio of any single window pane (defined as either a true divided light or a "pane" created by "snap-in" dividers) shall be no more than 1:1.

(2) *Awnings.* To provide shade and protection from the rain, awnings of fabric, glass,

wood or metal shall extend along at least 25% of street facing façades. Awnings shall be securely attached to the building, and at their lowest point shall not be lower than eight feet above the ground level. Awnings may encroach a maximum of eight feet into the public sidewalk right-of-way, but no closer than two feet from the curb line.

(B) *Façade articulation.*

(1) *Emphasize entrances.* Entrances facing a public street shall be incorporated as an integral element in the façade. Entrances shall be emphasized to clearly communicate how to enter the building and to make buildings appear more inviting. Some strategies for emphasizing the entrance on a façade include: using transom windows above entrance doors to increase their apparent scale, detailing and emphasizing the trim or pilasters surrounding the entrance doors, and locating projections such as awnings or balconies above the entrance.

(2) *Maximum horizontal façade plane.* To avoid overwhelming and visually monotonous facades, buildings shall not extend more than 60 feet horizontally without a change in the plane of the facade of at least one foot. Vertically stacked bay windows are one way to satisfy this criterion.

(C) *Windows.*

(1) *Depth of windows.* Windows shall be recessed at least 1½ inches from the general plane of the façade. This creates shadow-lines and visual interest, giving the façade the perception of depth. Depth in the façade promotes the perception of high-quality and durable construction, and contributes to the district's historic character.

(2) *Percentage of glazing.* The percent of glazing based on the horizontal distance of the façade shall be as follows:

(a) Primary façade: at least 50% of ground floor and 30% of floors above the ground floor; and

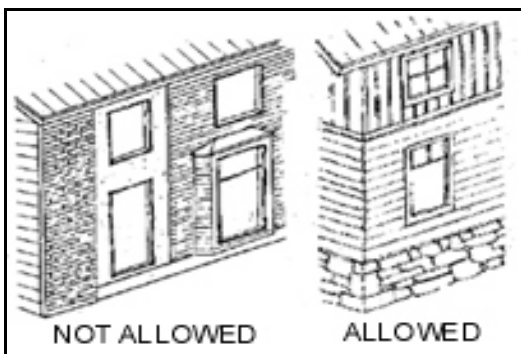
(b) All other façades facing a public street: at least 30% per floor.

(3) *Window glazing material.* Windows facing a public street shall be made of clear or low-e glazing (pursuant to Oregon Structural Code 1312.1.3). Tinted or reflective glass shall not be visible from public rights-of-way.

(D) *Façade materials.*

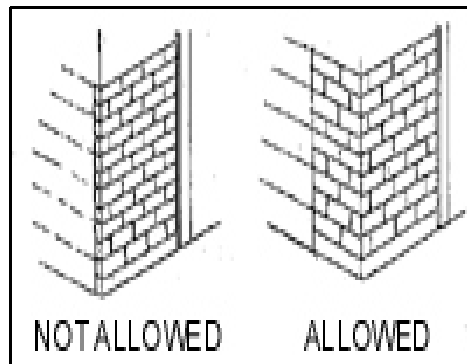
(1) *Dominant material.* All façades shall be comprised of a single dominant material. Additional materials are allowed as accents.

(2) *Allowed wall materials.* Allowed wall cladding materials include horizontal wood and cementitious lap siding, horizontal board and batten siding, shingles, and shakes. Lap siding, shingles, and shakes shall be exposed a maximum of six inches to the weather. In board and batten siding, battens shall be spaced a maximum of eight inches on center. In addition, brick, rusticated concrete block, or stone masonry is allowed, but when used as a veneer material, it must be at least 2½ inches thick. Cement-based stucco and poured-in-place concrete are allowed.



(3) *Changes in material.* Brick and stone street-facing façades shall return at least 18 inches around the exposed side walls. When multiple cladding materials are used, changes shall occur along horizontal lines only, with a maximum of three different materials allowed per façade. Heavier

appearing materials (e.g., brick) shall be used only below lighter-appearing materials (e.g., shingles).



(Ord. 2002-2561, passed 4-1-02)

CONDITIONAL USE PROCEDURES

§ 151.205 DESCRIPTION AND PURPOSE.

(A) It is recognized that certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special consideration involves, among other things, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the use, the effect such uses have on any adjoining land uses and on the growth and development of the community as a whole.

(B) All uses permitted conditionally are declared to be possessing such unique and special characteristics as to make impractical their being included as out-right uses in any of the various districts herein defined. The authority for the location and operation thereof shall be subject to review and the issuance of a conditional use permit. The purpose of review shall be to determine that the characteristics of any such use shall be reasonably compatible with the type of uses permitted in surrounding areas, and for the further purpose of stipulating such conditions as may be reasonable so that the basic purposes of this

code shall be served. Nothing construed herein shall be deemed to require the hearing body to grant a conditional use permit.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-16-00)

§ 151.206 CONDITIONAL USE PERMIT PREREQUISITE TO BUILDING.

No building permit shall be issued when a conditional use permit is required by the terms of this code unless a permit has been granted by the hearing body and then only in accordance with the terms and conditions of the conditional use permit. Conditional use permits may be temporary or permanent for any use or purpose for which such permits are required or permitted by provisions of this code.

(Ord. 96-2451, passed 12-2-96)

§ 151.207 APPLICATION.

Application for a conditional use permit shall be accompanied by such information including, but not limited to, site and building plans, drawings and elevations, and operational data, as may be required by the Director to allow proper evaluation of the proposal. The plan submittal requirements identified in § 151.192 and § 151.671 shall be used as a guide. All proposals for conditional use permit shall be accompanied by a detailed project description which includes information such as the use, information relating to utilities, the number of employees, the hours of operation, traffic information, odor impacts, and other information needed to adequately describe the project.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00)

§ 151.208 CONCURRENT DESIGN REVIEW.

If new buildings or structures are to be included as part of the application, the Planning Commission shall concurrently review the application for site

design review in order to stream-line the review process.

(Ord. 96-2451, passed 12-2-96)

§ 151.209 ADDITIONAL INFORMATION.

In order to fully evaluate the proposal, additional information may be required. This includes but is not limited to traffic studies, noise studies, visual analysis, and other site impact studies as determined by the Director or Planning Commission.

(Ord. 96-2451, passed 12-2-96)

§ 151.210 GENERAL CONDITIONAL USE PERMIT CRITERIA - TYPE III.

A conditional use permit may be granted through a Type III procedure only if the proposal conforms to all the following criteria:

(A) The location, size, design and operating characteristics of the proposed development are such that it can be made reasonably compatible with and have minimal impact on the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage and density; to the availability of public facilities and utilities; to the generation of traffic and the capacity of surrounding streets, and to any other relevant impact of the development.

(B) The location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping or civic environment, and will be as attractive as the nature of the use and its location and setting warrants.

(C) The proposed development will be consistent with this code.

(Ord. 96-2451, passed 12-2-96)

§ 151.211 CONDITIONAL USES PERMITTED IN ANY ZONING DISTRICT.

In addition to those conditional uses listed within individual zoning districts, the following uses may be permitted in any zoning district subject to a conditional use permit issued through a Type III procedure. Where any of the following uses are listed as a permitted use within the applicable zoning district, a conditional use permit is not necessary. Where a use is not authorized, or where ambiguity exists concerning the appropriate classification or procedure for the establishment of a particular use or type of development within the meaning and intent of this code, said use or type of development may only be established by conditional use permit.

(A) Airports and landing fields.

(B) Amusement parks.

(C) Carnivals and circuses, if established for more than two weeks, except those in conjunction with a county fair or other outdoor governmentally sponsored event.

(D) Cemeteries.

(E) Facilities for the care and/or lodging of alcoholics, except publicly or privately operated rehabilitation centers providing clinical supervision, care and intensive treatment to persons with alcohol and/or chemical dependency problems.

(F) Garbage dumps, sanitary land fills. Solid waste collection facility when under franchise by the city. This conditional use would include temporary storage and transfer of recyclable solid waste, supply storage, vehicle and equipment storage, service or repair and related accessory uses including disposal or landfill sites.

(G) Heliports and helipads.

(H) Jails or penal farms.

(I) Mental hospitals.

(J) Pound, dog or cat, (kennel).

(K) Race tracks, including drag strips and go-cart tracks.

(L) Sewage treatment plants.

(M) Home occupations with more than one outside paid employee working at the residence at any given time.

(N) Modifications to public street standards for the purpose of ingress and egress to a minimum of three and not more than six lots. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2507, passed 3-1-99; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.212 CONDITIONS.

The hearing body shall designate conditions in connection with the conditional use permit deemed necessary to secure the purpose of this chapter and the general conditional use permit criteria and require the guarantees and evidence that such conditions will be complied with. Such conditions may include:

(A) Regulation of uses.

(B) Special yards, spaces.

(C) Fences and walls.

(D) Surfacing of parking areas to city specifications.

(E) Street dedications and improvements (or bonds).

(F) Regulation of points of vehicular ingress and egress.

(G) Regulation of signs.

(H) Landscaping and maintenance thereof.

(I) Maintenance of the grounds.

(J) Regulation of noise, vibration, odors or other similar nuisances.

(K) Regulation of time for certain activities.

(L) Time period within which the proposed use shall be developed.

(M) Duration of use.

(N) Such other conditions as will make possible the development of the city in an orderly and efficient manner in conformity with the Newberg comprehensive plan and this Newberg Development Code.

(Ord. 96-2451, passed 12-2-96)

§ 151.213 DEVELOPMENT IN ACCORD WITH PLANS.

Construction, site development, and landscaping shall be carried out in substantial accord with the plans, drawings, conditions, sketches, and other documents approved as part of a final decision on a conditional use permit.

(Ord. 96-2451, passed 12-2-96)

§ 151.214 CONDITIONAL USE PERMIT MUST BE EXERCISED TO BE EFFECTIVE.

(A) A conditional use permit granted under this code shall be effective only when the exercise of the right granted thereunder shall be commenced within one year from the effective date of the decision. The Director under a Type I procedure may grant an

extension for up to six months if the applicant files a request in writing prior to the expiration of the approval and demonstrates compliance with the following:

(1) The land use designation of the property has not been changed since the initial use permit approval; and

(2) The applicable standards in this code which applied to the project have not changed.

(B) In case such right is not exercised, or extension obtained, the conditional use permit decision shall be void. Any conditional use permit granted pursuant to this code is transferable to subsequent owners or contract purchasers of the property unless otherwise provided at the time of granting such permit.

(Ord. 96-2451, passed 12-2-96)

PD PLANNED UNIT DEVELOPMENT REGULATIONS

§ 151.225 PURPOSE.

The city's planned unit development regulations are intended to:

(A) Encourage comprehensive planning in areas of sufficient size to provide developments at least equal in the quality of their environment to traditional lot by lot development and that are reasonably compatible with the surrounding area; and

(B) Provide flexibility in architectural design, placement and clustering of buildings, use of open space and outdoor living areas, and provision of circulation facilities, parking, storage and related site and design considerations; and

(C) Promote an attractive, safe, efficient and stable environment which incorporates a compatible variety and mix of uses and dwelling types; and

(D) Provide for economy of shared services and facilities; and

(E) Implement the density requirements of the comprehensive plan and zoning districts through the allocation of the number of permitted dwelling units based on the number of bedrooms provided. (Ord. 96-2451, passed 12-2-96)

§ 151.226 GENERAL PROVISIONS.

(A) *Ownership.* Except as provided herein, the area included in a proposed planned unit development must be in single ownership or under the development control of a joint application of owners or option holders of the property involved.

(B) *Processing steps - Type III.* Prior to issuance of a building permit, planned unit development applications must be approved through a Type III procedure and using the following steps:

(1) *Step One - preliminary plans.* Consideration of applications in terms of on-site and off-site factors to assure the flexibility afforded by planned unit development regulations is used to preserve natural amenities, create an attractive, safe, efficient, and stable environment, and assure reasonable compatibility with the surrounding area. Preliminary review necessarily involves consideration of the off-site impact of the proposed design, including building height and location.

(2) *Step Two - final plans.* Consideration of detailed plans to assure substantial conformance with preliminary plans as approved or conditionally approved. Final plans need not include detailed construction drawings as subsequently required for a building permit.

(C) *Phasing.* If approved at the time of preliminary plan consideration, final plan applications may be submitted in phases. If preliminary plans encompassing only a portion of a site under single ownership are submitted, they must be accompanied by a statement and be sufficiently detailed to prove that the entire area can be developed and used in

accordance with city standards, policies, plans and ordinances.

(D) *Lapse of approval.* If the applicant fails to submit material required for consideration at the next step in accordance with the schedule approved at the previous step, or in the absence of a specified schedule, within one year of such approval, the application as approved at the previous step expires. If the applicant fails to obtain a building permit for construction in accordance with the schedule as previously approved, or in the absence of a specified schedule, within three years of a preliminary plan approval, preliminary and final plan approvals expire. Prior to expiration of plan approval at any step, the hearing authority responsible for approval may, if requested, extend or modify the schedule, providing it is not detrimental to the public interest or contrary to the findings and provisions specified herein for planned unit developments. Unless the preliminary plan hearing authority provides to the contrary, expiration of final plan approval of any phase automatically renders all phases void that are not yet finally approved or upon which construction has not begun.

(E) *Re-submittal following expiration.* Upon expiration of preliminary or final plan approval, a new application and fee must be submitted prior to reconsideration. Reconsideration shall be subject to the same procedures as an original application.

(F) *Density.* Except as provided in § 151.123 relating to sub-districts, dwelling unit density provisions for residential planned unit developments shall be as follows:

(1) *Maximum density.*

(a) Except as provided in adopted refinement plans, the maximum allowable density for any project shall be as follows:

District	Maximum Density per Gross Acre
R-1	175 density points as calculated below
R-2	310 density points as calculated below
R-3	640 density points as calculated below
RP	310 density points as calculated below
C-1	As per required findings
C-2	As per required findings
C-3	As per required findings

(b) Density point calculations in the following table are correlated to dwellings based on the number of bedrooms, which for these purposes is defined as an enclosed room which is commonly used or capable of conversion to use as sleeping quarters. Accordingly, family rooms, dens, libraries, studies, studios, and other similar rooms shall be considered bedrooms if they meet the above definitions, are separated by walls or doors from other areas of the dwelling and are accessible to a bathroom without passing through another bedroom.

Density Point Table

Dwelling Type	Density Points
Studio and efficiency	12
One bedroom	14
Two bedroom	21
Three bedroom	28
Four or more bedrooms	35

(2) *Approved density.* The number of dwelling units allowable shall be determined by the hearing authority in accordance with the standards set forth in these regulations. The hearing authority may change density subsequent to preliminary plan approval only if the reduction is necessary to comply with required findings for preliminary plan approval or if conditions of preliminary plan approval cannot otherwise be satisfied.

(3) *Easement calculations.* Density calculations may include areas in easements if the

applicant clearly demonstrates that such areas will benefit residents of the proposed planned unit development.

(4) *Dedications.* Density calculations may include areas dedicated to the public for recreation or open space.

(5) *Cumulative density.* When approved in phases, cumulative density shall not exceed the overall density per acre established at the time of preliminary plan approval.

(G) *Buildings and uses permitted.* Buildings and uses in planned unit developments are permitted as follows:

(1) R-1, R-2, R-3 and RP Zones:

(a) Buildings and uses permitted outright or conditionally in the use district in which the proposed planned unit development is located.

(b) Accessory buildings and uses.

(c) Duplexes.

(d) Dwellings, single, manufactured, and multiple family.

(e) Convenience commercial services which the applicant proves will be patronized mainly by the residents of the proposed planned unit development.

(2) C-1, C-2 and C-3 Zones:

(a) When proposed as a combination residential-commercial planned unit development; uses and buildings as listed in subdivision (1) above and those listed as permitted outright or conditionally in the use district wherein the development will be located.

(b) When proposed as a residential or commercial planned unit development; uses and buildings as permitted outright or conditionally in the use district wherein the development will be located.

(3) M-1, M-2 and M-3 Zones: Uses and buildings as permitted outright or conditionally in the use district wherein the development will be located.

(H) *Professional coordinator and design team.* Professional coordinators and design teams shall comply with the following:

(1) *Services.* A professional coordinator, licensed in the State of Oregon to practice architecture, landscape architecture or engineering, shall insure that the required plans are prepared. Plans and services provided for the city and between the applicant and the coordinator shall include:

(a) Preliminary design.

(b) Design development.

(c) Construction documents, except for single family detached dwellings and duplexes in subdivisions; and

(d) Administration of the construction contract, including, but not limited to inspection and verification of compliance with approved plans.

(2) *Address and attendance.* The coordinator or his professional representative shall maintain an Oregon address, unless this requirement is waived by the Director. The coordinator or other member of the design team shall attend all public meetings at which the proposed planned unit development is discussed.

(3) *Design team designation.* Except as provided herein, a design team, which includes an architect, a landscape architect, engineer, and land surveyor, shall be designated by the professional coordinator to prepare appropriate plans. Each team member must be licensed to practice his or her profession in the State of Oregon.

(4) *Design team participation and waiver.* Unless waived by the Director upon proof by the coordinator that the scope of the proposal does not require the services of all members at one or more steps, the full design team shall participate in the preparation of plan at all three steps.

(5) *Design team change.* Written notice of any change in design team personnel must be submitted to the Director within three working days of the change.

(6) *Plan certification.* Certification of the services of the professionals responsible for particular drawings shall appear on drawings submitted for consideration and shall be signed and stamped with the registration seal issued by the State of Oregon for each professional so involved. To assure comprehensive review by the design team of all plans for compliance with these regulations, the dated cover sheet shall contain a statement of review endorsed with the signatures of all designated members of the design team.

(I) *Modification of certain regulations.* Except as otherwise stated in these regulations, fence and wall provisions, general provisions pertaining to height, yards, area, lot width, frontage, depth and coverage, number of off-street parking spaces required, and regulations pertaining to setbacks specified in this code may be modified by the hearing authority, provided the proposed development will be in accordance with the purposes of this code and those regulations. Departures from the hearing authority upon a finding by the Engineering Director that the departures will not create hazardous conditions for vehicular or pedestrian traffic. Nothing contained in this subsection shall be interpreted as providing flexibility to regulations other than those specifically encompassed in this code.

(J) *Lot coverage.* Maximum permitted lot and parking area coverage as provided in this code shall not be exceeded unless specifically permitted by the hearing authority in accordance with these regulations.

(K) *Height.* Unless determined by the hearing authority that intrusion of structures into the sun exposure plane will not adversely affect the occupants or potential occupants of adjacent properties, all buildings and structures shall be constructed within the area contained between lines illustrating the sun exposure plan (See Fig. VIII and the definition of "Sun Exposure Plane"). The hearing authority may further modify heights to:

(1) Protect lines of sight and scenic vistas from greater encroachment than would occur as a result of conventional development.

(2) Protect lines of sight and scenic vistas.

(3) Enable the project to satisfy required findings for approval.

(L) *Dedication, improvement and maintenance of public thoroughfares.* Public thoroughfares shall be dedicated, improved and maintained as follows:

(1) *Streets and walkways.* Including, but not limited to those necessary for proper development of adjacent properties. Construction standards that minimize maintenance and protect the public health and safety, and setbacks as specified in § 151.554, pertaining to special setback requirements to planned right-of-ways, shall be required.

(2) *Easements.* As are necessary for the orderly extension of public utilities and bicycle and pedestrian access.

(M) *Underground utilities.* Unless waived by the hearing authority, the developer shall locate all on-site utilities serving the proposed planned unit development underground in accordance with the policies, practices and rules of the serving utilities and the Public Utilities Commission.

(N) *Usable outdoor living area.* All dwelling units shall be served by outdoor living area as defined in this code. Unless waived by the hearing authority, the outdoor living area must equal at least ten percent of the gross floor area of each unit. So long as outdoor living area is available to each dwelling unit, other outdoor living space may be offered for dedication to the city, in fee or easement, to be incorporated in a city approved recreational facility. A portion or all of a dedicated area may be included in calculating density if permitted under these regulations.

(O) *Site modification.* Unless otherwise provided in preliminary plan approval, vegetation, topography and other natural features of parcels

proposed for development shall remain substantially unaltered pending final plan approval.

(P) *Completion of required landscaping.* If required landscaping cannot be completed prior to occupancy, or as otherwise required by a condition of approval, the Director may require the applicant to post a performance bond of a sufficient amount and time to assure timely completion.

(Q) *Design standards.* The proposed development shall meet the design requirements for multi-unit residential projects identified in § 151.195.

A minimum of 40% of the required points shall be obtained in each of the design categories. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99)

§ 151.227 PRELIMINARY PLAN CONSIDERATION - STEP ONE.

(A) *Pre-application conference.* Prior to filing an application for preliminary plan consideration, the applicant or coordinator may request through the Director a pre-application conference to discuss the feasibility of the proposed planned unit development and determine the processing requirements.

(B) *Application.* An application, with the required fee, for preliminary plan approval, shall be made by the owner of the affected property, or the owner's authorized agent, on a form prescribed by and submitted to the Director. Applications, accompanied by such additional copies as requested by the Director for purposes of referral, shall contain or have attached sufficient information as prescribed by the Director to allow processing and review in accordance with these regulations. As part of the application, the property owner requesting the planned development shall file a waiver stating that the owner will not file any demand against the city under Ballot Measure 37, approved November 2, 2004, that amended O.R.S. Chapter 197 based on the city's decision on the Planned Development.

(C) *Type III review and decision criteria.* Preliminary plan consideration shall be reviewed

through the Type III procedure. Decisions shall include review and recognition of the potential impact of the entire development, and preliminary approval shall include written affirmative findings that:

(1) The proposed development is consistent with standards, plans, policies and ordinances adopted by the city; and

(2) The proposed development's general design and character, including but not limited to anticipated building locations, bulk and height, location and distribution of recreation space, parking, roads, access and other uses, will be reasonably compatible with appropriate development of abutting properties and the surrounding neighborhood; and

(3) Public services and facilities are available to serve the proposed development. If such public services and facilities are not at present available, an affirmative finding may be made under this criterion if the evidence indicates that the public services and facilities will be available prior to need by reason of:

(a) Public facility planning by the appropriate agencies; or

(b) A commitment by the applicant to provide private services and facilities adequate to accommodate the projected demands of the project; or

(c) Commitment by the applicant to provide for offsetting all added public costs or early commitment of public funds made necessary by the development.

(4) The provisions and conditions of this code have been met; and

(5) Proposed buildings, roads, and other uses are designed and sited to ensure preservation of features, and other unique or worthwhile natural features and to prevent soil erosion or flood hazard; and

(6) There will be adequate on-site provisions for utility services, emergency vehicular

access, and, where appropriate, public transportation facilities; and

(7) Sufficient usable recreation facilities, outdoor living area, open space, and parking areas will be conveniently and safely accessible for use by residents of the proposed development; and

(8) Proposed buildings, structures, and uses will be arranged, designed, and constructed so as to take into consideration the surrounding area in terms of access, building scale, bulk, design, setbacks, heights, coverage, landscaping and screening, and to assure reasonable privacy for residents of the development and surrounding properties.

(D) *Conditions.* Applications may be approved subject to conditions necessary to fulfill the purpose and provisions of these regulations.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2004-2612, passed 12-6-04)

§ 151.228 FINAL PLAN CONSIDERATION - STEP TWO.

(A) *Application.* An application with the required fee, for final plan approval shall be submitted in accordance with the provisions of this code, and must be in compliance with all conditions imposed and schedules previously prescribed.

(B) *Referral.* Referral of final plans and supportive material shall be provided to appropriate agencies and departments.

(C) *Decision Type I procedure.* The final plan consideration shall be reviewed through the Type I procedure. Upon receipt of the application and fee, final plans and required supportive material, the Director shall approve, conditionally approve or deny the application for final plan approval. The decision of the Director to approve or deny the application shall be based on written findings of compliance or noncompliance with approved preliminary plans and city standards, plans, policies and ordinances. Minor variations from approved preliminary plans may be permitted if consistent with the general character thereof.

(D) *Conditions.* Applications may be approved subject to such conditions as are necessary to fulfill the purpose and provisions of this code.

(E) *Performance agreement.*

(1) *Preparation and signatures.* A duly notarized performance agreement binding the applicant, and the applicant's successors in interest, assuring construction and performance in accordance with the approved final plans shall be prepared by the city and executed by the applicant and city prior to issuance of a building permit.

(2) *Return.* Unless an executed copy of the agreement is returned to the Director within 60 days of its delivery to the applicant, final plan approval shall expire, necessitating the re-application for final plan re-approval.

(3) *Filing.* The Director shall file a memorandum of the performance agreement with the Yamhill County Recorder.

(4) *Improvement petitions and dedications.* Improvement petitions and all documents required with respect to dedications and easements shall be submitted prior to completion of the agreement.

(5) *Project changes.* The Director may permit project changes subsequent to execution of the agreement upon finding the changes substantially conform to final approved plans and comply with city standards, plans, policies and ordinances. Other modifications are subject to reapplication at the appropriate step.

(6) *Compliance.* Compliance with this section is a prerequisite to the issuance of a building permit.

(Ord. 96-2451, passed 12-2-96)

§ 151.229 ENFORCEMENT.

Upon the applicant's violation of or failure to comply with any of the provisions of the performance contract or final approved plan, the city may, in its discretion, invoke the enforcement procedures provided in the agreement or under applicable law.

(Ord. 96-2451, passed 12-2-96)

PROPERTY CONSOLIDATIONS; PROPERTY LINE ADJUSTMENTS

§ 151.235 PROPERTY CONSOLIDATIONS.

(A) *Consolidating properties.* An owner of abutting properties may consolidate them into a single lot through any of the following:

(1) A deed restriction recorded with the Yamhill County Recorder. The applicant shall file a copy of the recorded deed restriction with the Director. The deed restriction shall state that the properties are to be considered one lot for planning and zoning purposes, and that the properties shall not be conveyed separately prior to them being divided in accordance with regulations of the city.

(2) The plat vacation process as described in O.R.S. 271.080 to 271.230.

(3) The replat process as described in O.R.S. 92.180-190.

(4) A property line adjustment, subdivision plat or partition plat that effects the consolidation of the property.

(B) *Properties considered consolidated.* In any of the following circumstances, adjacent properties shall be considered consolidated into a single lot for purposes of this code, whether or not any of the processes under division (A) above have occurred, and whether or not specifically requested by the owner.

(1) The owner of both properties has constructed a structure over the property line separating the two properties.

(2) A deed has been recorded conveying a portion of a property to an adjoining property owner, and either the purpose of the deed was to effect a property line adjustment, or the portion conveyed does not meet the minimum lot dimension standards of this code.

(3) Vacated right-of-ways shall be considered a portion of the abutting property to which title was conveyed through the process.

(4) A consolidation of properties was required as a condition of permit approval.

(C) *Restoring consolidated properties as separate lots.* Properties that have been consolidated may not be restored as separate lots unless approved by the Director. Properties consolidated through the

partition, subdivision, vacation, or replat process may be restored only through the partition, subdivision, or replat process. The Director may approve restoring other properties as separate lots through a Type I process, provided the following criteria are met:

(1) The individual lots each meet the lot dimension standards of this code.

(2) There are no structures within the yard setbacks of the property line separating the two lots.

(3) Any permit condition or other circumstance that would have required the consolidation of the properties is no longer valid. (Ord. 2000-2537, passed 11-6-00)

§ 151.236 PROPERTY LINE ADJUSTMENTS.

The following procedures apply to any property line adjustment.

(A) The applicant shall file a Type I application on a form provided by the Director. The application shall include a tentative property line adjustment plan meeting the requirements for a tentative partition plan, as set forth in § 151.241.1, and such other material as required by the Director.

(B) The Director may approve, approve with conditions, or deny the application based on the following criteria:

(1) The property line adjustment does not create more lots than existed prior to the adjustment.

(2) The adjustment does not create any substandard condition relative to this code, including lot area, lot width, setbacks, and access. If any of the original lots do not meet these standards, the adjusted lots may remain non-conforming provided:

(a) The adjustment cannot reasonably or practically bring the lots into conformity.

(b) The adjustment does not worsen the non-conforming status of the lots.

(C) Following approval of the property line adjustment, the applicant shall:

(1) File deeds with the County Recorder conforming to the approved property line adjustment and O.R.S. 92.190.

(2) File a survey with the County Surveyor of the adjusted property line(s). Exceptions to this requirement are:

(a) Where all parcels affected are greater than ten acres; or

(b) Where the adjustment relocates a common boundary of lots in a subdivision or a parcels in a partition a distance of even width along the common boundary.

(3) File a copy of the recorded deeds and survey with the Director. (Ord. 2000-2537, passed 11-6-00)

LAND DIVISION PROCEDURES

§ 151.240.1 DIVISION OF LAND.

No land may be divided without first obtaining a development permit.

(A) No land may be divided prior to approval of a partition or subdivision in accordance with this code.

(B) A land division is processed by approving a tentative plan prior to approval of the final land division plat or map. Land divisions shall be processed under the Type II procedure unless a hearing is requested pursuant to § 151.023(G). These procedures shall apply to the tentative plan approval. If there is compliance with the approved tentative plan requirements and conditions, the Director shall approve final plats and maps for land divisions as a Type I development permit. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.240.2 TENTATIVE PLAN APPLICATION AND COPIES.

An application for tentative plan approval of a land division shall be made by the person proposing the land division on a form provided by the Director and meeting the submittal requirements identified in this code and in the application provided by the Director.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.241.1 PARTITION APPLICATIONS.

The tentative plan shall be drawn with pencil or india ink on a good quality linen tracing cloth or suitable drafting material having the same or better characteristics of strength, stability and transparency, and shall show all pertinent information to scale. The scale shall be standard, being 1" = 10', 20', 30', 40', 50', 100' or multiples of 100'. The tentative plan shall contain the following information:

(A) Date, North point, scale, dimensions of all lines and a vicinity map locating the partitioning in relation to the surrounding area.

(B) Name and address of the land owner, all title holders, subdivider, mortgagee, if any, and the surveyor employed to make necessary surveys and prepare the description of each tract involved.

(C) A statement regarding contemplated sewage disposal systems and water supply systems.

(D) For land adjacent to and within the tract to be partitioned, the locations, names and existing widths of streets, location and size of sewer and water lines (including laterals, drainage ways, and the location of power poles and any easements).

(E) Outline and location of existing buildings, trees and features to remain in place.

(F) Outline and location of existing buildings, trees, and features to be removed.

(G) Contour lines related to federal or city data.

(H) Legal description for each newly created parcel.

(I) Preliminary site grading and utility plan.

(J) Such additional information as is required by the Director.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.241.2 PARTITION REQUIREMENTS - TYPE II.

The Director shall approve a partition of three parcels or less under a Type II procedure if the resulting parcels comply with the following approval criteria:

(A) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the reasonable development of such remainder or adjoining land or access thereto.

(B) The partition complies with this code and implementing ordinances and resolutions.

(C) Either:

(1) Improvements to be completed as part of the partition will be completed prior to final plat approval; or

(2) The partitioner will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure the completion of all required improvements; or

(3) A local improvement district shall have been formed to complete the required improvements; or

(4) The required improvements are contained in a city or other government agency capital improvement project that is budgeted and schedule for construction.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2529, passed 7-3-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.242.1 SUBDIVISION APPLICATIONS.

(A) *Drafting.* The tentative plan shall show all pertinent information, normally at a scale of one inch equals 100 feet. For subdivision, the scale may be increased or decreased to fit standard size sheets of 18 inches by 24 inches. However, in all multiples of 100 feet to the inch. Tentative plans for subdivisions shall be prepared by an Oregon Registered Engineer or Oregon Licensed Land Surveyor.

(B) *Information required.* The application itself or the tentative plan must contain the following information with respect to the subject area:

(1) Name and block numbering of proposed subdivisions. Except for the words "town," "city," "place," "court," "addition," or similar words, the name shall be clearly different than, and clearly pronounced different than, the name of any other subdivision in the county, unless the subject subdivision is contiguous to or platted by the same party that platted the preceding subdivision bearing that name. All subdivisions must continue the block numbers of the subdivision of the same name last filed.

(2) The date, north point, and scale of the drawing, and sufficient description to define the location and boundaries of the proposed subdivision and the names of all recorded subdivisions contiguous to such area.

(3) The names and addresses of the owner and engineer or surveyor.

(4) The location of existing and proposed right-of-way lines for existing or projected streets as shown on the transportation system plan.

(5) The locations, names and widths and grades of all existing and proposed streets and roads.

(6) Contours on the site and within 100 feet of the site.

(a) One-foot contour intervals for ground slopes up to five percent.

(b) Two-foot contour intervals for ground slopes between five and ten percent.

(c) Five-foot contour intervals for ground slopes exceeding ten percent.

(7) Preliminary site grading plan, prepared by an Oregon registered engineer or land surveyor.

(8) The approximate width and location of all existing and proposed easements for public utilities, and all reserve strips proposed to satisfy requirements which may be required as provided for in § 151.687 of this code.

(9) The approximate radii of all curves.

(10) The general design of the proposed subdivision including the approximate dimension of all proposed lots and parcels.

(11) The approximate location of areas subject to inundation of storm water, and the location, width, and direction or flow of all water courses.

(12) The existing and proposed uses of the property, including the location of all existing structures that the applicant intends will remain in the subject area.

(13) The domestic water system proposed to be installed, including the source, quality, and quantity of water, if from other than a public water supply.

(14) All proposals for sewage disposal, flood control and easements or deeds for drainage land, including profiles of proposed drainage ways.

~~(A5)~~ public areas proposed to be dedicated by the applicant and the proposed uses thereof.

~~(A6)~~ public improvements proposed to be made or installed, and the time within which such improvements are envisioned to be completed.

~~(A7)~~ legal description and drawing of the boundaries of the entire area owned by the applicant of which the proposed subdivision is a part; provided that where the proposal comprises all of such area a written statement of such fact shall accompany the tentative plan.

~~(A8)~~ line and location of existing buildings, features, and trees (in excess of four inches d.b.h.) to remain in place on the site and within 100 feet of the site.

~~(A9)~~ line and location of existing buildings, features, and trees (in excess of four inches d.b.h.) to be removed on the site.

~~(A10)~~ additional information as is required by the Director.

(C) *Traffic study.* A traffic study shall be submitted for any project that generates in excess of 40 trips per p.m. peak hour. This requirement may be waived by the Director when a determination is made that a previous traffic study adequately addresses the proposal and/or when off-site and frontage improvements have already been completed which adequately mitigate any traffic impacts and/or the proposed use is not in a location which is adjacent to an intersection which is functioning at a poor level of service. A traffic study may be required by the Director for projects below 40 trips per p.m. peak hour where the use is located immediately adjacent to an intersection functioning at a poor level of service. The traffic study shall be conducted according to the City of Newberg Design Standards. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2507, passed 3-1-99; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.242.2 SUBDIVISION REQUIREMENTS - TYPE II AND TYPE III.

(A) The Director (Type II) or Planning Commission (Type III) shall approve a subdivision of four parcels or more under a Type II or Type III procedure if the resulting parcels comply with the following approval criteria:

(1) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or adjoining land or access thereto.

(2) The subdivision complies with this code including but not limited to §§ 151.450 through 151.617 and §§ 151.241.1 et seq.

(3) Either:

(a) Improvements required to be completed prior to final plat approval; or

(b) The subdivider will substantially complete, as defined by city policies, required improvements prior to final plat approval, and enter into a performance agreement to complete the remaining improvements. The performance agreement shall include security in a form acceptable to the city in sufficient amount to insure completion of all required improvements; or

(c) A local improvement district shall have been formed to complete the required improvements; or

(d) The required improvements are contained in a city or other government agency capital improvement project that is budgeted and scheduled for construction.

(B) A subdivision shall be processed under the Type II or Type III procedure. Notice shall be mailed to the applicant and those identified by this code to receive notice.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2529, passed 7-3-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.243.1 FUTURE STREET PLAN REQUIRED.

(A) A future street plan shall not be required for any portion of an area for which a proposed street layout has been established by either the Newberg comprehensive plan, its implementing ordinances, or a future street plan previously approved by a hearing body.

(B) A future street plan is a conceptual plan in that its adoption does not establish a precise alignment. The plan shall demonstrate how access can be provided to adjoining parcels. The Director may require that a traffic study be submitted where access to the land division includes streets that are classified as a collector or greater functional classification status.

(C) Except as provided in division (A) of this section, a future street plan shall be filed and reviewed as part of an application for a partition or subdivision. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.244 TYPE III FUTURE STREET PLAN.

The City Council or Planning Commission may initiate a future street plan for any area which impacts traffic conditions inside the urban growth boundary, providing the street plan is given consideration through a Type III procedure. (Ord. 96-2451, passed 12-2-96)

§ 151.245 RECORDING AND FILING A FUTURE STREET PLAN.

Upon final approval, a future street plan shall be recorded with the County Recorder's Office as follows:

(A) Evidence of recordation shall be provided to the Director by the applicant; or if there is no applicant, the Director shall record the future street plan.

(B) Filed by the Director in the future street plan index. (Ord. 96-2451, passed 12-2-96)

§ 151.246 REVISION OF A FUTURE STREET PLAN.

An approved future street plan may be revised by the Director under a Type II procedure in conjunction with a land division application or by the Planning Commission under a Type III procedure. An approved future street plan may be revised by the City Council in conjunction with a revision of the Newberg comprehensive plan or implementing ordinances or resolutions. (Ord. 96-2451, passed 12-2-96)

§ 151.247 CRITERIA FOR APPROVAL OF A FUTURE STREET PLAN.

(A) Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the safe and healthful development of such remainder or any adjoining land or access thereto; and

(B) The future street plan complies with this code and its implementing ordinances and resolutions, and standards and policies of the Newberg Comprehensive Plan and the Newberg Transportation System Plan.

(C) Except as provided by the provisions of this code, approval as stipulated herein does not relieve the applicant from other applicable provisions of Oregon Revised Statutes or contained elsewhere in this code.

(D) The future street plan shall adequately serve traffic with an origin in, and destination to, the area of the plan.

(E) The future street plan shall provide for the logical extension of streets, to serve circulation, and access needs within a district or neighborhood. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.248 TENTATIVE PLAN EXPIRATION DATE.

Within two years following the effective date of the approval of a tentative land division plan, the subdivider or partitioner shall complete all required conditions, submit the final plat to the Director for review and approval, and record the final plat with the County Recorder.

(Ord. 96-2451, passed 12-2-96 Am. Ord. 2000-2529, passed 7-3-00)

§ 151.249 EXTENSION OF PARTITIONS AND SUBDIVISIONS.

(A) *Partition extension.* The Director may, upon written request of the applicant prior to the expiration of the approval and following the Type I procedure, grant a one time extension for an additional six months upon a written finding that the facts upon which the approval was based have not significantly changed. If the Director makes a finding that the circumstances have changed to a minor extent, through the Type II process the Director may add conditions to the partition to bring the partition into compliance with all current standards and ordinances and extend the expiration date for up to six months. If conditions have substantially changed the Director shall direct the applicant to refile the application for a new partition.

(B) *Subdivision extension.* Upon written request of the applicant prior to the expiration of the approval and following the Type I procedure, the Director may grant a one time extension for an additional six months upon a written finding that the facts upon which the approval was based have not significantly changed. If the Director makes a finding that the circumstances have changed to a minor extent, through the Type II process, or Type III process, an extension may be granted. The Type II process shall be used if original approval was a Type II. The Type III process shall be used if the original approval was a Type III. The Director or Planning Commission may add conditions to the subdivision to bring the subdivision into compliance with all current standards and ordinances and extend the expiration date for up

to six months. If conditions have substantially changed the Director shall direct the applicant to refile the application for a new subdivision.

(C) *Phased subdivisions.* Each filing of a final plat (phase) shall extend the expiration of the tentative plan by 12 months from the date of its expiration or the date of the previously filed final plat, whichever is later. Prior to the expiration of each phase, the applicant may apply for an extension to the phase which is about to expire through division (B) of this section. The extension of a phase under division (B) of this section shall also extend any subsequent phases. The total number of extensions shall not extend the tentative plan more than five years from its approval. (Ord. 96-2451, passed 12-2-96)

§ 151.249.2 MODIFICATIONS OF AN APPROVED TENTATIVE PLAN.

Following tentative plan approval, an applicant may make modifications to the plan consistent with the following procedures. The Director will determine whether the proposed modification is a minor or major modification.

(A) Minor modifications are those in keeping with the general layout and pattern of the approved plan and include minor relocations of property lines, streets, walkways and alleys, changes in the site utilities, and changes which do not increase the number of lots by more than 5%. The Director may approve a minor modification under a Type I procedure upon finding that the modification is substantially consistent with the approved tentative plan, is consistent with the provisions of this code and the conditions of approval, and does not have substantially greater impacts on surrounding properties than the original tentative plan.

(B) Other modifications including changes which increase the number of lots by more than 5%, changes in the patterns of streets, alleys, or walkways, changes in the site utilities and substantial changes to the conditions of approval are major modifications. A change in the whole application or substantive parts of

an application shall be considered a new application. Major modifications may be approved using the same procedure as the original application. The criteria for approval shall be those for tentative plan approval.

(C) An application for a modification shall be considered a new application for purposes of the 120-day time limit for processing applications in accordance with § 151.041 and state statutes. The applicant shall acknowledge in writing that this is a new application for purposes of the 120-day rule.

(D) The City Council shall establish a fee for modification of approved tentative plans by resolution. (Ord. 2003-2590, passed 11-3-03)

§ 151.250.1 FINAL PARTITION MAP AND SUBDIVISION PLAT; DRAFTING REQUIREMENTS.

(A) *Partition plats.* The application for final partition plat approval shall include one original and two copies drawn in black India ink in clear and legible form. Original plats shall be in substantial conformity to the Yamhill County Surveyor's specifications and requirements, but in any event, scale requirements shall be the same as specified for tentative plans. Sheet dimensions and size shall be specified by the County Recording Officer for partition plats offered for record.

(B) *Subdivision plats.*

(1) The application for a final subdivision plat approval shall include one original and two copies, 18 inches by 24 inches in size, and drawn with black India ink. Original plats shall be in substantial conformity to the approved tentative plan and shall conform to the Yamhill County Surveyor's specifications and requirements pertaining to material that has characteristics of adequate strength and permanency, as well as suitability for binding and copying.

(2) Plats shall be in clear and legible form and may be placed on as many sheets as necessary, but a face sheet and an index page shall be included

for all plats placed upon three or more sheets. Scale requirements shall be the same as specified for tentative plans. Lettering and the dedication and affidavit of the surveyor shall be of such size or type as will be clearly legible, and no part of the plat shall come nearer than one inch to any edge of any sheet. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.250.2 SUBMISSION AND REVIEW OF FINAL PLAT OR FINAL PARTITION MAP.

(A) The final plat or final partition map shall be submitted to the Director for final approval. Through a Type I procedure, the Director shall determine whether the material conforms with the tentative plan approval requirements and with the applicable requirements of this code. If the Director determines that the material does not conform, the applicant shall make corrections.

(B) The Director shall determine that:

(1) Streets, roads, and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities.

(2) Streets and roads held for private use and indicated on the tentative plan of such subdivision or partition have been approved by the city.

(3) The proposal complies with this code.

(4) The plat is in substantial conformity with the provisions of the tentative plan for the subdivision or partition, as approved.

(5) The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water supply systems.

(6) Explanations of all common improvements required as conditions of approval of the tentative plan of the subdivision or the partition have been accounted for and referenced on the plat.

(7) There will exist an adequate quantity and quality of water and an adequate sewage disposal system to support the proposed use of the land described in the plat.

(8) Either:

(a) Improvements as required by this code or as a condition of tentative plan approval have been filed with the Director; or

(b) A performance agreement (bond) or suitable substitute as agreed upon by the city and applicant has been filed with the Director in sufficient amount to insure the completion of all required improvements; or

(c) A petition for improvements has been properly executed by the applicant who is effecting the partition or subdivision and will be assessed for said improvements.

(9) Taxes, as well as public liens, assessments and fees, with respect to the subdivision area have been paid, or adequate guarantee has been provided assuring said taxes, liens, assessments and fees will be paid prior to recordation.

(10) The subdivider has entered into agreement with the city relating to completion of improvements, payment of sewer and water hookup fees, inspection fees, public lands payments, monumentation or any other elements deemed relevant to the purpose of this or any other city ordinance, state statute or federal law.

(C) If the conditions set at the time of tentative land division approval are not fulfilled and the final plat or final map is not recorded by the tentative plan expiration date, the tentative land division approval is null and void.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.250.3 INFORMATION REQUIRED.

The proposed subdivision or partition plat must contain the following information with respect to the subject area:

(A) Traverse computation sheets, subdivision only: The registered engineer or licensed land surveyor signing the surveyor's affidavit on the plat, shall submit traverse computation sheets for the use of the Director in checking the plat. Said sheets shall include the calculation of each course and distance by latitude and departure of all the boundary lines and of all lot lines in the subdivision area, and for all boundaries and all lots in the plat which are not completely rectangular in shape. Each course and distance and each latitude and departure shall be tabulated on the traverse computation sheet in the proper order to show the closure limits of each area, and rectangular coordinates of every angle point shall be extended and shown from a single meridian and from a single point of origin.

(B) The lengths of all chords, radii points of curvature, and tangent bearings shown.

(C) The lot lines of all lots within the subdivision, or all parcel lines within the partition, with dimensions in feet and hundredths of feet and with all bearings shown. Area in square feet for each lot or parcel.

(D) Numbers designating each block and lot in subdivisions, lots in each block to be numbered consecutively.

(E) Where a plat is an addition to a plat previously recorded, numbers of blocks and lots in consecutive continuation from such previous plat.

(F) The description and location of all permanent reference monuments, including a tie to the city coordinate system.

(G) An affidavit of a surveyor, who is an Oregon registered engineer or Oregon licensed land surveyor, and who surveyed the subdivision or partition,

conforming to the requirements of the Oregon Revised Statutes.

(H) The date, north point, and scale of the drawing, and a sufficient description to define the location and boundaries of the subdivision or partition.

(I) The locations, names and widths of all streets, existing or created.

(J) The location, dimensions and purpose of all recorded and proposed public and private easements and all reserve strips shall be shown on the subdivision or partition plat along with the County Clerk's recording reference if the easement has been recorded with the County Clerk.

(K) A designation of all areas covered by water, and the location, width and direction of flow of all water courses.

(L) A designation of all areas dedicated by the applicant, including proposed uses, and an effective written dedication thereof.

(M) Designation of all donations to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal and water systems, the donation of which was made a condition of approval of the tentative plan for the subdivision or partition.

(N) A copy of all protective deed restrictions being proposed.

(O) A title report issued by a Title Insurance Company licensed by the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.251 APPROVAL SIGNATURES FOR FINAL PARTITION MAP AND SUBDIVISION PLAT.

(A) Approval of a final partition map, together with the effective date shall be noted in writing on the final map by the Director.

(B) Approval of a final subdivision plat shall be acknowledged by including thereon the authorized signature of:

(1) The Director, whose signature shall certify that the final plat conforms to the conditions of tentative plan approval.

(2) The county assessor certifying that all taxes on the property have been paid or bonded for in accordance with state law.

(3) The county or city surveyor, that the subdivision plat complies with applicable survey laws.

(4) The City Recorder, whose signature shall certify that all liens on the property have been paid.

(C) Deliver the approved subdivision plat to the office of the County Clerk for recording.

(D) Return an exact copy of the recorded plat to the Director. The copy shall be made with permanent black india type ink or silver halide permanent photocopy on three millimeter polyester film.
(Ord. 96-2451, passed 12-2-96)

STANDARDS FOR LAND DIVISIONS

§ 151.252.1 DEDICATION.

(A) *Generally.* The Director may require right-of-way for adequate and proper streets, including arterials, collector streets, local streets, and other streets, to be dedicated to the public by the applicant of such design and in such locations as are necessary

to facilitate provision for the transportation and access needs of the community and the subject area in accordance with the purpose of this code.

(B) *Special safety requirements.* Where necessary to insure safety, reduce traffic hazards, and promote the welfare of the general public and residents of the subject area, the Director may require that local streets be so designated as to discourage their use by non-local traffic.

(C) *Ownership verification of dedications.* In the event approval of a land division is conditioned upon the dedication of a portion of the area to the public, the applicant shall submit to the Director a title report issued by a Title Insurance Company licensed in the State of Oregon, verifying ownership by the applicant of the real property that is to be dedicated to the public.

(D) *Approval required on dedications.* No instrument dedicating land to the public shall be accepted for recording unless such instrument bears the approval of the Director.

(E) Inclusion of a transportation route in the Transportation Plan is intended to indicate the public's need to acquire a public right-of-way in the area through legally and constitutionally allowed means. Notwithstanding other provisions of this code or the Comprehensive Plan, inclusion of such a route does not restrict the use of the property by the owner who owns the property when the route is first included in any city plan, unless the review body finds the restriction is exempt from those provisions of O.R.S. Chapter 197, as amended by Ballot Measure 37, passed November 2, 2004, or that just compensation will be paid in accordance with that section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2916, passed 5-16-05)

§ 151.252.2 LOT AND PARCEL SIDE LINES.

As far as is practicable, lot and parcel side lines shall run at right angles to the street upon which the

lots or parcels face, except that on curved streets they shall be radial to the curve.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.252.3 SUITABILITY FOR INTENDED USE.

All lots and parcels shall be suitable for the purpose for which they are intended to be used. No lot or parcel shall be of such size or design as to be detrimental to the health, safety, or sanitary needs of the residents of the subdivision or partition, or of such lot or parcel, as determined by the Director, in accordance with this code.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.252.4 FUTURE SUBDIVISION OR PARTITION OF LOTS OR PARCELS.

Where the subdivision or partition will result in a lot or parcel one-half acre or larger in size, which in the judgment of the Director is likely to be further divided in the future, the Director may require that the location of lot and parcel lines and other details of layout be such that future division may readily be made without violating the requirements of this code, and without interfering with orderly extension of adjacent streets. Any restriction of buildings within future street locations shall be made a matter of record if the Director deems it necessary for the purpose of future land division.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.252.5 PLATTING STANDARDS.

(A) *Drainage.* Where land in the subdivision or partition is or will be periodically subject to accumulations of surface water, or is traversed by any water course, channel, stream, or creek, the Director may require the applicant to provide for adequate unrestricted drainage over drainage land by dedicating

to the public easements therefor approved by the Director for protection of such needs by conveying ownership of such drainage purposes to the city or to an incorporated drainage district, or domestic water supply district, within which such land may be located.

(B) *Railroads.*

(1) *Crossings.* Special requirements may be imposed by the Director, including but not limited to provisions for separation of street and railroad grades, connection with any railroad crossing, which will immediately affect the safety of the residents of the subdivision or partition, for the protection of such residents and the safety of the general public in accordance with the purpose of this code.

(2) *Subdivision or partition adjacent to right-of-way.* Where the subdivision or partition is adjacent to a railroad right-of-way, and the surrounding economic and physical conditions indicate such property will be used for industrial purposes in the normal growth of the community, all streets shall be located at a sufficient distance from said right-of-way to allow for reasonable sites for industrial use adjacent to said right-of-way.

(C) *Partial development.* Where the subdivision or partition include only a part of the area owned by the applicant, the Director may require a sketch of a tentative layout of streets in the remainder of said ownership.

(D) *Unsuitable areas.* Areas subject to slippage, flooding, or other natural hazards, shall not be divided in a manner that would be dangerous to the health and safety of those who would live in said areas, or the general public.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

DEVELOPMENT AGREEMENTS

**§ 151.255 DESCRIPTION AND PURPOSE;
APPLICABILITY.**

(A) A development agreement is made between a property owner and the city and is adopted by the city by ordinance. It is intended as a tool to create quality developments. The agreement allows the city to change the zoning of a property contingent on the applicant constructing a certain project, completing certain conditions, or complying with certain standards. The agreement may also allow the city and an applicant to coordinate in the provision of facilities to serve the development.

(B) A development agreement may do any of the following:

(1) Designate the zoning district, comprehensive plan designations, and sub-districts that will be applied to a property upon execution of the agreement, upon successful completion of the terms of the agreement, and in case of failure to complete the terms of the agreement.

(2) Require specific performance conditions for development of the property. These performance conditions may include, but are not limited to, construction of public facilities, dedication or reservation of land for right-of-ways, easements, or open spaces, construction of certain amenities, or other conditions proper for the development.

(3) Create certain standards or specifications for development.

(4) Create review processes by which development under the plan is approved.
(Ord. 2000-2537, passed 11-6-00)

§ 151.256 DURATION; CONTENT.

(A) The agreement shall specify the duration of the agreement, which may not exceed four years for a development of fewer than seven lots or seven years

for a development of seven or more lots. The agreement may specify when construction will begin, when phases will be completed, and what extension opportunities are available.

(B) A development agreement shall contain all those items listed in O.R.S. 94.504. In addition, the development agreement shall specify:

(1) The zoning district, comprehensive plan designations, and sub-districts that will be applied to a property upon adoption, upon successful completion of the terms of the agreement, and in case of failure to complete the terms of the agreement.

(2) The signature of the applicant.
(Ord. 2000-2537, passed 11-6-00)

§ 151.257 PROCEDURE; CRITERIA.

(A) A property owner or duly authorized agent may submit a proposed development agreement for approval.

(B) In addition, in lieu of denying an application that would otherwise not meet applicable criteria, the Planning Commission or City Council may request that an applicant prepare a development agreement for consideration in conjunction with the application, including reasonable extensions of the time periods for decision making to allow preparation and review of the agreement. The applicant is under no obligation to do so, but may risk denial of an application.

(C) The city shall process the request for development agreement approval using a Type III procedure. The development agreement shall be adopted by the City Council by ordinance.

(D) The fee collected shall be the fee for the zone change, annexation, or other approval that is requested in conjunction with the development agreement.

(E) The criteria for approval for a development agreement shall be those criteria for a zoning map amendment, design review approval, planned

development approval, or other processes that otherwise would be applied to the property.
(Ord. 2000-2537, passed 11-6-00)

§ 151.258 AMENDMENTS; CANCELLATION; ZONING MAP.

(A) The development agreement may be amended or canceled by mutual consent of the parties to the agreement or their successors in interest, and by ordinance of the City Council using a Type III process.

(B) Should the development agreement include a zone change, any such change shall be noted on the official zoning map. If the zone change is contingent on meeting certain conditions, then the map shall include a note such to that effect such as an asterisk or LU designation.
(Ord. 2000-2537, passed 11-6-00)

§ 151.259 EXPIRATION OR DETERMINATION OF FAILURE TO COMPLETE.

Should the applicant fail to meet the terms and conditions contained in the agreement in the time frames specified, then the zoning of the property shall revert as specified in the development agreement and other approvals shall be null and void.
(Ord. 2000-2537, passed 11-6-00)

ANNEXATIONS

§ 151.260 STATEMENT OF PURPOSE.

The city finds that annexation is the first step to converting future urbanizable lands to urbanizable land within the Newberg Urban Growth Boundary, and that as such it is an important part of the process of providing timely and orderly urban development. The city also recognizes that the development of lands at an urban density must include the provision of an adequate level of required urban services such as

sewer, water, and roads. Policies and procedures adopted in this code are intended to carry out the directives of the citizens of Newberg and the Newberg comprehensive plan, and to insure that annexation of lands to the city is incorporated into the process of providing a timely and orderly conversion of lands to urban uses. The City Charter requires that, unless otherwise mandated by state law, annexation may only be approved by a majority of those voting.

(Ord. 96-2451, passed 12-2-96)

§ 151.261 CONDITIONS FOR ANNEXATION.

The following conditions must be met prior to or concurrent with city processing of any annexation request:

(A) The subject site must be located within the Newberg Urban Growth Boundary or Newberg Urban Reserve Areas.

(B) The subject site must be contiguous to the existing city limits.

(Ord. 96-2451, passed 12-2-96)

§ 151.262 QUASI-JUDICIAL ANNEXATION CRITERIA.

The following criteria shall apply to all annexation requests:

(A) The proposed use for the site complies with the Newberg comprehensive plan and with the designation on the Newberg comprehensive plan map. If a redesignation of the plan map is requested concurrent with annexation, the uses allowed under the proposed designation must comply with the Newberg comprehensive plan.

(B) An adequate level of urban services must be available, or made available, within three years time of annexation, except as noted in division (E) below. An adequate level of urban services shall be defined as:

(1) Municipal sanitary sewer and water service meeting the requirements enumerated in the Newberg comprehensive plan for provision of these services.

(2) Roads with an adequate design capacity for the proposed use and projected future uses. Where construction of the road is not deemed necessary within the three-year time period, the city shall note requirements such as dedication of right-of-way, waiver of remonstrance against assessment for road improvement costs, or participation in other traffic improvement costs, for application at the appropriate level of the planning process. The city shall also consider public costs for improvement and the ability of the city to provide for those costs.

(C) Findings documenting the availability of police, fire, parks, and school facilities and services shall be made to allow for conclusionary findings either for or against the proposed annexation. The adequacy of these services shall be considered in relation to annexation proposals.

(D) The burden for providing the findings for divisions (A), (B) and (C) of this section is placed upon the applicant.

(E) The City Council may annex properties where urban services are not and cannot practically be made available within the three year time frame noted in division (B) above, but where annexation is needed to address a health hazard, to annex an island, to address sewer or water connection issues for existing development, to address specific legal or contract issues, to annex property where the timing and provision of adequate services in relation to development is or will be addressed through legislatively adopted specific area plans or similar plans, or to address similar situations. In these cases, absent a specific legal or contractual constraint, the Council shall apply an interim zone, such as a limited-use overlay, that would limit development of the property until such time as the services become available.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2006-2640, passed 2-21-06)

§ 151.263 ANNEXATION PROCEDURES.

All annexation requests approved by the City Council shall be referred to the voters in accordance with the requirements of this code and O.R.S. 222.

(A) Annexation elections are normally scheduled for the biennial primary or general elections which are held in May and November of even numbered years. Applications for annexation shall be filed with the Planning Division before 5:00 p.m. on October 1 for a primary ballot election in May and before 5:00 p.m. on April 1 for a general ballot election in November. An applicant may request that the Council schedule an annexation ballot measure for a special election date. Applications proposed for review at a special election must be filed with the city eight months prior to the proposed special election date. Filing of an annexation application and having the application deemed complete does not obligate the city to place the annexation question before the voters at any particular election. This division does not obligate the city to process an annexation application within any time frame not required by ordinance or state statute.

(B) The application shall be processed in accordance with the Type III processing procedures outlined in this code. Once the Director receives a completed application for annexation, he/she shall schedule a recommendation hearing before the Planning Commission. The Planning Commission shall make a recommendation to the City Council as to whether or not the application meets the criteria contained in § 151.262. This decision shall be a quasi-judicial determination and not a legislative determination. The Planning Commission may also recommend denial of an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to recommend denial of an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

(C) Following the Planning Commission hearing, the Director shall schedule a City Council hearing to consider the request. The City Council shall conduct a quasi-judicial hearing and determine whether or not the application meets the criteria contained in § 151.262. The hearing at the City Council shall be considered a new hearing. If additional testimony is submitted, the Council may, at its own discretion, return the application to the Planning Commission for further review and recommendation. The City Council may also deny an application based upon a legislative perception of the request even though the findings support and would allow annexation. A decision to deny an annexation, even though the findings support the request, shall be specifically stated in the record and noted as a legislative recommendation separate and apart from the quasi-judicial recommendation.

(D) If the City Council approves the annexation request, the proposal may, at the City Council's sole discretion, be placed before the voters of the city as follows:

(1) The biennial primary or general elections which are held in May and November of even numbered years, or

(2) An available special election.

(E) If the city schedules the annexation election for an election other than the biennial primary or general election, the agreement of the applicant or owner of the property must be obtained. All costs associated with placing the matter on the ballot shall be paid for by the applicant or owner of the property being annexed.

(F) The city shall place a notice of the annexation election shall be published in a newspaper of general circulation in the city not more than 30 days nor less than 20 days prior to the date of the election. Such notice shall take the form of a minimum one-quarter page layout, which includes a map of the property to be annexed and unbiased information regarding the annexation.

(G) The city shall cause the property under consideration for annexation to be posted with a minimum of one sign not less than 16 square feet in size. The sign shall provide notice of the annexation election, a map of the subject property, and unbiased information regarding the annexation. The sign shall be removed by the applicant within ten days following the election day.

(H) In addition to the regular annexation fee, the applicant shall pay for all of the costs associated with the election, the ad in the newspaper, and posting of the notice. The city shall inform the applicant of the costs necessary for the newspaper ad and property posting and of the deadline for payment of these costs.

(I) Should this annexation request be approved by a majority vote of the electorate of the city at the election date as identified by resolution of the City Council, the property shall be annexed and the following events shall occur:

(1) The property shall be ordered and declared annexed and withdrawn from the Newberg Rural Fire Protection District.

(2) The territory will be changed from a county zone to a city zoning designation as indicated in § 151.268. The "Newberg, Oregon Zoning Map" shall be amended to indicate this change.

(3) The Recorder of the city is directed to make and submit to the Secretary of State, the Department of Revenue, the Yamhill County Elections Officer, and the Assessor of Yamhill County, a certified copy of the following documents:

(a) A copy of the approved ordinance.

(b) A map identifying the location of said territory.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2501, passed 12-7-98)

§ 151.264 APPLICATION REQUIREMENTS.

Applications for annexation shall be made on forms provided by the Planning Division and include the following material:

(A) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both to conduct an election within the area to be annexed, as provided by state law. The consent shall include a waiver stating that the owner will not file any demand against the city under Measure 37, approved November 2, 2004, that amended O.R.S. Chapter 197.

(B) Legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.

(C) Vicinity map and map of the area to be annexed including adjacent city territory.

(D) General land use plan indicating types and intensities of proposed development, transportation corridors (including pedestrian and vehicular corridors), watercourses, significant natural features, open space, significant stands of mature trees, wildlife travel corridors, and adjoining development.

(E) Statement of overall development concept and methods by which physical and related social environment of the site, surrounding area, and community will be enhanced.

(F) Annexation fees, as set by City Council resolution.

(G) Statement outlining method and source of financing to provide additional public facilities.

(H) Comprehensive narrative of potential positive and negative physical, aesthetic, and related social effects of the proposed development on the community as a whole and on the smaller sub-community or neighborhood of which it will become a part and proposed actions to mitigate such effects.

(I) Concurrent with application for annexation, the property may be assigned one of the following methods for development plan review:

(1) A planned unit development approved through a Type III procedure.

(2) A development agreement approved by the City Council.

(3) A contract annexation as provided for in the state statutes. Development plans must be approved and an annexation contract must be signed by the City Council in order to use the contract annexation process.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 2004-2612, passed 12-6-04)

§ 151.265 HEALTH HAZARD ANNEXATION.

The city shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the city to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval.
(Ord. 96-2451, passed 12-2-96)

§ 151.266 ISLAND ANNEXATION.

The following policies are adopted for island annexations:

(A) The city shall attempt to not create islands of unincorporated territory within the corporate limits of the city. If such an island is created, the City Council may set a time for a public hearing for the purpose of determining if the annexation should be submitted to the voters. The hearing shall be conducted in accordance with the policies and procedures contained in this code.

(B) Written notice to property owners will be made prior to annexation to allow for property owner responses. Failure to receive notice shall not in any way invalidate the annexation procedure that may be subsequently undertaken by the city.

(C) Annexation of an island shall be by ordinance, subject to approval by the voting majority.
(Ord. 96-2451, passed 12-2-96)

§ 151.267 COMPREHENSIVE PLAN AND ZONING DESIGNATIONS.

(A) The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Newberg comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Newberg comprehensive plan.

(B) Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of § 151.122 shall not be required.

<i>Comprehensive Plan Classification</i>	<i>Appropriate Zoning Classification</i>
OS	Any zoning classification
LDR	R-1
MDR	R-2
HDR	R-3
COM	C-1, C-2, or C-3 as determined by the Director
MIX	C-2, M-1, or M-2 as determined by the Director
IND	M-1, M-2, or M-3
PQ	Any zoning classification
P/PP	Any zoning classification

(C) If a zoning classification is requested by the applicant for other than that described in division (B) of this section, the criteria of § 151.122 shall apply. This application shall be submitted concurrently with the annexation application.

(D) In the event that the annexation request is denied, the zone change request shall also be denied.
(Ord. 96-2451, passed 12-2-96)

§ 151.268 COORDINATION.

Annexation requests shall be coordinated with affected public and private agencies, including, but not limited to, Yamhill County, Newberg School District, Northwest Natural Gas, Portland General Electric, and, where appropriate, various state agencies. Coordination shall be made by referral of annexation request to these bodies sufficiently in advance of final city action to allow for reviews and recommendations to be incorporated into the city records.

(Ord. 96-2451, passed 12-2-96)

§ 151.269 ANNEXATION OF NON-CONFORMING USES.

When a non-conforming use, as described in §§ 151.140 through 151.149 is annexed into the city, the applicant shall provide a schedule for the removal of the non-conforming use for the Planning Commission and City Council. At time of approval of the annexation, the City Council may add conditions to ensure the removal of the non-conforming use during a reasonable time period. The time period may vary from one year to ten years at the discretion of the City Council.

(Ord. 96-2451, passed 12-2-96)

ZONING DISTRICTS

Part 1. R-1 LOW DENSITY RESIDENTIAL DISTRICT

§ 151.280 DESCRIPTION AND PURPOSE.

The R-1 Low Density Residential District is intended for low density, urban single family residential and planned unit development uses. A stable and healthful environment, together with the full range of urban services, makes this the most important land use of the community. The R-1 District is intended to be consistent with the “Low

Density Residential” designation of the comprehensive plan.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99)

§ 151.281 PERMITTED BUILDINGS AND USES.

In the R-1 Low Density Residential District the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code:

(A) Accessory buildings and uses normal and incidental to the uses permitted in this section and § 151.282.

(B) Agricultural uses, limited to the following:

(1) Berry and bush crops.

(2) Flower gardening.

(3) Orchards, tree crops, the raising and harvesting of.

(4) Truck gardening, the raising and harvesting of vegetables for home consumption.

(C) Churches, subject to the following conditions:

(1) Dedication and improvements of public streets.

(2) Conveyance or dedication of public utility easements, as determined by the city.

(D) Churches, when using existing buildings.

(E) Day nurseries.

(F) Group care homes.

(G) Home occupation.

(H) Manufactured homes on individual lots provided the homes meet the development standards set forth in §§ 151.640 through 151.642.

(I) Modular homes.

(J) Open space.

(K) Private and public parks, playgrounds and golf courses.

(L) Public and semi-public buildings essential to the physical and economic welfare of an area, such as fire stations, substations and pump stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed.

(M) Single family dwellings (one per lot).

(N) Schools; elementary, junior high and high schools and colleges, and related buildings in conjunction therewith, subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(O) Transportation facilities and improvements.

(P) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 99-2513, passed 8-2-99; Am. Ord. 2000-2537, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.282 BUILDING AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for the following buildings and uses in accordance with a Type III procedure.

(A) Accessory dwelling units (subject to the provisions of § 151.678).

(B) Ambulance service (satellite facility only, excluding central dispatch and maintenance functions).

(C) Bed and breakfast establishments.

(D) Community centers.

(E) Driving range.

(F) Duplex and multi-family housing subject to density restrictions and permanent open space provisions of the comprehensive plan.

(G) Group care facilities.

(H) Hospitals.

(I) Nursing homes.

(J) Planned unit developments.

(K) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure or utility pole more than 18 feet. Top hat antenna installations are prohibited.

(L) Any building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2000-2537, passed 11-6-00)

Part 2. R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

§ 151.295 DESCRIPTION AND PURPOSE.

(A) The purpose of this land use designation is to provide a wide range of housing types and styles, while maintaining a maximum overall density of 8.8 units per gross residential acre.

(B) Typical housing types will include single-family dwellings on small lots, attached and detached single family, duplex or multi-family housing, cluster developments and townhouses. The R-2 District is intended to be consistent with the "Medium Density Residential" designation of the comprehensive plan. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99)

§ 151.296 PERMITTED BUILDINGS AND USES.

In the R-2 Medium Density Residential District, the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code:

(A) Accessory buildings and uses normal and incidental to the uses permitted in this section and § 151.297 of this code.

(B) Accessory dwelling units, subject to the provisions of § 151.678.

(C) Agricultural uses, limited to the following:

(1) Berry and bush crops.

(2) Flower gardening.

(3) Orchards, tree crops, the raising and harvesting of.

(4) Truck gardening, the raising and harvesting of vegetables for home consumption.

(D) Bed and breakfast establishment (two or fewer guest sleeping rooms).

(E) Churches; subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(F) Churches, when using existing buildings.

(G) Day nurseries.

(H) Duplexes.

(I) Group care homes.

(J) Home occupations.

(K) Manufactured homes, subject to the following:

(1) Manufactured homes on individual lots provided the homes meet the development standards set forth in §§ 151.640 through 151.642.

(2) Manufactured homes within mobile home parks and mobile home subdivisions subject to the terms and conditions set forth in §§ 151.655 through 151.667.

(L) Mobile home parks and mobile home subdivisions subject to terms and conditions set forth in §§ 151.655 through 151.667.

(M) Modular homes.

(N) Multiple family dwelling.

(O) Open space.

(P) Private and public parks, playgrounds and golf courses.

(Q) Public and semi-public buildings essential to the physical and economic welfare of an area, such as fire stations, substations and pump stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed.

(R) Single family dwellings, one or more per lot subject to density restrictions.

(S) Schools; elementary, junior high and high schools, and colleges, and related buildings in conjunction therewith, subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(T) Transportation facilities and improvements.

(U) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 2000-2537, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.297 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(A) Ambulance service (satellite facility only, excluding central dispatch and maintenance functions).

(B) Bed and breakfast establishment with more than two guest sleeping rooms.

(C) Community centers.

(D) Dormitories.

(E) Driving range.

(F) Group care facilities.

(G) Hospitals.

(H) Nursing homes.

(I) Planned unit developments.

(J) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure or utility pole more than 18 feet. Top hat antenna installations are prohibited.

(K) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2000-2537, passed 11-6-00)

Part 3. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

§ 151.310 DESCRIPTION AND PURPOSE.

(A) The purpose of this land use designation is to provide multi-family dwellings of different types and styles while maintaining a maximum overall density of 21.8 units per gross residential acre.

(B) Typical housing types will include apartments, townhouses, condominiums, and cluster developments. Density may vary depending on lot size, off street parking area, transportation, landscaping and other site considerations. The R-3

District is intended to be consistent with the “High Density Residential” designation of the comprehensive plan.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99)

§ 151.311 PERMITTED BUILDINGS AND USES.

In the R-3 High Density Residential District the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code:

(A) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.312.

(B) Accessory dwelling units, subject to the provisions of § 151.678.

(C) Bed and breakfast establishment (two or fewer guest sleeping rooms).

(D) Churches; subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(E) Campus living organizations.

(F) Colleges.

(G) Day nurseries.

(H) Duplexes.

(I) Dormitories.

(J) Group care homes.

(K) Home occupations.

(L) Manufactured homes on individual lots created prior to November 17, 1992. New manufactured dwellings on individual lots will only be permitted through the planned unit development process. The homes must meet the development standards set forth in §§ 151.640 through 151.642.

(M) Multiple family dwellings.

(N) Open space.

(O) Private and public parks, playgrounds and golf courses.

(P) Private parking area.

(Q) Public and semi-public buildings essential to the physical and economic welfare of an area, such as fire stations, substations and pump stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed.

(R) Public parking area.

(S) Public or private parking garages.

(T) Single family dwellings (one or more per lot subject to density restrictions). New single family dwellings on individual lots created after November 17, 1992 will only be permitted through the planned unit development process.

(U) Schools; elementary, junior and senior high schools, and related buildings in conjunction therewith, subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(V) Transportation facilities and improvements.

(W) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect

upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 2000-2537, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.312 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

- (A) Ambulance service (satellite facility only, excluding central dispatch and maintenance functions).
- (B) Bed and breakfast establishment with more than two guest sleeping rooms.
- (C) Clinics.
- (D) Community centers.
- (E) Group care facilities.
- (F) Hospitals.
- (G) Mobile home parks.
- (H) Nursing homes.
- (I) Planned unit developments.
- (J) Private clubs, lodges and meeting halls.
- (K) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure or utility pole more than 18 feet. Top hat antenna installations are prohibited.
- (L) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect

upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2000-2537, passed 11-6-00)

Part 4. RP RESIDENTIAL-PROFESSIONAL DISTRICT

§ 151.325 DESCRIPTION AND PURPOSE.

The RP Residential-Professional District provides for a desirable mixing of residential land uses with professional office uses in possible close proximity to adjacent low density residential areas. The professional office building and parking coverage, traffic generation, open space and other external factors with the residential uses permitted. This district may be appropriate in transition areas between major land uses as indicated in the adopted plan. The RP District is intended to be consistent with commercial or residential designations on the Newberg comprehensive plan. RP Districts shall be located as to conform to goals and policies identified within the Newberg comprehensive plan and in areas which have a minimal impact on the livability or appropriate development of abutting property. (Ord. 96-2451, passed 12-2-96)

§ 151.326 PERMITTED BUILDINGS AND USES.

In the RP Residential-Professional District, the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth by this code. All uses permitted in this district except parking areas shall be contained entirely within an enclosed building.

- (A) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.327.

(B) Ambulance service (satellite facility only, excluding central dispatch and maintenance functions).

(C) Bed and breakfast establishment (two or fewer guest sleeping rooms).

(D) Churches; subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(E) Clinics.

(F) Day nurseries.

(G) Dormitories.

(H) Duplexes.

(I) General office use, provided that the use does not involve any retail activities.

(J) Group care homes.

(K) Home occupations.

(L) Laboratories, biochemical and X-ray.

(M) Manufactured homes on individual lots provided the homes meet the development standards as set forth in §§ 151.640 through 151.642.

(N) Multiple family dwellings.

(O) Offices for the following:

(1) Accountants.

(2) Attorneys.

(3) Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.

(4) Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.

(5) Insurance brokers.

(6) Lumber brokers.

(7) Real estate sales.

(8) Stockbrokers.

(P) Open space.

(Q) Planned unit developments.

(R) Private and public parks, playgrounds or community centers.

(S) Private parking area. These areas shall exist only as an accessory to a use already provided for within the RP District.

(T) Public and semi-public buildings essential to the physical and economic welfare of an area, such as fire stations, substations, and pump stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed.

(U) Single family dwellings (one or more per lot subject to density restrictions).

(V) Studios for the following:

(1) Interior decorating.

(2) Photographers.

(3) Artists.

(W) Schools; elementary, junior high and high schools and colleges, subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(X) Transportation facilities and improvements.

(Y) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any a different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2537, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.327 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings or uses in accordance with Type III procedure:

- (A) Bed and breakfast establishment with more than two guest sleeping rooms.
- (B) Group care facilities.
- (C) Hospitals.
- (D) Nursing homes.
- (E) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure or utility pole more than 18 feet. Top hat antenna installations are prohibited. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2000-2537, passed 11-6-00)

Part 5. C-1 NEIGHBORHOOD COMMERCIAL DISTRICT

§ 151.340 DESCRIPTION AND PURPOSE.

The C-1 Neighborhood Commercial District is intended to create, preserve and enhance areas of retail establishments serving frequently recurring needs in convenient locations, and is typically appropriate to small shopping clusters or integrated shopping centers located within residential neighborhoods. The C-1 District is intended to be consistent with the “commercial” designation of the comprehensive plan.

(Ord. 96-2451, passed 12-2-96)

§ 151.341 PERMITTED BUILDINGS AND USES.

In the C-1 Neighborhood Commercial District, the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code:

- (A) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.342.
- (B) Ambulance service (satellite facility only, excluding central dispatch and maintenance functions).
- (C) Bakeries (retail only).
- (D) Banks.
- (E) Barber and beauty shops.
- (F) Bed and breakfast establishments (two or fewer guest sleeping rooms).
- (G) Bicycle shops.
- (H) Book stores.
- (I) Chapels.

(J) Christmas tree sales (outdoor sales) in accordance with this code.

(K) Churches; subject to the following conditions:

(1) Dedications and improvements of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(L) Clinics.

(M) Confectionery stores with fountains (no drive-ins or walk-ups).

(N) Dairy products stores (retail only).

(O) Day nurseries.

(P) Delicatessen stores.

(Q) Dry cleaners, coin operated.

(R) Dwelling units (one per lot in conjunction with any other use permitted or conditional use in the C-1 zone).

(S) Fireworks sales (outdoor sales) from June 24 to July 6.

(T) Florist shops.

(U) Gift shops.

(V) Grocery stores or markets.

(W) Group care homes.

(X) Laundromats, hand laundries, and self-service laundries.

(Y) Meat markets.

(Z) Offices for the following:

(1) Accountants.

(2) Attorneys.

(3) Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.

(4) Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.

(5) Insurance brokers.

(6) Lumber brokers.

(7) Real estate brokers.

(8) Savings and loans.

(9) Stockbrokers.

(AA) Open space.

(BB) Pharmacy or drug stores.

(CC) Planned unit developments.

(DD) Post offices.

(EE) Public and semi-public buildings essential to the physical and economic welfare of an area such as fire stations, substations and pump stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed.

(FF) Restaurants, except drive-through.

(GG) Shoe repair shops.

(HH) Small animal clinics.

(II) Studios for the following:

(1) Interior decorators.

(2) Photographers.

(3) Artists.

(JJ) Tailor or dressmaking shops.

(KK) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.

(LL) Telephone and telegraph exchanges.

(MM)Transportation facilities and improvements.

(NN) Variety shops.

(OO) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental

effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.342 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings or uses in accordance with a Type III procedure:

(A) Bed and breakfast establishments with more than two guest sleeping rooms.

(B) Businesses that have hours of operation between 10:00 p.m. and 7:00 a.m.

(C) Offices for telephone answering services.

(D) Plant nurseries.

(E) Telecommunication facility, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2513, passed 8-2-99; Am. Ord. 2000-2536, passed 11-6-00)

Part 6. C-2 COMMUNITY COMMERCIAL DISTRICT

§ 151.355 DESCRIPTION AND PURPOSE.

The C-2 Community Commercial District is intended to create, preserve and enhance areas with a wide range of retail sales and service establishments

servicing both long and short term needs in compact locations typically appropriate to commercial clusters near intersections of major thoroughfares. This district also includes some development which does not strictly fit the description of §§ 151.355 through 151.372 but also does not merit a zoning district. The C-2 District is intended to be consistent with the “commercial” and “mixed use” designations to the comprehensive plan.

(Ord. 96-2451, passed 12-2-96)

§ 151.356 PERMITTED BUILDINGS AND USES.

(A) In the C-2 Community Commercial District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) These buildings and uses are subject to the general provisions and exceptions set forth in this code:

(1) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.357.

(2) Agricultural machinery sales and service.

(4) Ambulance services.

(5) Antique shops.

(6) Appliance sales and service.

(7) Art supplies.

(8) Artist studios.

(9) Athletic facilities.

(10) Auction sales, excluding livestock.

(11) Auditorium and theaters.

(12) Automobile parts and accessories stores.

(13) Automobile sales, new and used.

(14) Bakeries, retail.

(15) Bakeries, wholesale.

(16) Banks.

(17) Barber and beauty shops.

(18) Bars or night clubs, provided that only a liquor license of the type “Dispenser Class A” is applied for.

(19) Bed and breakfast establishments.

(20) Bicycle shops.

(21) Blood banks.

(22) Blueprinting.

(23) Book stores.

(24) Bowling alleys.

(25) Building maintenance service.

(26) Business offices, general.

(27) Camera and supplies shops.

(28) Car washes, coin operated or mechanical.

(29) Catering services.

(30) Chapels.

(31) Christmas tree sales (outdoor sales) in accordance with this code.

(32) Churches.

(33) Clinics.

- (34) Clothing apparel shops.
- (35) Clubs, lodges and meeting halls.
- (36) Cocktail lounges.
- (37) Colleges, business or private.
- (38) Confectionery stores with fountains.
- (39) Curio shops.
- (40) Dairy products stores, retail only.
- (41) Dance halls.
- (42) Day nurseries.
- (43) Data processing centers.
- (44) Delicatessen stores.
- (45) Department stores.
- (46) Drapery stores.
- (47) Dress and millinery shops.
- (48) Driving ranges - private.
- (49) Dry cleaning establishments; coin operated, custom and self-service.
- (50) Dwelling units, provided the units are above any use permitted in §§ 151.355, 151.356 and 151.357. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
- (51) Electrical and electronic supplies, retail.
- (52) Equipment sales (limited to self-propelled equipment, if not within an enclosed building).
- (53) Fireworks sales (outdoor sales) from June 24 to July 6.
- (54) Floor covering stores.
- (55) Florist shops.
- (56) Furniture stores.
- (57) Garden supplies.
- (58) Gift shops.
- (59) Grocery stores, markets and supermarkets, including food products stores, retail.
- (60) Group care homes provided they comply with the requirements listed under "Dwelling Units," listed above in this section.
- (61) Hardware stores.
- (62) Health studios.
- (63) Hobby shops, including slot racing tracks.
- (64) Hospitals.
- (65) Hotels, motels, motor hotels or tourist courts.
- (66) Interior decorators studios.
- (67) Jewelry stores.
- (68) Laboratories, medical and dental.
- (69) Laundromats, hand laundries and self-service laundries.
- (70) Leather goods stores.
- (71) Liquor stores, package.
- (72) Lockers, cold storage, retail use only.
- (73) Locksmith shops.
- (74) Marine sales and service.

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- (75) Miniature golf courses.
- (76) Mobile home sales and service.
- (77) Mortuaries.
- (78) Movie theaters.
- (79) Music or dancing schools.
- (80) Music stores.
- (81) Newspaper printing establishments.
- (82) Offices for the following:
 - (a) Accountants.
 - (b) Attorneys.
 - (c) Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.
 - (d) Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.
 - (e) General administration.
 - (f) Insurance brokers.
 - (g) Lumber brokers.
 - (h) Real estate sales.
 - (i) Savings and loans.
 - (j) Stockbrokers.
 - (k) Telephone answering services.
- (83) Office supplies and equipment stores.
- (84) Open space.
- (85) Paint and wallpaper stores.
- (86) Parking areas; public or private.
- (87) Parking garages; public or private.
- (88) Pet shops.
- (89) Photographic film processing, photo-engraving, photocopying and photostating.
- (90) Photographers studios.
- (91) Planned unit developments.
- (92) Pool and billiard halls.
- (93) Post offices.
- (94) Printing shops.
- (95) Public and semi-public buildings.
- (96) Radio and television broadcasting studios.
- (97) Radio, television and record sales and service.
- (98) Reducing salons.
- (99) Repair garages.
- (100) Research institutes (non-manufacturing).
- (101) Restaurants; including drive-through windows.
- (102) Retail building material sales, provided outside storage is visually screened.
- (103) Schools; business or private.
- (104) Secondhand stores (if conducted wholly within an enclosed building).
- (105) Service stations.

- (106) Sewing machine sales and service.
- (107) Shoe repair shops.
- (108) Shoe stores.
- (109) Skating rinks, indoor.
- (110) Small animal hospitals and clinics.
- (111) Sporting goods stores.
- (112) Storage buildings (household goods only). Mini-storage.
- (113) Surgical, medical and dental supplies and equipment stores.
- (114) Tailor shops.
- (115) Taverns.
- (116) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.
- (117) Telephone and telegraph exchanges.
- (118) Theaters.
- (119) Tobacco shops.
- (120) Toy stores.
- (121) Transit centers.
- (122) Transportation facilities and improvements.
- (123) Travel agencies.
- (124) Upholstery; automobile and furniture.
- (125) Variety shops.
- (126) Any other building or uses determined to be similar to those listed in this section. Such other

uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.357 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

- (A) Dwelling units. The permitted density shall be stated on the conditional use permit.
- (B) Fumigation chambers.
- (C) Group care facilities. The permitted density shall be stated on the conditional use permit.
- (D) Group care homes not meeting the requirements listed under permitted uses in § 151.356.
- (E) Nursing homes.
- (F) Recreational vehicle parks.
- (G) Telecommunication facility, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet.
- (H) Theaters, drive-in.
- (I) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98; Am. Ord. 2000-2536, passed 11-6-00)

Part 7. C-3 CENTRAL BUSINESS DISTRICT

§ 151.370 DESCRIPTION AND PURPOSE.

The C-3 Central Business District is intended to preserve and enhance areas within which the greatest possible concentration of retail sales and business will occur. The district will be applied to the “core” area based upon the guidelines established in the comprehensive plan. The buildings and uses permitted reflect the desire to have parking provided on a district wide basis rather than having each individual building or use provide parking. The C-3 District is intended to be consistent with the “commercial” designation of the comprehensive plan. (Ord. 96-2451, passed 12-2-96)

§ 151.371 PERMITTED BUILDINGS AND USES.

(A) In the C-3 Central Business District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) The buildings and uses are subject to the general provisions and exceptions set forth in this code:

(1) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.372.

- (2) Ambulance services.
- (3) Antique shops.
- (4) Appliance sales and service.
- (5) Art supplies.
- (6) Artist studios.
- (7) Athletic facilities, less than 40,000 square feet gross floor area (gfa).
- (8) Auditorium and theaters.

- (9) Automobile parts and accessories stores.
- (10) Bakeries, retail.
- (11) Banks.
- (12) Barber and beauty shops.
- (13) Bars or night clubs, including entertainment and sales of alcoholic beverages.
- (14) Bed and breakfast establishments.
- (15) Bicycle shops.
- (16) Billiard and pool halls.
- (17) Blood banks.
- (18) Blueprinting.
- (19) Book stores.
- (20) Bowling alleys.
- (21) Building maintenance service.
- (22) Business offices, general.
- (23) Camera and supplies shops.
- (24) Catering services.
- (25) Chapels.
- (26) Christmas tree sales (outdoor sales) in accordance with this code.
- (27) Churches, less than 40,000 square feet (gfa).
- (28) Clinics.
- (29) Clothing apparel shops.
- (30) Clubs, lodges and meeting halls.

- (31) Cocktail lounges.
- (32) Colleges, business or private, less than 40,000 square feet (gfa).
- (33) Confectionery stores with fountains.
- (34) Curio shops.
- (35) Dairy products stores, retail only.
- (36) Dance halls.
- (37) Dancing and music schools.
- (38) Data processing centers.
- (39) Delicatessen stores.
- (40) Department stores.
- (41) Drapery stores.
- (42) Dress and millinery shops.
- (43) Dry cleaning establishments; coin operated, custom and self-service.
- (44) Dwelling units, provided the units are located on the same lots as another use permitted in this section and § 151.372 and do not occupy the first floor store front area (the portion of the building closest to the primary street). There shall be no density limitation. Private parking areas or garages are not required for dwelling units located within buildings in existence prior to and including June 30, 1999. Parking shall be provided for all new dwelling units within any building constructed after June 30, 1999, in private parking areas or garages on the basis of one parking space for each dwelling unit.
- (45) Electrical and electronic supplies, retail.
- (46) Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent persons.
- (47) Fireworks sales (outdoor sales) from June 24 to July 6.
- (48) Floor covering stores.
- (49) Florist shops.
- (50) Furniture stores.
- (51) Garden supplies stores.
- (52) Gift shops.
- (53) Grocery stores, markets and supermarkets, including food products stores, retail, less than 40,000 square feet (gfa).
- (54) Group care homes provided they comply with the requirements listed "Dwelling Units," listed above in this section.
- (55) Hardware stores.
- (56) Health studios.
- (57) Hobby shops, including slot racing tracks.
- (58) Hospitals.
- (59) Hotels, motels, motor hotels or tourist courts, less than 40,000 square feet (gfa).
- (60) Interior decorators studios.
- (61) Jewelry stores.
- (62) Laboratories, medical and dental.
- (63) Laundromats, hand laundries and self-service laundries.
- (64) Leather goods stores.
- (65) Liquor stores, package.
- (66) Lockers, cold storage, retail use only.

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- (67) Locksmith shops.
- (68) Mortuaries.
- (69) Movie theaters.
- (70) Museums.
- (71) Music stores.
- (72) Newspaper printing establishments.
- (73) Offices for the following:
 - (a) Accountants.
 - (b) Attorneys.
 - (c) Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.
 - (d) Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.
 - (e) General administration.
 - (f) Insurance brokers.
 - (g) Lumber brokers.
 - (h) Real estate sales.
 - (i) Savings and loans.
 - (j) Stockbrokers.
 - (k) Telephone answering services.
 - (l) Offices similar to the above but not specifically listed.
- (74) Office supplies and equipment stores.
- (75) Open space.
- (76) Paint and wallpaper stores.
- (77) Parking areas; public or private.
- (78) Pawnshops.
- (79) Pet shops.
- (80) Pharmacies and drug stores.
- (81) Photographers studios.
- (82) Photographic film processing, photoengraving, photocopying and photostating.
- (83) Places of entertainment and amusement, if conducted within a wholly enclosed building.
- (84) Planned unit developments.
- (85) Post offices.
- (86) Printing shops.
- (87) Public and semi-public buildings.
- (88) Radio and television broadcasting studios.
- (89) Radio and television sales and service.
- (90) Reducing salons.
- (91) Restaurants, excluding drive-through windows.
- (92) Secondhand stores (if conducted wholly within an enclosed building).
- (93) Sewing machine sales and service.
- (94) Shoe repair shops.
- (95) Shoe stores.
- (96) Skating rinks, indoor.
- (97) Sporting goods stores.

(98) Surgical, medical and dental supplies and equipment stores.

(99) Tailor shops.

(100) Taverns.

(101) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.

(102) Telephone and telegraph exchanges.

(103) Theaters.

(104) Tobacco shops.

(105) Toy stores.

(106) Transit centers.

(107) Transportation facilities and improvements.

(108) Travel agencies.

(109) Upholstery; automobile and furniture.

(110) Variety shops.

(111) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2513, passed 8-2-99; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.372 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally listed in § 151.211, the Planning

Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(A) Automobile sales, new and used.

(B) Athletic facilities, 40,000 square feet or greater (gfa).

(C) Car washes, coin operated or mechanical.

(D) Churches, 40,000 square feet or greater (gfa).

(E) Colleges, business or private, 40,000 square feet or greater (gfa).

(F) Drive-up service windows, provided the use is accessory to an existing business on the site with walk-in customer service, i.e. drive-up bank window.

(G) Dwelling units, provided that the dwelling units front onto Hancock or Second Street, that no more than 30% of a single street frontage of a block is occupied by residential uses, that contiguous residential street frontage is less than 60 lineal feet, and that the density and parking standards for allowable dwelling units are met.

(H) Garages, repair.

(I) Grocery stores, markets and supermarkets, including food products stores, retail, 40,000 square feet or greater (gfa).

(J) Group care facilities.

(K) Hotels, motels, motor hotels or tourist courts, 40,000 square feet or greater (gfa).

(L) Parking garages; public or private, with first floor street frontage of 40 feet or less for ingress and egress. First floor development shall be commercial.

(M) Service stations.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2003-2580, passed 6-5-03)

§ 151.373 BUILDINGS AND USES PROHIBITED.

Drive-up service windows, except those in service on April 1, 2002, or drive-up service windows accessory to an existing business on the site with walk-in customer service. Changes in use will not be allowed.

(Ord. 2002-2561, passed 4-1-02; Am. Ord. 2003-2580, passed 6-5-03)

Part 7.1. C-4 RIVERFRONT COMMERCIAL DISTRICT

§ 151.375 DESCRIPTION AND PURPOSE.

(A) The purpose of the Riverfront Commercial District is to allow a mix of uses that:

(1) Provides a variety of retail and commercial types that benefit from proximity to the river.

(2) Encourages access to and enjoyment of the Willamette River.

(3) Ensures compatibility of development with the surrounding area and minimizes impacts on the environment.

(B) Properties zoned in this district must comply with the development standards of the Riverfront Sub-district, as described in §§ 151.527.1 through 151.527.5 of the Newberg Development Code. (Ord. 2002-2564, passed 4-15-02)

§ 151.376 PERMITTED BUILDINGS AND USES.

(A) Accessory buildings and uses.

(B) Apartments, lofts, condominiums, and similar dwelling units located above ground floor commercial uses.

(C) Antique shops.

(D) ATM facilities.

(E) Bakeries.

(F) Barbers and beauty shops.

(G) Bed and breakfast establishments.

(H) Bicycle shops.

(I) Biking and hiking facilities and trails.

(J) Boat charter services.

(K) Book stores.

(L) Breweries and brew pubs.

(M) Clothing and apparel shops.

(N) Confectionary stores – walk-up windows permitted.

(O) Convenience markets without fueling facilities.

(P) Curio shops.

(Q) Delicatessen stores.

(R) Equestrian trails.

(S) Galleries.

(T) Gift shops.

(U) Jewelry stores.

(V) Marine sales offices. No outdoor display permitted.

(W) Museums.

(X) Music stores.

(Y) Offices for accountants, attorneys, engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics, insurance brokers, real estate brokers.

(Z) Open space.

(AA) Parks.

(BB) Pharmacy or drug stores.

(CC) Public and semi-public buildings.

(DD) Restaurants, no drive-through permitted.

(EE) Single dwelling residential located above permitted ground floor retail or commercial uses.

(FF) Sporting goods stores.

(GG) Studios for interior decorators, photographers, artists.

(HH) Studios for manufacturing of pottery items, metal sculpture, and other artistic products.

(II) Taverns.

(JJ) Toy stores.

(KK) Transit centers.

(LL) Transportation facilities and improvements.

(MM) Travel agencies.

(NN) Variety shops.

(OO) Water-oriented recreation facilities.

(PP) Wine-tasting rooms or wine shops.

(QQ) Any other building or uses determined to be similar to those listed in this section. Such other

uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

(Ord. 2002-2564, passed 4-15-02; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.377 BUILDINGS AND USES PERMITTED CONDITIONALLY.

(A) Banquet facilities.

(B) Boat launching or moorage facility or marina, including marine gas facilities accessory to a marina use.

(C) Chapels or churches, provided that the combined gross square footage on any single lot does not exceed 10,000 square feet in area.

(D) Conference or meeting facilities.

(E) Hotels, motels, or inns.

(F) Pilings, piers, docks, and similar in-water structures.

(G) Resorts.

(H) Shared parking facilities.

(I) Trolley or transit utility facilities.

(J) In order to evaluate visual and sound buffers, lot and design review, architectural features and the compatibility of land uses in an area that will serve as a gateway to the riverfront area, buildings and uses on lots located within 75 feet of River Street on the following properties shall be evaluated through a conditional use permit:

(1) Properties described as lot 10 and lot 11 within the Newberg Riverfront Master Plan; and,

(2) That portion of the industrial property located adjoining and east of River Street, between 12th Street and 14th Street.

(Ord. 2002-2564, passed 4-15-02)

§ 151.378 BUILDINGS AND USES PROHIBITED.

- (A) Car washes.
- (B) Convenience markets with fueling facilities drive-through uses.
- (C) Marine or boat repair.
- (D) Marine sales with outdoor display.
- (E) Mini storage or warehousing.
- (F) Motor vehicle or equipment repair and painting.
- (G) Outdoor storage or sales, except for as accessory to a primary use or for temporary vendors quick vehicle servicing. 2002 S-2
- (H) Service stations and uses involving with hazardous substances or materials.
- (I) Single dwelling residential, except where above another permitted use.
- (J) Vehicle sales.

(Ord. 2002-2564, passed 4-15-02)

Part 8. M-1 LIMITED INDUSTRIAL DISTRICT

§ 151.385 DESCRIPTION AND PURPOSE.

The M-1 Limited Industrial District is intended to create, preserve and enhance areas containing manufacturing and related establishments with limited external impact, and with an open and attractive setting. The M-1 Limited Industrial District is typically appropriate to locations near major thoroughfares and non-manufacturing areas. The M-1 District is intended to be consistent with the “industrial” and “mixed use” designations of the comprehensive plan.

(Ord. 96-2451, passed 12-2-96)

§ 151.386 PERMITTED BUILDINGS AND USES.

In the M-1 Limited Industrial District, the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code.

(A) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.387.

(B) Athletic facilities.

(C) Blueprinting.

(D) Dwelling unit for a caretaker or superintendent whenever the use requires the on-site residence of such person.

(E) Laboratories, general.

(F) Manufacturing and assembling of precision optics.

(G) Manufacturing and assembling of precision testing equipment.

(H) Manufacturing, assembling, testing and repairing of components, devices, equipment and systems of an electronic or electromechanical nature, such as, but not limited to:

(1) Audio systems and phonographs.

(2) Coils, tubes, semi-conductors and similar components.

(3) Communication, navigation, transmission and reception equipment, control equipment and systems.

(4) Data processing equipment and systems.

(5) Metering instruments.

(6) Radar, infra-red and ultraviolet equipment.

(7) Radio and television equipment.

(8) Scientific and chemical instruments.

(I) Manufacturing of ceramic products using only previously pulverized clay and fired in kilns using low pressure gas or electricity (brick and tiles not permitted).

(J) Offices for engineers, architects, landscape architects, surveyors, and those engaged in the practice of designing, drafting or graphics.

(K) Open space.

(L) Parking areas; public and private.

(M) Parking garages; public and private.

(N) Photographic film processing, photoengraving, photocopying and photostating.

(O) Planned unit development.

(P) Public and semi-public buildings.

(Q) Restaurants.

(R) Roller skating rink.

(S) Service stations.

(T) Storage buildings and warehouses for household or consumer goods.

(U) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.

(V) Transit centers.

(W) Transportation facilities and improvements.

(X) Wholesale businesses, provided all material storage is within an enclosed building.

(Y) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.387 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(A) Contractor's equipment or storage.

(B) Dwellings, in conjunction with a permitted use.

(C) Manufacturing, compounding, bottling, processing, packaging, or treatment of food and beverage products.

(D) Recreational vehicle parks.

(E) Telecommunication facility, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet.

(F) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00)

Part 9. M-2 LIGHT INDUSTRIAL DISTRICT

§ 151.400 DESCRIPTION AND PURPOSE.

The M-2 Light Industrial District is intended to create, preserve and enhance areas containing a wide range of manufacturing and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access. The M-2 District is intended to be consistent with the "industrial" designation of the comprehensive plan. (Ord. 96-2451, passed 12-2-96)

§ 151.401 PERMITTED BUILDINGS AND USES.

(A) In the M-2 Light Industrial District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) The buildings and uses are subject to the general provisions and exceptions set forth in this code:

(1) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.402.

(2) Agricultural machinery, sales and service.

(3) Agricultural supplies, including hatcheries.

(4) Agricultural uses or any other enterprise customarily carried on in the field of general agriculture (Except no slaughterhouses permitted).

(5) Ambulance services.

(6) Athletic facilities.

(7) Auction sales.

(8) Automobile painting shops.

(9) Automobile sales, new and used.

(10) Bakeries, wholesale and retail.

(11) Banks.

(12) Building maintenance services.

(13) Building material sales.

(14) Car washes; coin operated or mechanical.

(15) Christmas tree sales (outdoor sales) in accordance with this code.

(16) Churches.

(17) Convenience grocery stores with a maximum of 2000 square feet.

(18) Driving ranges, private.

(19) Dwelling unit, limited to one, for a caretaker or superintendent, whenever the use requires the on-site residence of such person.

(20) Equipment rental yards.

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- (21) Equipment sales.
- (22) Feed and seed stores.
- (23) Fireworks sales (outdoor sales) from June 24 to July 6.
- (24) Laboratories.
- (25) Manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of articles, such as:
- (a) Blueprints.
 - (b) Boats.
 - (c) Ceramics.
 - (d) Communication components and systems.
 - (e) Cosmetics.
 - (f) Creameries.
 - (g) Drugs.
 - (h) Electrical and electronic components and systems.
 - (i) Farm equipment.
 - (j) Food and beverage products (except fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages).
 - (k) Films.
 - (l) Garments.
 - (m) Glass.
 - (n) Greenhouses.
 - (o) Instruments.
 - (p) Iron, steel and sheet metal, provided no blast furnaces, shall be allowed.
 - (q) Leather.
 - (r) Novelties.
 - (s) Paint, provided no boiling is allowed.
 - (t) Paper and cellophane, except no manufacturing.
 - (u) Perfumes.
 - (v) Plaster, except no manufacturing.
 - (w) Plastics, except no manufacturing.
 - (x) Signs.
 - (y) Soil.
 - (z) Stone monuments.
 - (aa) Textiles.
 - (bb) Tires, limited to recapping, retreading and rebuilding.
 - (cc) Tobacco.
 - (dd) Toiletries.
 - (ee) Upholstery.
 - (ff) Wood, but excluding operation of a planing mill.
 - (gg) Other items similar to the preceding items the manufacturing, compounding, processing, assembling, treatment, testing or repairing of which shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the items specifically listed.

- (26) Miniature golf courses.
- (27) Mobile homes sales and service.
- (28) Open space.
- (29) Planned unit developments.
- (30) Plumbing supplies and services.
- (31) Printing and publishing.
- (32) Public and private parking areas and garages.
- (33) Radiator service and repairs.
- (34) Radio towers and transmitters.
- (35) Repair garages.
- (36) Restaurants.
- (37) Secondhand stores.
- (38) Service stations.
- (39) Skating rinks, indoors.
- (40) Small animal clinics.
- (41) Small animal hospitals.
- (42) Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height.
- (43) Theaters, drive-ins.
- (44) Transit centers.
- (45) Transportation facilities and improvements.
- (46) Trucking yards and terminals.
- (47) Truck sales and services.
- (48) Wholesaling, warehousing and storing of the following, provided that all outdoor storage shall be enclosed within site-obscuring fences or walls:
 - (a) Automobiles, truck and buses.
 - (b) Consumer goods.
 - (c) Contractors equipment.
 - (d) Building materials, except no on-site wrecking or burning.
 - (e) Food products.
 - (f) Liquid fuel.
 - (g) Household goods.
 - (h) Ice.
 - (i) Lumber, except no log storage or ponding.
 - (j) Other items similar to the preceding items, including non-specific or general wholesaling, warehousing and storage that shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the items specifically listed.
- (49) Utility distribution plants and service yards.
- (50) Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the buildings and uses specifically listed, provided that retail sales uses, unless specifically listed, shall only be incidental and indirectly related to the operation of permitted industrial uses.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2003-2576, passed 1-6-03; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.402 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(A) Dwellings, in conjunction with a permitted use.

(B) Manufacturing, compounding, bottling, processing, packaging, or treatment of fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages.

(C) Recreational vehicle parks.

(D) Telecommunication facilities including radio towers and transmitters, which are more than 100 feet in height or which are less than 2,000 feet apart.

(E) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2003-2576, passed 1-6-03)

Part 10. M-3 HEAVY INDUSTRIAL DISTRICT

§ 151.415 DESCRIPTION AND PURPOSE.

The M-3 Heavy Industrial District is intended to create, preserve and enhance areas containing manufacturing or related establishments which are potentially incompatible with most other establishments, and is typically appropriate to areas which are most distant from residential areas, and which have extensive rail or shipping facilities. The

M-3 District is intended to be consistent with the "industrial" designation of the comprehensive plan. (Ord. 96-2451, passed 12-2-96)

§ 151.416 PERMITTED BUILDINGS AND USES.

In the M-3 Heavy Industrial District, the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code.

(A) Industrial and commercial buildings and uses. All manufacturing, warehousing, wholesaling, compounding, assembling, processing, storing, researching, treating or testing or any combination thereof of items, materials, goods, or natural mineral resources is permitted.

(B) In addition, all industrial and commercial uses not listed elsewhere in this code, and those uses listed in § 151.401 are permitted.

(C) Commercial buildings and uses. The following buildings and uses devoted primarily to retail sales and service, in addition to those listed in § 151.401, shall be permitted:

(1) Theaters, drive-ins.

(2) Other retail sales and services, provided that they shall only be incidental and directly related to the operation of industrial uses.

(D) Residential buildings and uses: Dwelling units, limited to one, for a caretaker or superintendent, whenever the use requires the on-site residence of such person.

(E) Other buildings and uses:

(1) Accessory buildings and uses normal and incidental to the building and uses permitted in this section and § 151.417.

(2) Administrative and sales offices, limited to those related to permitted industrial uses.

(3) Private parking areas or garages.

(4) Public and semi-public buildings.

(5) Transportation facilities and improvements.

(F) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.417 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure.

(A) Abattoirs, provided that they are enclosed within a building; (including storage of live or dead animals).

(B) Automobile and building or wrecking yards.

(C) Billboards.

(D) Incineration or reduction of garbage, dead animals, offal or refuse.

(E) Those uses listed in § 151.402 shall also be permitted as conditional uses in this district.

(F) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96)

Part 11. SPRINGBROOK DISTRICT (SD)

§ 151.425 DESCRIPTION AND PURPOSE.

(A) The Springbrook District is intended to provide for a mixture of residential uses, commercial uses, hospitality/public uses, and light industrial uses (Map 1). This mixture will provide for flexibility and innovation in design.

(B) This district has the following main features:

(1) A single lot or contiguous lots continuously controlled and administered by a single entity;

(2) Development governed by a master plan approved and accepted by the City Council which ensures internal compatibility of uses and activities as well as compatibility with adjacent uses;

(3) Regulation of users by restrictive covenants that ensure a high standard of design and development. (Ord. 96-2451, passed 12-2-96)

§ 151.426 PERMITTED BUILDINGS AND USES.

(A) Residential uses including:

(1) Bed and breakfast establishments that comply with § 151.630.

(2) Day nurseries.

(3) Duplexes.

(4) Home occupations.

(5) Multi-family dwellings.

(6) Integrated residential and commercial uses.

(7) Planned unit developments.

(8) Single family homes.

(B) Commercial uses shall constitute no more than ten acres of the district (excluding open space) and may include:

(1) Antique stores.

(2) Art galleries.

(3) Bakeries (retail only).

(4) Beauty and barber shops.

(5) Book stores.

(6) Clothing stores.

(7) Confectionery stores w/fountain (no drive-ins/walk-ups).

(8) Dairy products stores (retail only).

(9) Day nurseries.

(10) Delicatessens.

(11) Dry cleaners/laundry.

(12) Farming.

(13) Financial services (banks, savings and loans, and the like).

(14) Florist shops.

(15) Furniture/interior design stores.

(16) Gift shops.

(17) Grocery stores or markets.

(18) Jewelry shop.

(19) Liquor/wine stores.

(20) Office supply outlets.

(21) Offices.

(22) Pharmacy/drug stores.

(23) Photo developing stores.

(24) Photographer.

(25) Real estate sales offices.

(26) Record/video stores.

(27) Restaurants and coffee shops (no drive-throughs).

(28) Sporting goods stores.

(29) Theater/entertainment facilities (no drive-ins).

(30) Travel agencies.

(31) Variety stores.

(32) Any other buildings or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

(C) Hospitality/public uses including:

(1) Church/chapel.

(2) Day-care facilities.

(3) Education facilities.

(4) Equestrian facilities.

(5) Exhibition halls, galleries, museums and other public use gathering places of a similar nature.

(6) Health, recreation and exercise facilities, including health clubs, swimming pools and spas; tennis, racquetball and handball courts; golf courses and driving ranges; and similar uses.

(7) Health care facilities.

(8) Hotels, motels, guest lodges, bed and breakfast facilities, inns, destination resorts and associated convention facilities and meeting rooms; eating and drinking establishments; public use and tourist facilities and information services.

(9) Library.

(10) Post office branch facility or satellite facility.

(11) Train depot/round house.

(12) Public and private parks including campgrounds and recreational vehicle parks.

(13) Public and semi-public buildings essential to the physical and economic welfare of an area, such as fire stations, substations and pump

stations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage of materials shall be allowed.

(14) Open space.

(15) Transportation facilities and improvements.

(16) Any other buildings or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

(D) Light industrial manufacturing providing that:

(1) Activities are entirely enclosed within a building or structure whose appearance is compatible with the existing industry or office design.

(2) Odors, noise, vibration or other emissions are controlled within the confines of the building or structure.

(3) There is no outdoor storage of raw materials or finished products.

(4) There is no movement of heavy equipment on and off the site, except truck deliveries.

(5) There is no outdoor testing of products or processes on the site.

(6) There is no highly combustible, explosive, or hazardous material or waste. Such uses may include the following:

(a) Laboratories.

(b) Manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of articles, provided the following applicable performance standards are adhered to:

1. Ceramics.

2. Communication components and systems.

3. Cosmetics.

4. Electrical and electronic components and systems.

5. Films.

6. Garments.

7. Glass.

8. Instruments.

9. Iron, steel and sheet metal, provided no blast furnaces, shall be allowed.

10. Leather.

11. Novelties.

12. Paper and cellophane, except no manufacturing.

13. Plastics, except no manufacturing.

14. Textiles.

15. Wood, but excluding operation of a planing mill.

(c) Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the buildings and uses specifically listed, provided that retail sales uses, unless specifically listed, shall only be incidental and indirectly related to the operation of permitted industrial uses.

(E) Accessory uses.

(1) Parking areas and structures.

(2) Private recreational facilities as part of a multi-family residential complex.

(3) Signs, on-building and ground mounted.

(a) All signs shall be of a standardized design.

(b) Ground-mounted signs shall not exceed 50 square feet.

(c) The ground-mounted signs shall not exceed ten feet in height from grade.

(d) No more than one ground-mounted sign per street frontage per development site.

(e) No sign shall be capable of movement.

(4) Temporary buildings for uses incidental to construction work, which shall be removed upon completion or abandonment of the construction work.

(5) Utility carrier cabinets.

(6) Other uses and structures customarily accessory and incidental to a primary use. (Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98; Am. Ord. 2005-2619, passed 5-16-05)

Part 12. INSTITUTIONAL DISTRICT (I)

§ 151.435 DESCRIPTION AND PURPOSE.

The Institutional District is intended to support and promote institutional uses. The district provides for the establishment and growth of large institutional campuses as well as accessory and compatible uses. The Institutional District is intended to be consistent with the public-quasi public designation of the comprehensive plan. (Ord. 96-2451, passed 12-2-96)

§ 151.436 PERMITTED BUILDINGS AND USES.

(A) Ambulance and paramedic services.

(B) College and university facilities, including uses such as:

(1) Administrative offices.

(2) Athletic, recreation, health and exercise facilities.

(3) Auditoriums and theaters directly associated with a college or university.

(4) Book stores.

(5) Buildings for storage of documents, records, testing and research equipment, experimental models and other personal property related to the principal use.

(6) Cafeteria and kitchen facilities.

(7) Church/chapel.

(8) Class room facilities.

(9) Computer support center.

(10) Dormitories.

(11) Exhibition halls, galleries, museums and other public use gathering places of a similar nature.

(12) Faculty offices.

(13) Group living.

(14) Laboratory facilities.

(15) Libraries.

(16) Maintenance facilities including, garages for storage and maintenance of motor vehicles, central heating, air conditioning and refrigeration plants, electrical substations, water storage, drainage and treatment facilities; laundry facilities, and other related maintenance facilities allowed by the Director.

- (17) Parking facilities/garages.
- (18) Personal counseling office.
- (19) Post office branch facilities.
- (20) Radio towers and transmitters, subject to the standards listed in § 151.012.
- (21) Student activity offices.
- (22) Supporting retail sales and services subject to special conditions (§ 151.437), intended to serve Institution employees, students, patients and not the general public, including: restaurant-delicatessen-coffee shop, florist/gift shop, and associated sale services.
- (C) Community center.
- (D) Continuing Care Retirement Community (CCRC), including such use as:
- (1) Administrative offices.
- (2) Adult foster care.
- (3) Ancillary services.
- (4) Assisted living facility.
- (5) CCRC medical office.
- (6) Independent living units.
- (7) Nursing and long term care.
- (8) Residential care facilities.
- (E) Day care facilities.
- (F) Durable medical supplies/equipment sales and rental.
- (G) Guest house.
- (H) Hospital or medical center, including uses such as:
- (1) Administrative offices.
- (2) Assisted living facility.
- (3) Biomedical research and education facilities for physicians, nurses and other allied health professionals.
- (4) Blood collection facilities.
- (5) Cafeteria and kitchen facilities.
- (6) Chapel.
- (7) Conference rooms and auditoriums.
- (8) Diagnostic facilities such as: laboratories, X-ray, magnetic resonance imaging (MRI), and CATSCAN facilities.
- (9) Emergency rooms.
- (10) Exercise, fitness and rehabilitation facilities.
- (11) Hospital-based and private physician offices.
- (12) Hospital pharmacy.
- (13) In-patient nursing units which provide overnight care.
- (14) Maintenance facilities including housekeeping, laundry, power plant and related uses.
- (15) Medical libraries.
- (16) Medical scientific, educational, and development facilities.
- (17) Nursing and long-term care facilities.
- (18) Outpatient clinics.
- (19) Parking facilities/garages.
- (20) Surgical suites.

(21) Support retail uses subject to special conditions (§ 151.437), such as: branch bank, flower/gift shop, coffee shop/delicatessen, optician and durable medical supplies sales and rentals.

(I) Medical laboratories, biochemical and X-ray facilities.

(J) Mobile diagnostic service.

(K) Offices for medically-related non-profit foundations or fund raising organizations (e.g. American Cancer Society).

(L) Offices for physicians, dentists and other allied health care professionals.

(M) Outpatient laboratories.

(N) Parks, play grounds, open space and outdoor recreation facilities.

(O) Pharmacy.

(P) Single family, duplex (two family) and multi-family housing.

(Q) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.

(R) Transit center.

(S) Transportation facilities and improvements.

(T) Any other buildings or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood areas than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2519, passed - -99; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.437 SPECIAL CONDITIONS FOR PERMITTED USES WITHIN THE INSTITUTIONAL DISTRICT.

Retail sales and services are allowed on an institutional campus as secondary uses to service the primary institutional use, when the following conditions are met:

(A) The use is identified as part of the Institution’s Master Plan.

(B) Retail and service uses shall be conducted wholly within a completely enclosed building; a restaurant, delicatessen or coffee shop may include an outdoor eating area, provided the area consists of an all-weather surface not greater than 900 square feet in gross floor area and screened from public rights-of-way and residential areas.

(C) Drive-up windows and drive-through restaurant services shall not be permitted. (Ord. 96-2451, passed 12-2-96)

§ 151.438 BUILDINGS AND USES PERMITTED CONDITIONALLY.

The following buildings and uses are permitted conditionally:

(A) Helipad.

(B) Telecommunication facility, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00)

***Part 13. COMMUNITY FACILITIES (CF)
DISTRICT***

§ 151.445 DESCRIPTION AND PURPOSE.

The purpose of the Community Facilities (CF) district is to provide for appropriate development of community facilities, primarily by public agencies or non-profit organizations. It encourages the preservation of natural resources and open space resources inventoried in the Comprehensive Plan. The CF District is intended to be consistent with the Parks (P) and Public-Quasi Public (PQ) designations in the Comprehensive Plan. It may also be consistent with any other designation of the Comprehensive Plan as determined by City Council.

(Ord. 2001-2550, passed 5-21-01)

§ 151.446 PERMITTED BUILDINGS AND USES.

(A) Accessory buildings and uses normal and incidental to the uses permitted in this section and § 151.447.

(B) Agricultural uses, limited to the following:

(1) Berry and bush crops.

(2) Flower gardening.

(3) Orchards, tree crops, the raising and harvesting of.

(4) Truck gardening, the raising and harvesting of vegetables for home consumption.

(C) Open Space.

(D) Public parks, playgrounds and golf courses

(E) Public buildings essential to the physical and economic welfare of an area, such as fire station substations. Interior yards for these uses shall be a minimum of 25 feet in width. No stockpiling or storage shall be allowed.

(F) Transportation facilities and improvements.

(G) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 2001-2550, passed 5-21-01; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.447 CONDITIONAL USES PERMITTED.

(A) Churches.

(B) Community center.

(C) Driving range.

(D) Non-profit hospitals and associated medical structures.

(E) Schools; elementary, junior high and high schools and colleges, and related buildings in conjunction therewith, subject to the following conditions:

(1) Dedication and improvement of public streets.

(2) Conveyance or dedication of public utility easements as determined by the city.

(F) All uses listed in § 151.211 are prohibited. (Ord. 2001-2550, passed 5-21-01)

Part 14. AIRPORT OVERLAY (AO) SUB-DISTRICT

§ 151.450 PURPOSE.

(A) In order to carry out the provisions of this Airport Overlay Sub-district, there are hereby created and established certain zones which include all of the land lying beneath the airport imaginary surfaces as they apply to Sportsman Airpark in Yamhill County. Such zones are shown on the current Airport Overlay

zone map and the Displaced Threshold Approach Surface Map, prepared by the Newberg Engineering Department (Maps 2-3).

(B) Further, this overlay zone is intended to prevent the establishment of air space obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety and welfare of the people of the City of Newberg and Yamhill County.
(Ord. 96-2451, passed 12-2-96)

§ 151.451 PERMITTED USES WITHIN THE AIRPORT APPROACH SAFETY ZONE.

The following uses are permitted:

(A) Single family dwellings, mobile homes, duplexes and multi-family dwellings, when located greater than 3,000 feet from the displaced threshold, and when authorized in the primary zoning district, provided the landowner signs and records in the deed and mortgage records of Yamhill County a hold harmless agreement and aviation and hazard easement and submits them to the airport sponsor and the Planning and Building Department.

(B) All uses permitted in the primary zoning district, provided the use does not create the following:

- (1) Electrical interference with navigational signals or radio communication between the airport and aircraft.
- (2) Visual interference which would make it difficult for pilots to distinguish between airport lights or other lighting.
- (3) Impairment of visibility.
- (4) Bird strike hazards.
- (5) Endangerment or interference with the landing, taking off or maneuvering of aircraft intending to use the airport.

(6) Population densities which exceed the following limitations:

PERMITTED DENSITY TABLE

<i>Distance from the Displaced Threshold</i>	<i>Occupant Ld. (gross sq. ft. of bldg. per person)</i>
Less than 1,500 ft.	125 sq. ft.
1501 - 2000 ft.	30 sq. ft.
Greater than 2000 ft.	15 sq. ft.

(C) Roadways, parking areas and storage yards located in such a manner that vehicle lights will not make it difficult for pilots to distinguish between landing lights and vehicle lights or result in glare, or in any way impair visibility in the vicinity of the landing approach. Approach surfaces must clear these by a minimum of 15 feet.
(Ord. 96-2451, passed 12-2-96)

§ 151.452 CONDITIONAL USES WITHIN THE AIRPORT APPROACH SAFETY ZONE.

The following uses are conditional uses and shall be processed through the Type III procedure:

- (A) All uses permitted as conditional uses within the primary zoning district, provided the use does not create the following:
- (1) Electrical interference with navigational signals or radio communication between the airport and aircraft.
 - (2) Visual interference which would make it difficult for pilots to distinguish between airport lights or other lighting.
 - (3) Impairment of visibility.
 - (4) Bird strike hazards.
 - (5) Endangerment or interference with the landing, taking off or maneuvering of aircraft intending to use the airport.

(6) Population densities which exceed the standards listed in § 151.451(B)(6).

(B) Any use, building, or structure which is otherwise permitted and is within the height limits of the displaced threshold approach surface but exceeds the height limits of the Airport Approach Safety Zone. The sole criteria for approval of such uses are as follows:

(1) The use shall not create any of the conditions or hazards listed in division (A) of this section.

(2) The landowner shall sign and record in the deed and mortgage records of Yamhill County a hold harmless agreement and aviation and hazard easement and submit them to the airport sponsor and the Newberg Planning Manager.

(3) The use, building or structure shall be marked with lights as required by the State Aeronautics Division. The lights shall be installed and maintained by the applicant.
(Ord. 96-2451, passed 12-2-96)

§ 151.453 PROCEDURES.

(A) *Development permits.* An application for a development permit for any permitted use within the Airport Approach Safety Zone or the Displaced Threshold Approach Surface Zone which is subject to site design review as required by §§ 151.190 et seq. and shall include the following information:

(1) The boundaries of the airport imaginary surfaces as they relate to property boundary lines; and

(2) Location and height of all existing and proposed buildings, structures, utility lines and roads; and

(3) A statement from the Oregon Aeronautics Division indicating whether the proposed use will interfere with operation of the landing facility.

(B) *FAA notice required.* To meet the requirements of Federal Aviation Regulations Part 77, FAA Form 7460-1, Notice of Proposed Construction or Alteration, must be submitted for any construction or alteration of greater height than an imaginary surface extending outward and upward at a slope of 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of the airport. Notice is not required for construction or alteration that is shielded by existing structures or terrain as defined in Section 77.15 of Part 77.
(Ord. 96-2451, passed 12-2-96)

§ 151.454 LIMITATIONS.

(A) To meet the standards and reporting requirements established in FAA Regulations, Part 77, no structure shall penetrate into the airport imaginary surfaces as defined in this code except as provided in § 151.452(B).

(B) High density public uses as defined in this code shall not be permitted in the Airport Approach Safety Zone or the Displaced Threshold Approach Surface Zone.

(C) Following July 1990, if FAA funds are used by the city to improve or enhance the airport, new structures, buildings and dense uses shall be prohibited in the Runway Protection Zone consistent with federal requirements.

(D) Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.

(E) No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.

(F) In noise sensitive areas (within 1,500 feet of an airport or within established noise contour boundaries of 55 Ldn and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit or development approval. In areas where the noise level is anticipated to be 55 Ldn and above, prior to issuance of a building permit for construction of noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries) the permit applicant shall be required to demonstrate that the indoor noise level will not exceed 55 Ldn. The Director will review building permits for noise sensitive developments.
(Ord. 96-2451, passed 12-2-96)

Part 15. STREAM CORRIDOR SUB-DISTRICT

§ 151.465 PURPOSE.

The purpose of the Stream Corridor (SC) Overlay Sub-district is to implement the goals and policies of the comprehensive plan relating to open space, scenic, and natural resources which are intended to "...ensure that adequate land shall be retained in permanent open space use and that natural scenic and historic resources are protected." Furthermore, this sub-district is intended to "...protect, conserve, enhance, and maintain the Willamette River Greenway." The sub-district allows for a balance of protection of open space, scenic and natural resources and environmentally sensitive development. The designation of lands within this sub-district is used to provide reasonable regulation of development in or adjacent to stream corridors. This sub-district does not provide for or authorize public access to private properties designated within this sub-district. Additionally, the provisions of this sub-district do not provide measures for the public acquisition of private property.
(Ord. 96-2451, passed 12-2-96)

§ 151.466 WHERE THESE REGULATIONS APPLY.

The regulations of this subchapter apply to the portion of any lot or development site which is within a SC Overlay Sub-district. Unless specifically exempted by § 151.468, these regulations apply to the following:

(A) New structures, additions, accessory structures, decks, addition of concrete or other impervious surfaces;

(B) Any action requiring a development permit by this code;

(C) Changing of topography by filling or grading;

(D) Installation or expansion of utilities including but not limited to phone, cable TV, electrical, sanitary sewer, storm drain, water or other utilities.

(E) Installation of pathways, bridges, or other physical improvements which alter the lands within the Stream Corridor Overlay Sub-district.
(Ord. 96-2451, passed 12-2-96)

§ 151.467 GENERAL INFORMATION.

The Delineated Stream Corridor Overlay Sub-district is described by boundary lines delineated on the City of Newberg Zoning Map indicated with an SC symbol. The boundaries of the SC areas were established by an ecologist analyzing several environmental values including erosion potential, wildlife habitat, riparian water quality protection, floodplain water quality protection, natural condition, and ecological integrity. This information is contained in more detail in a document titled "CITY OF NEWBERG, STREAM CORRIDORS AS A GOAL 5 RESOURCE." This document includes a Goal 5 ESEE (Economic, Social, Environment and Energy Consequences) analysis and was the basis for the

preparation of this subchapter. The boundaries of the SC Overlay Sub-district are typically located at a logical top of bank, or where no obvious top of bank exists, are located at a distance 50 feet from the edge of the wetland.

(Ord. 96-2451, passed 12-2-96)

§ 151.468 ACTIVITIES EXEMPT FROM THESE REGULATIONS.

The following public or private uses and activities are exempt from the regulations of this subchapter:

(A) Emergency procedures or emergency activities undertaken by public or private parties which are necessary for the protection of public health, safety and welfare.

(B) Maintenance, and repair of buildings, structures, yards, gardens or other activities or uses that were in existence prior to the effective date of these regulations.

(C) Alterations of buildings or accessory structures which do not increase building coverage.

(D) The expansion of an existing structure, building, improvements, or accessory structures provided the expansion is located completely outside of the Stream Corridor Delineation Boundary.

(E) The following agricultural activities lawfully in existence as of December 4, 1996:

(1) Mowing of hay, grass or grain crops.

(2) Tilling, discing, planting, seeding, harvesting and related activities for pasture, trees, food crops or business crops, provided that no additional lands within the Stream Corridor Boundary are converted to these uses.

(F) Operation, maintenance and repair of existing irrigation, drainage ditches, ponds, waste water facilities, storm water detention or retention facilities, and water treatment facilities.

(G) Normal and routine maintenance of existing streets and utilities.

(H) Normal and routine maintenance of any public improvement or public recreational area.

(I) Measures to remove or abate hazards and nuisances including but not limited to removal of fallen, hazardous or diseased trees.

(J) Roadway and related improvements associated with a final alignment of the Newberg Bypass Road project.

(K) Maintenance and repair of existing railroad trackage and related improvements.

(L) Airport area.

(1) The removal or pruning of trees or other vegetation located within the Airport Overlay Sub-district, as established on the City of Newberg Zoning Map, that either exceed the height limits established by the overlay sub-district or are otherwise demonstrated to pose a threat to the health, safety, welfare, and general operation of the airport.

(2) The removal of undergrowth, within 500 feet east and west of the runway and 1,000 feet south of the runway, as necessary to maintain the safe operation of the airport facilities and activities. (M)

Utilities installed above or below existing street rights-of-way.

(N) Utility services using an existing pole or installation of other utilities where no more than 100

square feet of ground area is disturbed; no native trees are removed; and the area is replanted to pre-construction conditions using native plants selected from the Newberg plant list.

(O) Utility services within existing access roads or other previously improved areas where the utility service can be installed without expanding the previously improved area.

(P) The removal of any plant identified on the Newberg plant list as a nuisance plant such as Himalayan Blackberry, English Ivy, Periwinkle, Poison Oak, or Scotch Broom.

(Q) The planting or propagation of any plant identified as native on the Newberg plant list.

(R) The planting or propagation of any non-native plant provided that the area to be planted covers less than 10% of the total site area within the SC Overlay Sub-district and does not include any nuisance plants as identified on the Newberg plant list. (Ord. 96-2451, passed 12-2-96)

§ 151.469 ACTIVITIES REQUIRING A TYPE I PROCESS.

The following uses shall be processed as a Type I decision and shall be approved by the Director upon submittal of a plan indicating compliance with the accompanying criteria and the restoration standards indicated in § 151.470.

(A) The expansion of an existing single family structure, building, improvements, or accessory structures inside corridor delineation boundary provided that the following criteria have been satisfied.

(1) The expansion of a single family structure or improvement (including decks and patios) provided that it is located no closer to the stream or

wetland area than the existing structure or improvement; and

(2) The coverage of all structures within the SC Overlay Sub-district on the subject parcel shall not be increased by more than 1000 square feet of the coverage in existence as of December 4, 1996.

(3) The disturbed area is restored pursuant to § 151.470.

(4) No portion of the improvement is located within the 100 year flood boundary.

(B) Private or public service connection laterals and service utilities extensions. The disturbed area shall be restored pursuant to § 151.470.

(C) Private or public sidewalks, stairs and related lighting where the disturbed area is restored pursuant to § 151.470.

(D) Bicycle and pedestrian paths provided that the area is restored pursuant to § 151.470.

(E) Temporary construction access associated with authorized Type I uses. The disturbed area associated with temporary construction access shall be restored pursuant to § 151.470.

(F) The removal of non-native vegetation (such as blackberries) by mechanical means provided that the site is restored pursuant to § 151.470.

(G) Single family structures which are non-conforming to the standards of this subchapter, may be re-built in the event of damage due to fire or other natural hazard; provided that the structure is placed within the same foundation lines.

(Ord. 96-2451, passed 12-2-96)

§ 151.470 RESTORATION STANDARDS FOR TYPE I PROCESS.

A plan shall be approved only if the following standards can be met. This shall be shown on a plan submitted along with a Type I application.

(A) Disturbed areas, other than authorized improvements, shall be regraded and contoured to appear natural. All fill material shall be native soil. Native soil may include soil associations commonly found within the vicinity, as identified from USDA Soil Conservation Service, Soil Survey of Yamhill Area, Oregon.

(B) Replanting shall be required using a combination of trees, shrubs and grasses. Species shall be selected from natives on the Newberg plant list.

(C) Removed trees over six inches in diameter, as measured at breast height, shall be replaced at a ratio of three new trees for every one removed. All trees replaced pursuant to this section shall have an average caliper measurement of a minimum of one inch. Additional trees of any caliper may be used to further enhance the mitigation site.

(D) All disturbed areas, other than authorized improvements, shall be replanted to achieve 90% cover in one year.

(E) All disturbed areas shall be protected with erosion control devices prior to construction activity. The erosion control devices shall remain in place until 90% cover is achieved.

(F) Except as provided below, all restoration work must occur within the SC Overlay Sub-district and be on the same property. The Director may authorize work to be performed on properties within the general vicinity or adjacent to the Overlay Sub-district, provided that the applicant demonstrates that this will provide greater overall benefit to the stream corridor areas.

(Ord. 96-2451, passed 12-2-96)

§ 151.471 ACTIVITIES REQUIRING A TYPE II PROCESS.

The installation, construction or relocation of the following improvements shall be processed as a Type II decision. The proposal shall be accompanied by a plan as identified in § 151.472 and conform to the mitigation standards contained in § 151.473.

(A) Public or private street crossings, sidewalks, pathways, and other transportation improvements that generally cross the stream corridor in a perpendicular manner.

(B) Bridges and other transportation improvements that bridge the wetland area;

(C) Railroad trackage crossings over the SC Overlay Sub-district that bridge the wetland area;

(D) Water, waste water, and storm water systems already listed within approved City of Newberg master infrastructure plans;

(E) New single family residences which meet all of the following requirements.

(1) The lot was created prior to December 4, 1996, is currently vacant, has at least 75% of the land area located within the SC Overlay Sub-district and has less than 5,000 square feet of buildable land located outside the SC Overlay Sub-district.

(2) No more than one single family house and its expansion is permitted on the property which shall occupy a coverage area not to exceed 1,500 square feet in area.

(3) The single family structure shall be sited in a location which minimizes the impacts to the stream corridor.

(4) The improvements and other work are not located within the 100 year flood boundary.

(F) Reduced front yard setback. Properties within the SC Sub-district may reduce the front yard setback for single family residences or additions where the following requirements are met.

(1) The reduction in the front yard setback will allow no less than five feet between the property line and the proposed structure.

(2) The reduction in the setback will allow the footprint of the proposed structure or addition to be located entirely out of the SC Overlay Sub-district.

(3) Two, 20 foot deep off-street parking spaces can be provided which do not project into the street right-of-way.

(4) Maximum coverage within the Stream Corridor Sub-district shall not exceed 1,500 square feet.

(G) Temporary construction access associated with authorized Type II uses. The disturbed area associated with temporary construction access shall be restored pursuant to § 151.470.

(H) Grading and fill for recreational uses and activities, which shall include revegetation, and which do not involve the construction of structures or impervious surfaces.

(I) Public parks.

(J) Stream corridor enhancement activities which are reasonably expected to enhance stream corridor resource values and generally follow the restoration standards in § 151.470.

(Ord. 96-2451, passed 12-2-96)

§ 151.472 PLAN SUBMITTAL REQUIREMENTS FOR TYPE II ACTIVITIES.

In addition to the design review plan submittal requirements, all applicants for Type II activities within the SC Overlay Sub-district shall submit the following information.

(A) A site plan indicating all of the following existing conditions:

(1) Location of the boundaries of the SC Overlay Sub-district.

(2) Outline of any existing features including, but not limited to, structures, decks, areas previously disturbed, and existing utility locations.

(3) Location of any wetlands or water bodies on the site and the location of the stream centerline and top-of-bank.

(4) Within the area to be disturbed, the approximate location of all trees that are more than six inches in diameter at breast height must be shown with size and species. Trees outside the disturbed area may be individually shown or shown as crown cover with an indication of species type or types.

(5) Topography shown by contour lines at five foot vertical intervals, or less.

(6) Photographs of the site may be used to supplement the above information but are not required.

(B) Proposed development plan including all of the following:

(1) Outline of disturbed area including all areas of proposed utility work.

(2) Location and description of all proposed erosion control devices.

(3) A landscape plan prepared by a landscape architect, or other qualified design professional, shall be prepared which indicates the size, species, and location of all new vegetation to be planted.

(Ord. 96-2451, passed 12-2-96)

§ 151.473 MITIGATION REQUIREMENTS FOR TYPE II ACTIVITIES.

The following mitigation requirements apply to Type II activities. The plans required pursuant to § 151.472 shall be submitted indicating the following mitigation requirements will be met.

(A) Disturbed areas, other than authorized improvements, shall be regraded and contoured to appear natural. All fill material shall be native soil. Native soil may include soil associations commonly found within the vicinity, as identified from USDA Soil Conservation Service, Soil Survey of Yamhill Area, Oregon.

(B) Replanting shall be required using a combination of trees, shrubs and grass. Species shall

be selected from the Newberg native plant list. Planting shall be as follows:

(1) At least eight species of plants shall be used.

(2) At least two species must be trees and two species must be shrubs.

(3) No more than 50% of any seed mix used can be grass.

(4) A minimum of one tree and three shrubs shall be used for every 500 square feet of planting area.

(5) Areas to be replanted must be completed at time of final inspection or completion of the work, except as otherwise allowed by this code.

(6) Existing vegetation that can be saved and replanted is encouraged, although not required.

(C) Removed trees over six inches in diameter, as measured at breast height, shall be replaced as follows:

(1) Trees from six to 18 inches in diameter shall be replaced with a minimum of three new trees for every tree removed.

(2) Trees over 18 inches but less than 30 inches shall be replaced with a minimum of five trees for every tree removed.

(3) Trees over 30 inches shall be replaced with a minimum of eight trees for every tree removed.

(4) All trees replaced pursuant to this section shall have an average caliper measurement of a minimum of one inch. Additional trees of any size caliper may be used to further enhance the mitigation site.

(D) All disturbed areas, other than authorized improvements, shall be replanted to achieve 90% cover in one year. The Director may require a bond or other form of security instrument to ensure completion of the restoration plan. The Director shall

authorize the release of the bond or other security instrument when after one year, the restoration site has achieved the purposes and standards of this section.

(E) All disturbed areas shall be protected with erosion control devices prior to construction activity. The erosion control devices shall remain in place until 90% cover is achieved.

(F) Except as provided below, all restoration work must occur within the SC Overlay Sub-district and be on the same property. The Director may authorize work to be performed on properties within the general vicinity or adjacent to the Overlay Sub-district, provided that the applicant demonstrates that this will provide greater overall benefit to the stream corridor areas.

(Ord. 96-2451, passed 12-2-96)

§ 151.474 TYPE III PROCESS FOR EXCEPTIONS AND VARIANCES.

(A) Exceptions: Except as provided in §§ 151.468, 151.469, and 151.471, uses and activities otherwise allowed under the applicable base zone regulations shall be processed as a Type III. The applicant shall submit a Stream Corridor Impact Report (SCIR) and meet the criteria set forth in § 151.478:

(1) If the application of this subchapter would prohibit a development proposal by a public agency or public utility, the agency or utility may apply for an exception pursuant to this section.

(2) The expansion of a single family house is permitted within the SC Overlay Sub-district, provided:

(a) The single family structure shall occupy a coverage area not to exceed a maximum of 1,500 square feet in area; and

(b) The single family structure shall be placed in a location which is located no closer to the wetland.

(3) The expansion of any existing use or structure, other than single family dwellings, that is otherwise permitted within the base zoning district. The hearing body may authorize the expansion of an existing non-single family use provided the following criteria are met:

(a) The expansion is limited to no more than 1,500 square feet of coverage.

(b) The proposal does not pose an unreasonable threat to the public health, safety or welfare on or off the development proposal site; and

(c) Any alterations to a Delineated Stream Corridor shall be the minimum necessary to allow for the reasonable use of the property.

(d) The development conforms to the regulations of the Newberg Development Code.

(e) The expansion shall be placed in a location which is no closer to the wetland.

(B) Variance: A variance to the standards of this subchapter may be granted under the Type III process. A variance to this subchapter shall be processed as a Type III procedure and shall only be subject to the following criteria:

(1) A Stream Corridor Impact Report (SCIR) shall be submitted which meets the criteria indicated in § 151.478; and

(2) The proposed development will result in equal or greater conservation of the identified resources and functional values on the site and will, on balance, be consistent with the purpose of the applicable regulation.

(C) Nothing contained herein shall be deemed to require a hearing body to approve a request for a Type III permit under this section.

(Ord. 96-2451, passed 12-2-96)

§ 151.475 PROHIBITED USES AND ACTIVITIES.

The following activities or uses are prohibited within this sub-district:

(A) Except as provided in § 151.468(R), the planting or propagation of any plant identified as a nuisance plant as determined by a qualified botanist or indicated as a nuisance plant on the Newberg Plant List.

(B) The removal of native trees that are greater than six inches in diameter at breast height, except as is otherwise permitted within this subchapter.

(C) Any use dealing with hazardous substances or materials, including but not limited to gas service stations.

(D) Public pathways, except those in conjunction with public lands, public parks or public easements that have been acquired by other than eminent domain.

(Ord. 96-2451, passed 12-2-96)

§ 151.476 DENSITY TRANSFER.

For residential development proposals on lands which contain the SC Overlay Sub-district, a transfer of density shall be permitted within the development proposal site. The following formula shall be used to calculate the density that shall be permitted for allowed residential use on the property:

(A) *Step 1.* Calculate Expected Maximum Density. The Expected Maximum Density (EMD) is calculated by multiplying the acreage of the property by the density permitted within the Newberg comprehensive plan.

(B) *Step 2.* The density that shall be permitted on the property shall be equal to the EMD obtained in Step 1, provided:

(1) The density credit can only be transferred to that portion of the development site that

is not located within the designated stream corridor; and

(2) The minimum lot size required for residential dwellings, in the base zone, shall not be reduced by more than 20%; and

(3) The maximum dwelling units per net acre of buildable land, outside the SC boundary, shall not be increased by more than 20%; and

(4) The types of residential uses and other applicable standards permitted in the zone shall remain the same; and

(5) All other uses shall comply with applicable standards and criteria of the Newberg Development Code.

(Ord. 96-2451, passed 12-2-96)

§ 151.477 PROCEDURE FOR ADJUSTING AND AMENDING THE DELINEATED STREAM CORRIDOR.

(A) *Type II process.* The manager shall authorize an adjustment to the Delineated Stream Corridor, by a maximum of 15% of the corridor width as measured from the centerline of the stream to the upper edge of the Stream Corridor Boundary (from the boundary location originally adopted as part of this subchapter), provided the applicant demonstrates that the following standards are met:

(1) The location of the Delineated Stream Corridor Boundary is not reduced to less than 50 feet from the edge of a wetland or 100 year flood elevation, whichever is higher; and

(2) The lands to be eliminated do not contain sloped areas in excess of 20%; and

(3) The lands to be eliminated do not significantly contribute to the protection of the remaining Stream Corridor for water quality, storm water control and wildlife habitat.

(4) A Stream Corridor Impact Report which complies with the provisions of this subchapter is provided.

(5) The line to be adjusted has not been previously adjusted from the boundary location originally adopted as part of this subchapter.

(B) *Type III process.* The applicant may propose to amend the Delineated Stream Corridor Boundary through a Type III quasi-judicial zone change proceeding consistent with the provisions of this code (See standard zone change criteria). (Ord. 96-2451, passed 12-2-96)

§ 151.478 STREAM CORRIDOR IMPACT REPORT (SCIR) AND REVIEW CRITERIA.

A Stream Corridor Impact Report (SCIR) is a report which analyzes impacts of development within Delineated Stream Corridors based upon the requirements of this section. The Director shall consult with a professional with appropriate expertise to evaluate the report prepared under this section, in order to properly evaluate the conclusions reached in it. If outside consulting services are required to review the report, the cost of such review shall be paid by the applicant. By resolution, the City Council, shall establish a maximum fee which will be paid by the applicant.

(A) *Application requirements.* In addition to required materials for the Site Design Review application, a Stream Corridor Impact Report (SCIR) must be submitted. The SCIR shall be conducted and prepared by experienced professionals who are knowledgeable and qualified to complete such a report. The qualifications of the person or persons preparing each element of the analysis shall be included with the SCIR. The SCIR shall include the following:

(1) *Physical analysis.* The analysis shall include, at a minimum, a description of the soil types, geology, and hydrology of the site plus related development limitations. The analysis shall include development recommendations including grading procedures, soil erosion control measures, slope

stabilization measures, and methods of mitigating hydrologic impacts. For projects which affect possible wetlands, a copy of the state wetland inventory map pertaining to the site shall be provided. Notice of the proposal shall be given to the Oregon Division of State Lands and the Army Corp of Engineers.

(2) *Ecological analysis.* The analysis shall include, at a minimum, an inventory of plant and animal species occurring on the site, a description of the relationship of the plants and animals with the environment, and recommended measures for minimizing the adverse impacts of the proposed development on unique and/or significant features of the ecosystem; including but not limited to migratory and travel routes of wildlife.

(3) *Enhancement proposal.* The applicant must propose a stream corridor or wetland enhancement to be completed along with the proposed development. The enhancement shall increase the natural values and quality of the remaining stream corridor lands located on the lot.

(B) *SCIR review criteria.* The following standards shall apply to the issuance of permits requiring a SCIR, and the SCIR must demonstrate how these standards are met in a manner that meets the project purpose.

(1) Where possible, the applicant shall avoid the impact altogether.

(2) Impact on the stream corridor shall be minimized by limiting the degree or magnitude of the action, by using appropriate technology, or by taking affirmative steps to avoid, reduce or mitigate impacts.

(3) The impacts to the stream corridor will be rectified by restoring, rehabilitating, or creating comparable resource values on the site or within the same stream corridor.

(4) The remaining resource values on the stream corridor site shall be protected and enhanced, with consideration given to the following:

(a) Impacts to wildlife travel and migratory functions shall be maintained to the maximum extent possible; and

(b) Native vegetation shall be utilized for landscaping to the extent practicable; and

(c) The stream bed shall not be unnecessarily or detrimentally altered.

(5) The fill shall primarily consist of natural materials such as earth or soil aggregate, including sand, gravel, rock, and concrete. Culverts, bridges, reinforced retaining walls, or other similar structures which require man-made structural materials shall be permitted.

(6) The amount of fill used shall be the minimum required to practically achieve the project purpose.

(7) If the fill or grading is within a designated floodway, the proposed action shall maintain the flood storage capacity of the site.

(8) The proposed fill or grading shall not significantly increase existing hazardous conditions or create significant new hazardous conditions related to geology, hydrology, or soil erosion.

(9) Stream turbidity shall not be significantly increased by any change in a watercourse that results from the fill. Measures shall be taken to minimize turbidity during construction.

(10) The removal of trees over six inches in diameter shall be minimized to the extent possible to provide the necessary improvements authorized by this subchapter.

(Ord. 96-2451, passed 12-2-96)

**Part 16. HISTORIC LANDMARKS (H)
SUB-DISTRICT**

§ 151.490 PURPOSE.

The purpose of the “H” Overlay Zone is to:

(A) Safeguard the historic landmarks, buildings and sites representing significant elements of Newberg history;

(B) Promote the historic, educational, cultural, economic and general welfare of the public through the preservation, restoration and protection of these buildings, structures, sites, and objects of historic interest within the city;

(C) Foster civic pride in the accomplishments of the past;

(D) Protect and enhance the city's attractions to tourists and visitors;

(E) Carry out the provisions of the Land Conservation and Development Commission Goal 5. (Ord. 96-2451, passed 12-2-96)

§ 151.491 LANDMARK DESIGNATION.

(A) *Institution of proceedings.* The owner(s) of record may initiate the proceedings for designation of a historic landmark. Initiation of an application by a property owner is voluntary and landmark designation may not occur without an owners consent. Applications for designation shall be made available by the Director. No fee shall be charged for the application.

(B) *Application information.* The following information shall be provided for designation or modification of a historic landmark.

(1) Site plan indicating the existing and/or proposed building or buildings.

(2) Architectural elevations or pictures of the structure, and if appropriate, elevations of any proposed additions or revisions.

(3) Information regarding the age and historic character of the landmark. Where available, information indicating its association with historic events, former residents or users of the landmark, and the period or style of the landmark.

(C) *Designation procedure Type III.* Designation of a (H) Historic Landmarks Subdistrict will be treated as a zoning map amendment and shall be processed under the Type III procedure. The designation of a site specific historic landmark shall be processed under a Type III procedure and reviewed by the Planning Commission. Sites or buildings identified as historic landmarks shall be subject to this subchapter.

(D) *Designation criteria.* If the building, structure, site, or object is currently listed in the National Register of Historic Places of the United States of America, the property or properties shall be designated as a local landmark. In addition, landmarks shall include those buildings, structures, sites, or objects which have been identified as landmarks in the Historic Resources Element of the comprehensive plan. The following criteria will be used by the Planning Commission and City Council in considering other properties:

(1) The evaluation criteria used in the 1990 Historic Resources Evaluation shall be considered. Any or all of the criteria may be satisfied for designation:

(a) The landmark is associated with natural history, historic people, or with important events in national state or local history. The age of a specific building shall be considered but shall not be

deemed sufficient in itself to warrant designation as a significant historic resource.

(b) The landmark embodies distinguishing characteristics of architectural specimens inherently valuable for a study of a period, style, or method of construction.

(c) The landmark is a notable work of a master builder, designer or architect, or the structure represents a rarity of type, style, or design in the community.

(d) The landmark retains a high degree of original design, crafting, materials, and original site features.

(e) The landmark contributes to the immediate environment and the character of the neighborhood or city.

(2) The proposed landmark will serve the purpose of this section as stated in § 151.490.

(3) The economic, social, environmental, and energy consequences of conflicting uses shall be considered.

(E) *Designation removal.* Request for removal of a historic landmark designation may be made by the property owner and shall follow the same procedures as required for inclusion by this code. The Planning Commission is not obligated to remove a historic landmark designation if the landmark still meets the criteria contained in division (D) of this section. If a historic landmark designation is removed from the register, the Planning Commission or City Council is authorized to require that all city fees that were waived during the time period that the landmark was designated, be repaid to the city prior to the landmark designation being removed.

(Ord. 96-2451, passed 12-2-96)

§ 151.492 ALTERATION, NEW CONSTRUCTION, DEMOLITIONS.

(A) *Exterior alterations.*

(1) *Application process.* Application for permit approval shall be made to the Director. The application shall include site plans, floor plans, elevations, materials, textures, and other information deemed necessary by the Director to determine the appropriateness of the alterations of the designated landmark.

(2) *Director review of minor alterations Type I.*

(a) The Director shall approve minor alteration requests through the Type I procedure if there is no significant change in appearance, or in original material integrity, from the existing structure or site. The Director's approval may include conditions to assure compatibility. Minor alterations meeting the following standards shall be approved and shall be documented by written findings:

1. The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials.

2. The proposed alteration results in new siding, roofing, or foundation skirting which matches materials used on the structure or is typical in terms of material and texture for the style of the landmark.

3. The proposed alteration results in the replacement of gutters and downspouts, or the addition of gutters and downspouts, using materials that match or appear to match those typically used on similar style buildings;

4. The proposed alteration results in a new foundation that does not raise or lower the building elevation provided the foundation materials and/or craftsmanship do not contribute to the historical and architectural significance of the landmark;

5. The proposed alteration results in the application of storm windows made with wood, bronze or flat finished anodized aluminum, or baked

enamel frames which complement or match the color detail and proportions of the building;

6. The proposed alteration results in replacement of existing sashes with new sashes, when using material which is consistent with the original historic material and appearance;

7. The proposed alteration results in modifications to the porch which imitate or restore railings, posts, steps, and skirting which were typical for the style of the landmark.

8. The proposed alteration results in construction of a wood fence in the front yard which was typical for the style of the landmark. Solid wood fences shall be permitted along side and rear property boundaries.

9. The proposed alteration results in the installation of permanent air conditioning or heating facilities including solar panels which do not result in the destruction or removal of original architectural features. If possible, facilities should be located in such a manner that they are not readily visible from the public right-of-way excluding alleys.

10. The proposed alteration results in new awnings or signage which were typical for the style of the landmark.

(b) The Planning Commission may develop additional standards to guide the Director in determining what constitutes a significant change.

(3) *Planning Commission Review Criteria and Guidelines Type III.* Excluding routine maintenance and minor alterations subject to Director review, requests to alter a designated landmark in such a manner as to affect its exterior appearance shall be reviewed for permit approval by the Planning Commission using the Type III procedure. The Planning Commission, in considering applications for permit approval for any alteration, shall base their decision on substantial compliance with the following criteria and guidelines:

(a) The historic character of a property shall be retained and preserved. The removal of

historic materials or alteration of features and spaces that characterize a property shall be avoided. Specific design elements which must be addressed include:

1. *Average setback.* When a new structure is being constructed on an infill lot, the front yard setback shall be the same as the buildings on either side. When the front setbacks of the adjacent buildings are different, the front setback of the new structure shall be an average of the two.

2. *Architectural elements.* The design shall incorporate architectural elements of the city's historic styles, including Queen Anne, Colonial Revival, Dutch Colonial Revival, and Bungalow styles. Ideally, the architectural elements should reflect and/or be compatible with the style of other nearby historic structures. Typical design elements which should be considered include, but are not limited to, "crippled hip" roofs, Palladian-style windows, roof eave brackets, roof dormers, and decorative trim boards.

3. *Building orientation.* The main entrance of the new structure shall be oriented to the street. Construction of a porch is encouraged but not required. Such a porch shall be at least six feet in depth.

4. *Vehicle parking/storage.* Garages and carports shall be set back from the front facade of the primary structure and shall relate to the primary structure in terms of design and building materials.

5. *Fences.* Fences shall be built of materials which are compatible with the design and materials used in the primary structure.

(b) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(c) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(d) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved to the extent possible.

(e) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall reasonably match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(f) Chemical or physical treatments, such as sandblasting, that cause extensive damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(g) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(h) New additions, exterior alterations, or related new construction shall not destroy historic character of the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(i) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(B) *New construction Type III review criteria.*

(1) *Review required.* If an application is made to build a new building on a landmark site, the Planning Commission shall review the request through the Type III procedure to assure the plans are compatible with any existing Landmark structures on the site. No new structure or major public

improvement shall be constructed without review pursuant to the following criteria.

(2) *Review criteria.* Designs shall be compatible with any existing Landmark structures on the site in terms of size, scale, material and character. Contemporary designs shall not be discouraged when they do not destroy significant historical, architectural, or cultural material. Review criteria shall include consideration of the guidelines listed in subdivision (A)(3).

(C) *Demolition and moving review.*

(1) *Building Director Review Type I.* The Building Director shall issue a permit for moving or demolition if any of the following conditions exist:

(a) The building is not a designated landmark. If the landmark is pending review under § 151.491 of this code, no permit shall be issued; and/or

(b) The landmark has been damaged beyond reasonable repair through fire, flood, wind or other acts of God, vandalism, or neglect, and poses an immediate threat to public safety. For any demolition or moving which does not comply with the above criteria, it shall be referred to the Planning Commission under the Type III procedure.

(2) *Planning Commission review process Type III.* The process and public notice for review of a demolition permit shall be conducted under the Type III procedure. Unless extended by mutual consent of the applicant and the Planning Commission, the Planning Commission shall complete any review within 45 days of the date the City received a complete application, with the intent that the Planning Commission and applicant seek alternatives such as sale, salvage, relocation or donation to historic or interested groups, not simply to delay the demolition or moving.

(3) *Review criteria.* In reviewing an application for a demolition permit or moving permit, the Commission shall consider the purpose of this code as stated in § 151.490 and the criteria used in the original designation of the landmark as stated in division (D) of this section.

(D) *City Council review of dangerous structures.* The City Council may order the removal or demolition of any structure determined to be dangerous to life, health, or property.

(E) *Documentation.* In the event of the demolition or moving of a landmark, building, structure, site or object, the history of such landmark shall be documented and kept on file with the city. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99)

§ 151.493 EXCEPTIONS FOR ECONOMIC HARDSHIP.

(A) When the applicant has demonstrated an economic hardship as a result of the provisions of this code, the Commission or City Council may relax the requirements of the ordinance provided the relaxation is consistent with the purpose of this code as stated in § 151.490. Any relaxation of requirements shall be the minimum necessary to alleviate the economic hardship. In determining whether an exception due to economic hardship is justified, the Commission or City Council shall consider the following factors:

- (1) Estimated cost of rehabilitation;
- (2) Estimated market value of property in current condition and after proposed construction;
- (3) Potential income from property if income producing;
- (4) Any other economic information deemed relevant to the decision; and
- (5) Economic, social, environmental, and energy consequences of the exception.

(B) The applicant shall provide adequate documentation to justify an economic hardship. The information shall be provided on a form available from the Director.

(Ord. 96-2451, passed 12-2-96)

§ 151.494 GENERAL ADMINISTRATION.

(A) *Signs.* One sign no larger than 200 square inches is permitted in addition to other permitted signs.

(B) *Maintenance.* Nothing in this code shall be construed to prevent the ordinary maintenance or repair of any exterior architectural features which does not involve a change in design, material or the outward appearance thereof, nor to prevent the construction, reconstruction, alteration or demolition of such feature which the City's Building Director shall certify is required by the city's building and development codes. Maintenance and repair actions include, but are not limited to:

(1) Repair of siding, roofing, foundations, and gutters or downspouts when required due to deterioration, with materials that match the original materials or are in character with materials typically used on similar style buildings;

(2) Painting and related preparation;

(3) Water quality protection actions;

(4) Installation of air conditioners, provided the units are removable and no architectural alterations are necessary.

(5) Site maintenance such as pruning, landscaping maintenance, brush clearing and removal of debris;

(6) Temporary removals of roofs or other access obstructions for purposes of repair or maintenance of interior components of industrial or power generation facilities.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98; Am. Ord. 99-2521, passed 11-15-99)

Part 17. SPECIFIC PLAN (SP) SUB-DISTRICT

§ 151.505 PURPOSE.

The purpose of the "SP" Sub-district is to allow the development and approval of specific plans in the city. A specific plan is a master plan applied to one or more parcels in order to coordinate and direct development in terms of transportation, utilities, open space, and land use. The purpose is also to streamline the development process and encourage development according to the specific plan. Specific plans are intended to promote coordinated planning concepts and pedestrian oriented mixed use development.

(Ord. 96-2451, passed 12-2-96)

§ 151.506 PLAN DEVELOPMENT AND APPROVAL PROCESS.

(A) *Initiation.* The process to establish a specific plan shall be initiated by the City Council. The Planning Commission or interested property owners may submit requests to the City Council to initiate the specific plan process. If owners request initiation of a specific plan process, the City Council may require an application fee to be paid to cover the cost of creating the plan.

(B) *Steering committee.* The City Council shall appoint a steering committee to guide development of the plan. The steering committee shall include persons representing affected property owners, neighbors, and the community at large.

(C) *Draft plan.* The steering committee shall develop a draft plan which shall be submitted to the Planning Commission and City Council for review, modification, and approval.

(D) *Specific plan.* A specific plan shall include text and a diagram or diagrams which specify all of the following in detail:

(1) Plan objectives: A narrative shall set forth the goals and objectives of the plan.

(2) Site and context: A map of the site and context shall indicate existing land use, slope, and natural features.

(3) The distribution, location, and extent of the uses of land, including open space and parks, within the area covered by the plan (land use plan).

(4) The proposed distribution, location, and extent of major components of public and private transportation, sewage, water, drainage and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

(5) Standards and criteria by which development will proceed and standards for conservation, development and utilization of natural resources, where applicable.

(6) The plan shall identify the existing property ownership.

(7) A circulation/transportation plan shall be included which identifies the proposed street pattern including pedestrian pathways and bikeways. Design standards and street cross sections shall be included.

(E) *Type III hearings and decisions.* The Planning Commission shall hold a public hearing on the plan using a Type III procedure and shall make a recommendation to the City Council. The City Council shall have final approval authority. The hearing process to be followed shall be the same as that set forth for zoning map amendments pursuant to §§ 151.120 et seq. If the specific plan affects land outside the City limits, provisions and procedures required under the urban growth management agreement with Yamhill County shall also be met. (Ord. 96-2451, passed 12-2-96)

§ 151.507 APPROVAL CRITERIA.

Adoption of the specific plan and its related subdistrict shall be based on compliance with the zone change criteria of §§ 151.120 et seq. (Ord. 96-2451, passed 12-2-96)

§ 151.508 PLAN IMPLEMENTATION.

(A) *Overlay sub-district.* The specific plan shall be implemented as a zoning overlay subdistrict. If the plan applies to land outside the city limits, the “SP” Specific Plan Zoning Sub-district classification shall indicate where the “SP” Overlay Zone will be applied upon annexation. The specific plan shall be adopted as an exhibit to the “SP” Overlay Zone Subdistrict and the “SP” Overlay Plan District.

(B) *New construction.* New construction under site design review or building permit review shall meet the special development and design standards of the specific plan.

(C) *Priority of standards and procedures.* Unless otherwise noted, the standards and procedures of the specific plan overlay subdistrict shall supplement and supersede standards and procedures of this code. (Ord. 96-2451, passed 12-2-96)

§ 151.509 AMENDMENTS AND ADJUSTMENTS TO THE SPECIFIC PLAN.

Amendments to the specific plan may be either major or minor amendments.

(A) Minor and major amendments.

(1) Major amendments are those which result in any of the following:

(a) A change in land use.

(b) A change in the circulation/transportation plan that requires a major street (collector or arterial) to be eliminated or to be located in such a manner as to not be consistent with the specific plan.

(c) A change in the development standards.

(d) A change in the planned residential density.

(e) A change not specifically listed under the major and minor amendment definitions.

(2) Minor amendments are those which result in any of the following:

(a) Changes related to street trees, street furniture, fencing, or signage that were approved as part of the specific plan.

(b) A change in the circulation/transportation plan that requires a local street, easement, or pathway to be shifted more than 50 feet in any direction.

(c) A change in the utility plan other than what would be necessary for authorized adjustment of lot lines.

(B) *Major amendment Type III procedure.* A major amendment to a specific plan shall be processed as a Type III comprehensive plan amendment. The amendment shall meet the criteria of § 151.507. In addition, findings must demonstrate that the change will not adversely affect the purpose, objectives, or functioning of the specific plan.

(C) *Minor amendment Type II procedure.* A minor amendment to a specific plan may be approved by the Director through a Type II procedure. The Director's decision shall include findings that demonstrate that the change will not adversely affect the purpose, objectives, or functioning of the specific plan.

(D) *Authorized adjustment of lot lines - Type I procedure.* As part of the final platting process, the Director is authorized to grant adjustments to proposed lot lines consistent with flexible density standards (if included) as part of the specific plan sub-district.

(Ord. 96-2451, passed 12-2-96)

§ 151.510 INTERIM DEVELOPMENT.

To encourage platting in conformance with the specific plan, the following modifications to street,

subdivision, and development standards may be granted by the Director through the Type I procedure.

(A) *Temporary dead-ends.* The Director may authorize temporary cul-de-sacs or vehicle turn-arounds where a through street will eventually be provided. Due to their temporary nature, the dimensions and improvement requirements for these cul-de-sacs and turnarounds may vary from standards set forth in the subdivision ordinance.

(B) *Temporary street improvements.* Three-quarter width streets may be provided temporarily to access lots where a full street will eventually be provided when all abutting lots are developed, unless otherwise approved as a half-street by the Director and Fire Chief.

(C) *Tracts.* Tracts of land which do not meet specific plan density requirements may be created and developed when it is demonstrated that the tracts can be developed in accordance with the specific plan in the future. If construction occurs on the tract, it shall be done in a manner that will meet specific plan development standards when full improvements are provided.

(Ord. 96-2451, passed 12-2-96)

§ 151.511 SPECIFIC PLAN DEVELOPMENT STANDARDS.

Development standards for specific plans are listed below. The standards shall be utilized in conjunction with the specific plan adopted as an exhibit to the "SP" Overlay Sub-district. This section is intended to be amended as new specific plans are adopted.

(A) The Northwest Newberg Specific Plan.

(1) *Report adopted.* The Northwest Newberg Specific Plan Final Report dated August 1994 is hereby adopted by reference. The development standards listed in this section shall take precedence over those listed in the report. If ambiguity exists, this code shall govern.

(2) *Permitted uses and conditional uses.* The permitted and conditional uses allowed under the “SP” Sub-district shall be the same as those uses permitted in the base zoning districts. An exception to this is the commercial zone which may be located on either side (north or south) of the extension of Foothills Drive. Such commercial area must be located in one node of not more than five acres in size and not split by a public street. This alternative is indicated as Appendix B of the Northwest Newberg Specific Plan.

(3) *Street and pedestrian walkway standards.*

(a) Street and public walkway standards are as follows:

	<i>ROW</i>	<i>Paved Surface</i>
Local Street	60'	32'
Collector Street	74'	36'
Public Walkway	16'	6'

(b) Five foot bike lanes shall be provided along collector streets. Five foot sidewalks shall be provided along local and collector streets. A six foot wide planter strip shall separate the sidewalk and the local street. A 12 foot wide planter strip shall separate the sidewalk and the collector street. Local streets shall be designed as through streets. Cul-de-sacs shall be used only if a through street cannot be developed. The regulations for collector street standards may be waived when in the judgment of the Director waiving of the standards are warranted based on traffic volume, reduced speed, type of usage and access limitations, pursuant to the City of Newberg Transportation System Plan.

(4) *Setbacks.* Figures 9 and 10 of the Northwest Newberg Specific Plan identify special setback standards that apply to the property.

(a) *Area 1 Setbacks - Figure 10.* Minimum and maximum front setbacks for structures shall be met in Area 1 of the Northwest Newberg

Specific Plan. Residential structures shall be no closer nor further from the front property line than as follows:

	<i>Minimum</i>	<i>Maximum</i>
Porch	10'	25'
Dwelling	15'	25'
Garage or Carport	20'	(w/out porch) None

The front of a garage may not be closer to the property line than the front of the house unless each front on different streets.

(b) *Area 2 Setbacks - Figure 10.* Special minimum front setbacks for residential structures shall be met in Area 2 of the Northwest Newberg Specific Plan. No maximum setback is required. Front setbacks are as follow:

	<i>Minimum</i>	<i>Maximum</i>
Porch	10'	None
Dwelling	15'	None
Garage or Carport	20'	None

(c) *Interior setbacks.* Interior yard setbacks shall be the same as the base zone.

(d) *Commercial and institutional setbacks.* Except as set forth in subdivision (7) below, setbacks for commercial and institutional use shall be set by the base zone or as otherwise required in this code.

(5) *Street trees.* Street trees shall be required along all streets where designated planter strips and/or raised medians as provided. One tree shall be required for every 40 feet of street frontage or fraction thereof, e.g. a lot with 50 feet of frontage will provide two street trees; a lot with 100 feet of frontage will provide three street trees. Trees shall be provided in accordance with the list of trees included in the specific plan. Trees shall have a minimum of a 1½ or

1¾ inch caliper tree trunk and shall be balled and burlapped or boxed.

(6) *Residential density.* Residential density is governed by the “SP” Overlay Sub-district. The maximum allowed density is set by the number of lots depicted on the Land Use Plan, Figure 6 of the Northwest Newberg Specific Plan. Additional standards follow:

(a) *Minimum lot size.*

1. Single family dwellings: 5000 square feet.

2. Attached dwellings: 3750 square feet.

(b) *Maximum lot coverage.* R-1/SP and R-2/SP Zones: 40% (including garage).

(c) *Maximum density.*

1. LDR Districts: Set by the specific plan (averages 4.4 dwellings per acre).

2. MDR Districts: 8.8 dwellings per acre.

(d) *Flexible minimum density requirements.* The following standards may be applied at the time of platting:

1. Lots may be increased to 7,500 square feet.

2. Lot size may be increased above 7,500 square feet provided the overall density of the original parent parcel at the time of specific plan approval remains at or above 80% of the original planned density. If other parcels have built out at densities exceeding 80% of the original planned density, the overall density of the combined parcels may be used for the calculation. For these calculations, the planned density for LDR areas shall be assumed to be 6.5 dwelling units per acre (5,000 square foot single family lots) and MDR at 8.8 dwelling units per acre.

(7) *Building orientation.* All development shall be oriented to a local or collector street. Orientation shall be achieved by the provision of an entry door fronting upon the street with a direct sidewalk connection from the door to the public sidewalk.

(8) *Commercial standards.* In addition to site review standards, the following standards shall apply to commercial development.

(a) Commercial structures shall be setback no further than twenty feet from the Foothills Drive right-of-way. This setback area shall not be used for any type of vehicular access or parking.

(b) A minimum of a 300 square foot plaza or pedestrian seating area at the intersection of Foothills Drive and the adjacent north-south local street shall be provided.

(c) All walls adjacent to and visible from the public right-of-way shall include windows. An exception to this standard may be granted by the Planning and Building Director if the wall is screened.

(9) *Sign standards.* Free standing signs shall not exceed five feet in height, 30 square feet in area, and one per street frontage. Wall and window signs shall not exceed one square foot per lineal foot of wall. Roof signs are prohibited. Projecting fin signs shall not exceed 20 square feet in size.

(B) *Springbrook Oaks specific plan.*

(1) *Report adopted.* The Springbrook Oaks specific plan dated August 2, 1999 is hereby adopted by reference. The development standards listed in this section are intended to implement the policies of the Springbrook Oaks specific plan. Development of Springbrook Oaks shall follow the standards of this code section as well as the policies of the plan. If a conflict exists between the Springbrook Oaks specific plan policies and the Development Code, the Springbrook Oaks specific plan shall govern.

(2) *Permitted uses and conditional uses.*

Eight development areas have been established with corresponding zones within the Springbrook Oaks specific plan. The permitted and conditional uses allowed under the "SP" subdistrict shall be the same as those uses permitted in the base zoning districts. Exceptions to this standard include the following:

(a) A golf course shall be permitted within the M-1 area, adjacent to the stream corridor; and

(b) Densities and lot sizes shall be in accordance to the standards established in division (B)(8)(a).

(3) *Street and pedestrian pathway standards.* Street and pedestrian pathway development standards are established in §§ 151.680 et seq. and 151.704 et seq.

(4) *Residential design.* Multiple, non-repetitive home designs (detached dwelling units) shall be used in the development. No two identical designs shall be located closer than every three residences on any street frontage.

(5) *Setbacks.* Figures 1 and 2 of the Springbrook Oaks Specific Plan identify special setback standards that apply to the property.

(6) (a) *Residential.*

1. *Development Areas A through F Setbacks - Figure 1 of the Springbrook Oaks specific plan.* Minimum and maximum front setbacks for structures shall be met in Development Areas A through F of the Springbrook Oaks specific plan. Residential structures shall be no closer nor further from the front property line than as follows:

	<i>Minimum</i>	<i>Maximum</i>
Porch	10'	25'
Dwelling	15'	25' (without porch)
Garage or carport	20'	None

The front of a garage may not be closer to the property line than the front of the house unless each front on different streets.

2. *Development Area H Setback - Figure 2 of the Springbrook Oaks specific plan.* Special minimum front setbacks for residential structures shall be met in Development Area H of the Springbrook Oaks specific plan. No maximum setback is required. Front setbacks are as follows:

	<i>Minimum</i>	<i>Maximum</i>
Porch	10'	None
Dwelling	15'	None
Garage or carport	20'	None

3. *Interior setbacks.* Interior yard setbacks shall be the same as the base zone. An exception to this standard is made for single family attached housing, where no interior setback is required for the "zero" lot line.

4. Staggered front setbacks of at least two feet shall be established for attached homes. No two attached dwelling units with the same setback shall be located closer than every two residences on any street frontage.

(b) *Professional and industrial setbacks.*

1. Except as set forth in subsection 4. above, setbacks for professional and industrial developments within Development Areas A, F, and G of the Springbrook Oaks specific plan shall be set by the base zone or as otherwise required in this code.

(7) *Street trees.* Street trees shall be provided adjacent to all public rights-of-way abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of § 151.580(B)(4). Trees shall be selected from the street tree species list authorized by City Council. Preference should be given towards the selection of oak species to maintain the character of the development's namesake: Springbrook Oaks.

*Rounded down to a whole unit number.

(d) Any area of land whose allowed density has increased due to a density shift may include a corresponding decrease in the area's minimum lot size and minimum lot area per dwelling unit.

(e) No lot within any given zone may increase density due to a density shift more than once.

(f) Maximum lot coverage is described in the § 151.568.

(9) Commercial and industrial standards.

In addition to site review standards, all commercial and industrial development will conform to the code, covenant, and restrictions (CCRs) approved for the Springbrook Oaks development. A certificate of compliance with these CCRs shall be submitted with a design review application for any commercial or industrial development.

~~(10)~~ *standards.* Signs must comply with §§ 151.590 through 151.601.

~~(11)~~ *management plan.* Any proposed development within Development Area H must follow the approved tree management plan for Development Area H. The plan shall be developed by a third-party licensed arborist.

~~(12)~~ *mitting process.* Any proposed development shall follow the permit approval process described in § 151.020 through 151.046. Exceptions to this standard are as follows:

(a) Proposed subdivisions will be reviewed under the Type II process; and

(b) Any proposed development within Development Areas A through F that meet the Building Design and Development Standards in Appendix C (see Springbrook Oaks Specific Plan) will be reviewed under the Type I process. The applicant shall provide written documentation showing that each development standard has been met.

~~(13)~~ *amendments.* Proposed amendments and adjustments to the specific plan will follow the procedure described in § 151.509. Exceptions to this amendment and adjustment procedure are as follows:

(a) Proposed boundary modifications for Development Areas B through E (Figure XX) that increases any individual area no more than 5% of its original total acreage will be reviewed under a Type I process. Proposed boundary modifications that change the total acreage of any of the aforementioned development areas more than 5% will be reviewed under a Type III process.

(b) Proposed boundary modifications for Development Areas F and G that increases any individual area no more than 10% of its original total acreage will be reviewed under a Type I process. Proposed boundary modifications that change the total acreage of any of the aforementioned development areas more than 10% will be reviewed under a Type III process.

(c) Proposed boundary changes for Areas A and H will be reviewed under a Type III process.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2513, passed 8-2-99; Am. Ord. 99-2517, passed 8-2-99; Am. Ord. 2005-2619, passed 5-16-05)

**Part 18. INSTITUTIONAL OVERLAY (IO)
SUB-DISTRICT**

§ 151.520 PURPOSE.

(A) The Institutional Overlay (IO) Sub-District is intended to provide for the orderly development and expansion of George Fox University, Providence Newberg Hospital, and Friendsview Manor operating within the City of Newberg. The IO Sub-District is designed to incorporate specific regulations and standards that will support the expansion of the institutional uses, while protecting the existing uses of non-institutionally owned property within the sub-district until such time as the property may be acquired

by the Institution with the consent of the property owners. The IO Sub-District focuses primarily on development regulations and process. Also, the IO Sub-District will provide a process for conversion of lands in the IO Sub-District to the Institutional District as contiguous lands are purchased by the Institution. The IO Sub-District may be applied to any existing zoning designation. Permitted uses include those permitted by the underlying zoning district and other institutional uses specifically allowed within the IO Sub-District that are compatible with the uses in the underlying zoning. The IO Sub-District is intended to be consistent with the public-quasi-public designation of the comprehensive plan.

(B) In addition, the purpose of the sub-district is to:

(1) Preserve and enhance the character of the areas surrounding the Institutions, especially residential areas.

(2) Provide a process to enhance communication among the Institution, neighborhood residents, and city officials concerning institutional change and expansion plans.
(Ord. 96-2451, passed 12-2-96)

§ 151.521 GENERAL PROVISIONS.

The uses, procedures, and standards contained within this subchapter apply only when the property is purchased by an institution. Development standards of the underlying zone apply to all other parcels within the district boundaries.
(Ord. 96-2451, passed 12-2-96)

§ 151.522 PERMITTED BUILDINGS AND USES.

(A) All uses permitted in the underlying primary district.

(B) Uses that are directly related to the objectives of the institution and that are owned or operated by the institution that are not already

permitted within the district, and may be subject to special conditions and standards including:

(1) Group living facilities with a maximum of ten residents per housing unit.

(2) Office and administrative facilities subject to special conditions (§ 151.524(A)).

(3) Retail sales and services subject to special conditions (§ 151.524(B)).

(C) Where uses in the IO Sub-District and the underlying zone conflict, the IO Sub-District prevails.
(Ord. 96-2451, passed 12-2-96)

§ 151.523 PROCEDURES.

(A) *Designation of overlay boundary.* The IO Sub-District Boundary is defined by the institution in cooperation with the city, based on the institution's needs and acceptable areas for expansion. To amend an established boundary the institution will be required to submit a comprehensive plan Amendment in accordance with established city procedures.

(B) *Development permits.*

(1) Procedures for processing development applications and permits for projects within the IO Sub-District will follow existing city procedures. Regulations and standards set forth in § 151.525 will apply to the development applications in the sub-district and will supersede other development standards in this code.

(2) All new buildings and structures within the IO Zone will follow the site design review criteria set forth in §§ 151.190 et seq. with the exception of the following:

(a) An existing residential or commercial structure is converted to an institutional use permitted under § 151.522.

(b) An existing institutional use is converted to a different institutional use permitted under § 151.522.

(C) Conversion of properties from IO Sub-District to I Institutional District.

(1) When the institution purchases property that is contiguous to the existing Institutional District boundary, those properties can convert to the Institutional District designation when the following applies:

(a) The property contains or will be converted to an institutional use; and

(b) The property is adjacent to the existing institutional boundary; and

(c) The property meets either of the following locational factors:

1. In areas west of Hess Creek, more than 80% of the block is owned by the institution.

2. The subject site is 100% owned by the institution and bounded on three sides by the institution; or when the subject site and abutting parcels on two sides of the site are owned by the institution and the third side of the site abuts the IO Zone Boundary.

(2) When properties are eligible for conversion to the Institutional District subject to the conditions in subdivision (C)(1) above, the institution will be required to submit the following information to the Director for Administrative Type I review and approval.

(a) Submit a title report showing of ownership of the property by the institution.

(b) Provide a map and legal description showing where the property is located.

(c) Provide information and a description of how the Institution meets the requirements of subdivision (C)(1) above.

(3) With approval by the Director for property conversion from the IO Sub-District to the Institutional District, the city shall update the zoning map to reflect the change.

(Ord. 96-2451, passed 12-2-96)

§ 151.524 SPECIAL CONDITIONS AND LIMITATIONS.

The following conditions and limitations are applicable only to IO designated parcels. Development standards of the underlying zone apply to all other parcels within the IO District Boundaries.

(A) Office and administrative facilities are allowed in Residential Districts within the IO Sub-District subject to the following requirements:

(1) The office use is an accessory use to a permitted Institutional District use.

(2) The conversion of existing residential housing to office uses shall not substantially change the structure or scale of the building.

(B) Retail sales and services are allowed in Residential Districts within the IO Sub-District subject to the following requirements:

(1) The retail sales and service use is an accessory use to a permitted Institutional District use.

(2) The use is identified as part of the Institution's Master Plan.

(3) Retail and service uses shall be conducted wholly within a completely enclosed building; a restaurant, delicatessen or coffee shop may include an outdoor eating area, provided the area consists of an all-weather surface not greater than 900 square feet in gross floor area and screened from public rights-of-way and residential areas.

(4) Drive-up windows and drive-through restaurant services shall not be permitted. (Ord. 96-2451, passed 12-2-96)

§ 151.525 DEVELOPMENT STANDARDS.

(A) *Height.* The maximum height for all uses will be 45 feet.

(B) *Setbacks.*

(1) A minimum 15 foot building setback for all boundary lines of the property will be required for all schools, churches, public and semi-public buildings and other institutional uses in residential districts. IO designated property is not subject to the setback standards identified within § 151.553.

(2) Parking in setbacks will be permitted per § 151.580(B)(3)(b).

(3) No variances are required where existing buildings or site improvements are converted to institutional uses and do not meet these standards.

(C) *Lot coverage.* Combined maximum lot and parking coverage shall be 80% for R-2, R-3 and RP Districts.

(D) *Parking.*

(1) Group living: One space per three beds (can be reduced by 50% if within 400 ft. of an institution parking lot).

(2) Office: One space per 400 sq. ft. minimum (can be reduced by 50% if within 400 ft. of an Institution parking lot).

(E) *Landscaping.* Exemption to the landscape requirements of § 151.580 include the following:

(1) No street tree improvements will be required for projects along the following streets.

(a) River St. between Sheridan St. and Sherman St.

(b) Sherman St. and North St. between Meridian St. and Villa Rd.

(c) Sheridan St. east of Meridian St.

(d) Center St. between Sheridan St. and Sherman St.

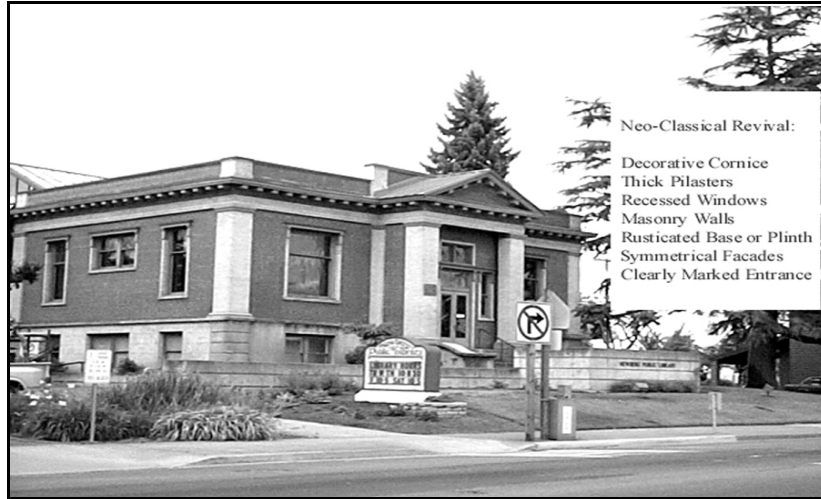
(2) With an approved master plan or functional plan for landscaping of institutional properties within the IO Sub-District, Administrative Type I review will be required pursuant to §§ 151.190 et seq.

(F) *Signs.* Exemption to the sign requirements of §§ 151.590 et seq. include the following: One sign with a maximum size of six square feet may be mounted on a building or erected free standing on the property and does not require a sign permit provided that it meets the vision clearance requirements of § 151.555 and that it is less than five feet tall. (Ord. 96-2451, passed 12-2-96)

***Part 18.1. CIVIC CORRIDOR OVERLAY (CC)
SUB-DISTRICT***

§ 151.526.1 PURPOSE.

(A) The Civic Corridor Overlay Sub-district is designed to emphasize the civic heart of the community and to capitalize on the significant amenity that Newberg's historic downtown buildings represent. Two buildings which characterize the historic style of Newberg are City Hall, built in 1913 and the library, built in 1912. The important architectural features of this style are illustrated in the figure below.



(B) Specific design standards will ensure that new development is consistent with the regional and local historical traditions that these buildings represent. While incorporating historic ornament and detail into new buildings is encouraged, it is recognized that the current cost of such detail may not be feasible. Instead, historical compatibility is better achieved by relating to the vertical proportions of historic facades, the depth and quality of windows and doors, and emulating the simple vertical massing of historical buildings.

(C) The CC Sub-district is intended to emphasize the civic and historic character of that portion of downtown Newberg generally bounded by Sherman Street on the north, Blaine Street on the west, 5th Street on the south, and Howard and School Streets on the east and as depicted on the zoning map. The sub-district overlay may be applied within any zoning district within these boundaries. The sub-district shall be designated by the suffix “CC” added to the symbol of the parent district. Permitted uses include those permitted by the underlying zoning district and other uses specifically allowed within the CC Sub-district that are compatible with the uses in the underlying zoning.
 (Ord. 2002-2561, passed 4-1-02)

§ 151.526.2 GENERAL PROVISIONS.

The uses, procedures, and standards contained within § 151.526.3 through § 151.526.6 apply in addition to the development standards of the underlying zone. Where there is a conflict between the uses and standards of this section and those of the base zone, the uses and standards of this section shall prevail.

(Ord. 2002-2561, passed 4-1-02)

§ 151.526.3 PERMITTED BUILDINGS AND USES.

All uses permitted in the underlying primary district are permitted within the CC Sub-district except as follows:

(A) In addition to the buildings and uses permitted conditionally in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(1) Facilities which exist for the purpose of providing for the temporary care and/or lodging of adult indigent persons.

- (2) Hospitals.

(B) The following uses are prohibited within the CC Sub-district:

- (1) Automobile sales, new and used.
- (2) Car washes, coin operated or mechanical.
- (3) Garages, repair.
- (4) Service stations.

(Ord. 2002-2561, passed 4-1-02)

§ 151.526.4 PROCEDURES.

(A) *Designation of overlay boundary.* The CC Sub-district Boundary is shown on the official zoning map. To amend an established boundary, a Comprehensive Plan Map Amendment is required in accordance with § 151.024.

(B) *Development permits.* Procedures for processing development applications and permits for projects within the CC Sub-district will follow existing city procedures. Regulations and standards set forth in § 151.526.6 will apply to the development applications in the Sub-district and will supersede other development standards in this code.

(C) All new and redeveloped buildings and structures within the CC Sub-district will follow the Site Design Review criteria set forth in § 151.190 through § 151.194.
(Ord. 2002-2561, passed 4-1-02)

§ 151.526.5 SPECIAL CONDITIONS AND LIMITATIONS.

The following conditions and limitations are applicable to CC designated parcels.

(A) Office and administrative facilities are allowed in Residential Districts within the CC Sub-district subject to the following requirements:

(1) The office use is an accessory use to a permitted Residential District use.

(2) The conversion of existing residential housing to office uses shall not substantially change the structure or scale of the building.

(B) Retail sales and services are allowed in Residential Districts within the CC Sub-district subject to the following requirements:

(1) The retail sales and service use is an accessory use to a permitted Residential District use.

(2) Retail and service uses shall be conducted wholly within a completely enclosed building; a restaurant, delicatessen or coffee shop may include an outdoor eating area, provided the area consists of an all-weather surface not greater than 900 square feet in gross floor area and screened from public rights-of-way and residential areas.

(3) Drive-up windows and drive-through restaurant services shall not be permitted.
(Ord. 2002-2561, passed 4-1-02)

§ 151.526.6 DEVELOPMENT STANDARDS.

In addition to the standards of § 151.197, the following development standards shall apply to new development or redevelopment within the Civic Corridor Overlay Sub-district.

(A) *Elements of the street-facing façade.*

(1) *Base, field, and crown.* For new or redeveloped buildings, all street-facing façades shall be clearly divided into three separate elements: base, field and crown. Separations shall be made by changes in material or by shifts in the depth of the façade. Merely painting the façade different colors without some other physical delineation is not sufficient. For new or redeveloped buildings, elements of the street-facing façade shall comply with the standards below:



(a) *Base.* The base of the facade shall be a maximum of four feet for single story buildings, a maximum of one story for two to four story buildings, and a maximum of two stories for buildings greater than four stories. Bases shall be expressed in heavier-appearing materials (e.g., stone or brick) and have a more horizontal emphasis.

(b) *Field.* The field of a facade is all the floors between the base and the crown. The field element shall be expressed as a series of repetitive vertical elements that include windows, pilasters and trim.

(c) *Crown.* The crown can be expressed as part of the top floor of the building or as a decorative cornice. Crowns shall be more elaborate than the field element of the facade and shall incorporate detailed elements that articulate the top of the building.

(B) *Street-facing facade articulation.*

(1) *Detail at first floor.* Buildings that have highly detailed ground floors contribute significantly to the pedestrian experience. To accomplish this desirable characteristic, ground floor elements like window trim, pilaster ornamentation, the texture of the base material, and even whimsical sculptural pieces embedded in the facade like busts or reliefs are highly encouraged. Especially desirable are details

that relate to the history or culture of the surrounding region.

(2) *Cornice treatment.* Flat roof buildings shall have cornices. Cornices shall have a combined width plus depth of at least three feet. An additional one foot shall be added to this required total for every story above one.

(C) *Street-facing windows.* Depth of windows. Windows shall be recessed at least three inches from the general plane of the facade. This creates shadow-lines and visual interest, giving the facade the perception of depth. Depth in the facade promotes the perception of high-quality and durable construction, and contributes to the district's historic character.

(D) *Street-facing facade materials.*

(1) *Dominant material.* All facades shall be comprised primarily of brick. The color of the brick shall be a reddish-brown of generally the same tonal quality as the existing brick buildings within the Civic Corridor. When used as a veneer material, the brick must be at least 2½ inches thick. Additional materials are allowed as accents.

(2) *Allowed accent materials.* Allowed accent materials include horizontal wood and cementitious lap siding, horizontal board and batten siding, shingles, shakes, and copper or brass. Lap siding, shingles, and shakes shall leave exposed a maximum of six inches to the weather. In board and batten siding, battens shall be spaced at most eight inches on center. In addition, rusticated concrete block, or stone masonry is allowed, but when used as a veneer material, it must be at least 2½ inches thick. Cement-based stucco is allowed.

(3) *Changes in material.* Brick street-facing facades shall return at least 18 inches around exposed side walls.

(E) *Signage standards.* In addition to the C-3 signage requirements of § 151.590 through § 151.601, to encourage the historic character of the

Civic Corridor as described in §151.526.1, signs within the Civic Corridor shall include four of the following six elements:

- (1) The most prominent element on a sign, such as the business’ name, uses a serif font and does not exceed eight inches in height.
- (2) The sign includes a frame, background or lettering in natural wood materials.
- (3) The sign includes a frame, background or lettering in copper or brass in natural finishes.
- (4) The sign incorporates decorative wrought iron.
- (5) The lettering is in a raised relief.
- (6) The sign is attached to a mounting bracket and allowed to swing freely.
(Ord. 2002-2561, passed 4-1-02)

**Part 18.2. RIVERFRONT (RF)
SUB-DISTRICT**

§ 151.527.1 PURPOSE.

The purpose of the Riverfront Overlay district is to provide for a unique identity for the riverfront area because of the district’s special character as a result of its proximity to the Willamette River. The Riverfront Overlay is also intended to encourage access to and enjoyment of the Willamette River and to protect and enhance views of the river and connections to the river. Specific design standards for commercial and residential buildings, streetscapes, and parking within the Riverfront Overlay district are included to achieve development that is consistent with the vision identified in the Riverfront Master Plan. This vision includes, but is not limited to, attractive pedestrian-oriented streets, small scale businesses, a

connected network of streets and pedestrian ways, and cohesive residential neighborhoods.
(Ord. 2002-2564, passed 4-15-02)

Cross-reference:

For map, “Newberg Riverfront Master Plan Proposed Newberg Zoning,” see Appendix B, Map V

§ 151.527.2 WHERE THESE REGULATIONS APPLY.

The regulations of the chapter apply to the portion of any lot or development site which is within an RF Overlay Sub-district. The delineation of the RF Overlay Sub-district is described by boundary lines delineated on the City of Newberg Zoning Map indicated with an RF symbol.
(Ord. 2002-2564, passed 4-15-02)

§ 151.527.3 THE RIVERFRONT PLAN GENERAL PROVISIONS.

(A) *Report adopted.* The *Newberg Riverfront Master Plan Final Report* dated June 29, 2001 is hereby adopted by reference. The development standards listed in this chapter shall take precedence over those listed in the report. If ambiguity exists, this code shall govern.

(B) *Permitted uses and conditional uses.* The permitted and conditional uses allowed under the “RF” Overlay Sub-district shall be the same as those uses permitted in the base zoning districts.

(C) *Street, bike paths, and pedestrian walkway standards.* All development improvements shall comply with standards contained in the Circulation and Transportation Element of the Newberg Riverfront Master Plan.

(D) *View corridors.* Designated key views shall be protected. Key views include the view from the top of the bluff on parcel 12 as noted in Figure 2 of the

Riverfront Master Plan, the view from the top of the bluff south of Fourteenth Street generally between College and River Streets, and the view from the riverbank near the barge tie-up facility. These key views shall be protected as follows:

(1) Any development on parcel 12 as noted in Figure 2 of the Riverfront Master Plan shall provide a public viewing area accessible from Fourteenth Street that allows views from the top of the bluff to the river. Any viewing area at this location may be connected to the public Esplanade or the Fourteenth Street public sidewalk.

(2) Development along the bluff on parcels 14, 15, and 16 as noted in Figure 2 of the Riverfront Master Plan shall protect views of the river by providing a public esplanade with a public walkway easement. Standards for the esplanade are identified in the Circulation and Transportation Element.

(3) Development in the vicinity of the barge tie-up facility shall protect views of the river by providing a public viewing area near the bank of the river. A public viewing area in this location may be combined with the Willamette Greenway Trail that will run through this location.

(4) Additional important views may be identified through the land use approval process. Additional views identified through the land use process may be protected through conditions of approval.

(E) *Significant tree grove.* The area containing the significant tree grove, located north of Fourteenth Street and between College and River Streets, shall be preserved.

(F) *Visual/noise buffer.* A visual/noise buffer shall be developed along River Street in such a manner as to:

(1) To promote the protection of SP Newsprint from uses that may complain or otherwise hinder the operation of this important industrial facility due to visual and noise impacts;

(2) To enhance the vitality and qualities of the land uses within the Newberg Riverfront; and,

(3) Hardscape designs such as sound walls and similar barriers should only be located on the east side of River Street. Buffers located on the west side of River Street shall be designed in such a manner as to serve as a gateway to invite and attract people into the riverfront area.

(G) *Separate rail traffic from other modes.* Major transportation improvements shall be designed with considerations intended to separate rail traffic from other modes of transportation.

(H) *Esplanade development.* Prior to the development of the riverfront esplanade, a slope stability and flood study shall be performed. (Ord. 2002-2564, passed 4-15-02)

§ 151.527.4 COMMERCIAL DESIGN STANDARDS.

(A) *General.* The Commercial Design Standards apply to any development located within the commercial zoning district(s) within the Riverfront Overlay Sub-district. These standards are in addition to the standards and requirements of the Newberg Development Code. The development standards listed in this subchapter shall take precedence over those listed elsewhere in this code.

(B) *Minimum lot size.* Within the commercial zoning district(s) of the Riverfront Overlay Sub-district, there is no minimum lot size required, provided the other standards of this code can be met.

(C) *Lot coverage.* The development site is permitted to have 100% lot coverage.

(D) *Building maximum square footage requirements.* Except as otherwise may be approved through a conditional use permit, the ground floor of buildings shall not exceed 7,500 square feet.

(E) *Setbacks.*

(1) *Minimum.* No front yard setbacks are required. No side or rear yard setbacks are required, except where adjacent to residentially zoned property. Where interior lot lines are common with residentially zoned property, setbacks of not less than ten feet shall be required.

(2) *Maximum.*

(a) The maximum front yard setback shall be ten feet for at least 50% of the length of the street facing lot line. A building must be constructed that is located within ten feet of the street facing lot line for at least 50% of the length of the street-facing lot line. If the development is on a corner lot, this standard applies to both streets.

(b) The maximum front yard setback may be increased to 20 feet if the following conditions are met:

1. Landscaping or a hard-surfaced expansion of the pedestrian path must be provided between the front of the building and the sidewalk.

2. For each 100 square feet of hard-surfaced area between the building and the street lot line, at least one of the following amenities must be provided:

- a. A bench or other seating that will accommodate at least three people.
- b. A tree with a minimum caliper of 2.5 inches.
- c. A landscape planter not less than 20 square feet in area.
- d. A drinking fountain.
- e. Similar pedestrian-scale amenities.

(F) *Vision clearance.* There is no vision clearance requirement within the commercial zoning districts located within the RF Overlay Sub-district.

(G) *Signs.* Signs shall comply with sign standards code for the C-3 zone under this code, §§ 151.593 through 151.601.

(H) *Parking.*

(1) *Interior lots.* Within a development site, parking is not permitted between a building and a public street. Parking must be located to the side or rear of buildings.

(2) *Corner lots.* Parking may be located no closer than 40 feet from the intersection of two public streets.

(3) *Minimum required off-street parking.* The minimum number of required off-street parking spaces shall be 50% of the number required by § 151.612, except that no reduction is permitted for residential uses.

(4) *Off site parking.* Required off-street parking is permitted to be located off-site, as long as the off-street parking is located within 400 feet of the development.

(5) *Shared parking.* Shared parking facilities shall be exempt from setback and building square footage requirements, provided the parking facility does not abut Fourteenth Street. An intervening building must be provided between Fourteenth Street and the parking facility, or the facility must be set back a minimum of 40 feet from Fourteenth Street. Accessways to Fourteenth Street are permitted.

(6) *Bicycle parking.* Two bicycle parking spaces, or one per 5,000 square feet of building area must be provided, whichever is greater.

(7) *Loading.* Except as permitted in this paragraph, loading areas shall be set back at least ten

feet from property lines and screened from the street and neighboring properties. Loading areas that are directly visible from the street or neighboring properties shall be screened using one of the following ways:

(a) The loading area shall be incorporated into the building design and located internally to the building, with a door to the exterior.

(b) The loading area shall be screened by a hedge, fence, or wall at least six feet in height. A hedge must be 95% opaque year around. Fences or walls must be totally sight-obscuring. Slatted chain link fencing is not permitted as a form of screening loading areas.

(I) *Screening.*

(1) *Refuse and recycling.* Refuse collection containers (dumpsters) and recycling areas shall be screened from the street and neighboring properties. Trash receptacles for pedestrian use are exempt from this requirement. One of the following standards must be met for refuse collection screening:

(a) Refuse collection and recycling areas may be screened by being located completely within a building.

(b) If located outside of a building, refuse collection and recycling areas must be located within an enclosure at least six feet in height. The enclosure shall be a sight-obscuring masonry wall or non-flammable sight-obscuring fence. The material selected for the enclosure must be consistent with the building materials permitted on the surrounding buildings. Slatted chain link fencing is not permitted.

(2) *Roof-mounted equipment.* All roof-mounted equipment, including satellite dishes and other communication equipment, must be screened in one of the following ways. Solar energy systems and heating panels are exempt from this standard:

(a) A parapet as tall as the tallest part of the equipment;

(b) A screen around the equipment that is as tall as the tallest part of the equipment; or

(c) The equipment is set back from the street-facing perimeters of the building three feet for each foot of height of the equipment.

(d) The review body may allow exemptions for equipment that contributes to the architectural design of the structure, such as piping in a brewery.

(3) *Ground mounted equipment.* Mechanical equipment on the ground must be screened from view by walls, fences, or vegetation as tall as the tallest part of the equipment. Any vegetation must be 95% opaque year around. Fences or walls must be totally sight-obscuring. Slatted chain link fencing is not permitted.

(J) *Building design.*

(1) *Building height.* Maximum building height north of Fourteen Street is 45 feet. Maximum building height south of Fourteenth Street is 30 feet. Minimum building height is 16 feet on the exterior elevation, and a parapet can be included in the measurement.

(2) *Building façades.* Façades shall be varied and articulated to provide visual interest to pedestrians.

(a) Building façades shall extend no more than 30 feet without providing a variation in building material or building offsets. Building offsets must articulate at least two feet.

(b) Building façades shall be articulated into planes of 500 square feet or less either by setting part of the facade back at least two feet from the rest of the façade, or by the use of fascias, canopies, arcades, windows, breaks in relief, or other similar features.

(c) Buildings must include changes in relief on 10% (in area) of façades facing public

rights-of-way. Relief changes include cornices, bases, arcades, set backs of at least two feet, canopies, awnings, projecting window features, or porticos.

(3) *Building length.* Building length shall not exceed 200 feet without a pedestrian connection through the building or between buildings. This is applicable to both a single building and to a group of individual buildings connected by common walls.

(4) *Building materials.* Exterior building materials shall convey an impression of durability.

(a) Masonry, stone, stucco, and wood are permitted as the primary material for exterior appearance. Metal is not permitted as a primary exterior building material, but may be used as an accent or awning.

(b) Where concrete masonry units (concrete block) are used for exterior finish, decorative patterns must be used, such as split-face concrete block or by incorporating layering or patterns.

(c) Where brick, rusticated concrete block, or stone masonry is used as a veneer material, it must be at least 2½ inches thick. Brick and stone street-facing facades shall return at least 18 inches around exposed side walls.

(d) Wood or wood-look siding must be lap siding, board and batten, shingle siding or channel siding and is not permitted to be applied in a diagonal or herringbone pattern. T1-11 and all other wood-based “full sheet” or panel-type siding is prohibited. Lap siding, shingles, and shakes shall be exposed a maximum of six inches to the weather. In board and batten siding, battens shall be spaced a maximum of eight inches on center.

(e) Preferred colors for exterior building finishes are earth tones, creams, and pastels of earth tones. High intensity primary colors, metallic colors, and black may be used for trim or accent colors, but are not permitted as primary wall colors.

(5) *Ground floor windows.* Exterior walls on the ground level which face a street lot line or other public right-of-way must have windows at least 50% of the length and 25% of the ground level wall area. Ground level wall areas include all exterior wall areas up to nine feet above the finished grade. To qualify as ground floor windows, window sills must be no more than four feet above exterior grade. The ground floor window requirement does not apply to the walls of residential units. Qualifying window features must be either windows or doors that allow views into working areas or lobbies, pedestrian entrances, or display windows set into the wall.

(6) *Window glazing.* Any windows facing public rights-of-way on the ground floor shall have clear glazing. Restroom windows are exempt from this requirement. On any floor, tinted or reflective glass shall not be visible from public rights-of-way, other than ornamental stained glass windows.

(7) *Main building entrance.* Within the Riverfront Commercial district, the main building entrance shall connect to adjacent public rights-of-way with a paved walkway at least six feet in width. For buildings with more than one major entrance, only one entrance is required to meet the main building entrance standard. The walkway must not be more than 120% or 20 feet longer than the straight line distance between the entrance and the closest improved right-of-way, whichever is less.

(8) *Pedestrian access to esplanade.* Buildings on properties adjacent to the esplanade shall provide pedestrian access to and a door facing the esplanade.

(K) *Landscaping.* Where 100% of a lot is covered by a building, no landscaping is required.

(1) All setback areas and lands not otherwise developed shall be landscaped. Courtyards, plazas and pedestrian walkways, esplanades and natural riparian vegetation are considered to be landscaping.

(2) *Parking lot landscaping.* In addition to other Newberg Development Code standards for

interior parking lot landscaping, special screening standards shall apply to parking lots. Parking areas shall be screened from neighboring properties and public rights-of way. Perimeter landscaping at least five feet in width shall be provided. The following standards must be met for the perimeter landscaping areas:

(a) Enough low shrubs to provide a continuous screen at least three feet high and 95% opaque year around.

(b) One tree per 30 linear feet or enough trees to provide a tree canopy over the landscaped area.

(c) Ground cover plants, perennials, or shrubs must fully cover the remainder of the landscaped area.

(d) A three-foot high masonry wall may substitute for the shrubs, but trees and ground cover at the above-cited rates are still required.

(L) *Outdoor storage and display.*

(1) *Outdoor storage.* Outdoor storage of merchandise or materials directly or indirectly related to a business is prohibited.

(2) *Outdoor display.* Outdoor display of merchandise is permitted during business hours only. A minimum pedestrian walkway of six foot clear width must be maintained at all times.

(M) *Outdoor seating.* Outdoor seating is encouraged on public sidewalks and the esplanade. A minimum pedestrian walkway of six foot clear width must be maintained at all times.

(Ord. 2002-2564, passed 4-15-02)

§ 151.527.5 RESIDENTIAL DESIGN STANDARDS.

In addition to the development standards of the base zone, the following standards shall apply:

(A) *Single family dwellings.*

(1) For single family dwellings, including manufactured dwellings on individual lots, at least two of the following design features must be provided on the street-facing façade:

(a) Covered front porch at least six feet in width and length.

(b) Eaves (minimum 12-inch overhang).

(c) Bay or bow windows.

(d) Dormers.

(e) Window shutters.

(f) Cupolas.

(g) Horizontal lap siding.

(2) T 1-11 and all other wood-based “full sheet” or panel-type siding is prohibited on elevations visible from public rights-of-way.

(B) *Attached and multi-family dwellings.* The intent of the standards is to provide for multi-family development of a smaller scale character that is compatible with the vision contained in the Riverfront Master Plan. The standards are intended to require larger developments to be compatible with single family detached housing by requiring the building to have a massing and appearance that are consistent with a single family house or townhouse.

(1) For multi-family or attached housing, each dwelling unit shall be emphasized by providing a unique element on the street-facing elevation. Examples of such elements include roof dormers, roof gables, bay windows, porches, and balconies.

(2) Each dwelling unit with windows facing the street frontage shall also have an exterior entrance on the street-facing elevation. Dwelling units on the corner of an intersection shall only be required to meet this standard on one street-facing elevation.

(3) Individual units shall be articulated either with a change in roof line or in building plane at an interval of no more than 40 feet. Roofline offsets shall be a minimum four-foot variation vertically as measured from the gutter line. Gable ends facing the street shall be considered to provide a roofline offset. Building plane offsets shall be a minimum of three feet.

(4) For multi-family dwellings and all non-residential structures in residential districts, at least two of the following design features must be provided:

(a) Covered front porch at least six feet in width and length for each individual unit that faces a public street. If a covered front porch is provided to serve two or more units, the porch must provide not less than 30 square feet of area for each unit served within a single building and have a minimum width of six feet.

(b) Eaves (minimum 12-inch overhang).

(c) Bay or bow windows.

(d) Dormers.

(e) Window shutters.

(f) Cupolas.

(g) Horizontal lap siding.

(5) T 1-11 and all other wood-based “full sheet” or panel-type siding is prohibited on elevations visible from public rights-of-way.

(C) *Standards for garage doors and parking in residential zones.*

(1) *Garage location.* All residential structures shall have a pedestrian entrance facing the street. When parking is provided in a garage attached to the primary structure, and garage doors face a street, the following standards must be met:

(a) The garage must not be more than 40% of the length of the street-facing facade or 12 feet wide, whichever is greater.

(b) The front of the garage can be no closer to the front lot line than the front facade of the house.

(c) Individual garage doors may be no more than 90 square feet in area.

(d) There may be no more than two individual garage doors located side by side without being separated by a space not less than 20 feet.

(2) Surface parking areas shall be located behind or to the side of residential structures.

(3) If carports are provided on surface lots, they must be of an architectural design that is compatible with the dwelling structure, and be constructed of similar materials.

(Ord. 2002-2564, passed 4-15-02)

**Part 19. LIMITED USE OVERLAY (LU)
SUB-DISTRICT**

§ 151.530 PURPOSE.

(A) Zoning strives to create a list of uses that are generally compatible with one another in a single district. In limited circumstances, however, some of the uses permitted in a base zoning district are allowable or desirable in a particular location while others may not be. Circumstances might include topographic constraints on the site, differing characteristics of surrounding uses, or limits on local facilities, such as street capacity, that are not addressed in capital improvement plans.

(B) The limited use overlay is designed to allow those uses that are or can be made compatible in a certain district, while prohibiting or limiting those uses that are incompatible.

(C) It is the intention that limited use overlays be used sparingly and only where unusual circumstances warrant.

(Ord. 2000-2357, passed 11-6-00)

§ 151.530.1 APPLICABILITY.

(A) The limited use overlay may be applied to any zoning classification. It may do any of the following:

(1) Prohibit certain uses otherwise allowed under the base zoning district.

(2) Require conditional use permits for uses otherwise permitted outright in the base zoning district.

(3) Set special standards that uses in the overlay must meet, such as height restrictions or setbacks.

(B) The limited use overlay may not be used to establish performance conditions, such as requiring installation of public facilities. The limited use overlay may not be used to prohibit uses that are required by state or federal law to be permitted within a base zoning district.

(Ord. 2000-2537, passed 11-6-00)

§ 151.530.2 PROCEDURES.

(A) A Limited Use Overlay may be created in conjunction with or through the same process as a zoning map amendment.

(B) An applicant for a zoning map amendment may request that a Limited Use Overlay be placed on the subject property. The Planning Commission may recommend and the City Council may order a Limited Use Overlay be applied to specific properties.

(C) It shall not be necessary to disclose in the public hearing notice of a zone change that a Limited Use Overlay may be applied.

(D) A decision to apply a limited use overlay shall be based on the same criteria as for zoning map amendments. The City Council may, but need not, apply a limited use overlay in lieu of denying a request for a zone change that does not otherwise meet applicable criteria.

(Ord. 2000-2537, passed 11-6-00)

§ 151.530.3 MAP DESIGNATION.

The Official City Zoning Map shall be amended to show an "LU" following the zoning designation on any parcel where the Limited Use Overlay District has been approved.

(Ord. 20000-2537, passed 11-6-00)

§ 151.530.4 AMENDMENTS TO A LIMITED USE.

A request to modify or eliminate a limited use overlay shall be processed using the same process as a zoning map amendment.

(Ord. 2000-2537, passed 11-6-00)

Cross-reference:

Zoning map amendments, see § 151.122

Part 20. BYPASS INTERCHANGE (BI) OVERLAY

§ 151.531 PURPOSE.

The purpose of the BI Overlay is to:

(A) Protect the planned function and capacity of the Newberg-Dundee Bypass (Bypass) as an "expressway" as defined in the 1999 Oregon Highway Plan by supporting ODOT's efforts and responsibility to manage access to the state highway system in accordance with the OHP and Oregon Administrative Rule 734-51 and managing land uses in the vicinity of the East Newberg and Oregon 219 interchanges.

(B) Support the Newberg Comprehensive Plan for urban lands surrounding the East Newberg and Oregon 219 interchanges to protect the planned function of the Bypass and interchanges to serve primarily longer-distance through trips by retaining existing zoning within the Interchange Overlay in the interim period before Interchange Area Management Plans are adopted.

(C) (1) To avoid development of commercial uses within planned industrial areas near the interchanges and ensure the long-term capacity for the through traffic function of the Bypass, the BI Overlay will prohibit certain uses that would otherwise be permitted outright or with conditional use approved in Newberg's Industrial Districts (M-1, M-2, and M-3) within the Bypass Interchange Overlay.

(2) ODOT will prepare Interchange Area Management Plans (IAMPs) for the East Newberg and Oregon 219 interchanges in partnership with Newberg, Yamhill County and affected property owners. This Bypass Interchange Overlay is intended as an interim land use tool that may be refined, revised or replaced as IAMPs are prepared and adopted for the East Newberg and Oregon 219 interchanges as required by the Oregon Highway Plan and OAR 731-051-0200.

(Ord. 2004-2602, passed 9-20-04)

§ 151.531.1 AREA OF APPLICATION OF INTERCHANGE OVERLAY.

(A) The Bypass Interchange Overlay shall apply to lands inside the city limits within approximately one-quarter mile of the end of the ramps to the East Newberg and Oregon 219 interchanges to the Bypass.

(B) The Bypass Interchange Overlay applies in addition to the regulations of this underlying zoning district. All property within the Bypass Interchange Overlay shall be subject to both the provisions of this section and to the underlying zoning district. Nothing in this section shall be construed as a waiver or suspension of the provisions of any underlying zoning district, or any other applicable overlay district.

(C) The general boundaries of the Bypass Interchange Overlay are shown on Map VI (East Newberg Interchange) and Map VII (Oregon 219 Interchange) and shall be delineated on a parcel-specific basis on the official zoning map. (Ord. 2004-2602, passed 9-20-04)

§ 151.531.2 PERMITTED USES.

All uses of land and water that are permitted in the underlying zoning district(s) are also permitted in the Bypass Interchange Overlay, with the exception of the special limitations on commercial uses in the Industrial Districts as outlined in § 151.531.4. (Ord. 2004-2602, passed 9-20-04)

§ 151.531.3 CONDITIONAL USES.

(A) Use of land and water that are listed as conditional uses in the underlying zoning district(s) may also be allowed in the Bypass Interchange Overlay, with the exception of uses included in the list of prohibited uses in § 151.531.4.

(B) Proposed conditional uses in the Bypass Interchange Overlay are subject to the standard conditional use criteria and procedures of this code. (Ord. 2004-2602, passed 9-20-04)

§ 151.531.4 PROHIBITED USES.

(A) Several commercial types of uses are permitted outright or with conditional use approval in Newberg's Industrial Districts (M-1, M-2, and M-3). The area within the Newberg UGB near the Oregon 219 interchange is generally planned for industrial use. To protect the interchange area from commercial development, the following uses are prohibited within the M-1, M-2, and M-3 Districts within the boundaries of the Bypass Interchange Overlay.

- (1) Automobile sales, new and used.
- (2) Billboards.

Newberg - Land Usage

- (3) Car washes.
 - (4) Convenience grocery stores.
 - (5) Restaurants larger than 2000 square feet or with drive-up service windows.
 - (6) Service stations.
 - (7) Drive-in theaters.
 - (8) Auction sales.
 - (9) Bakeries, retail.
 - (10) Building material sales.
 - (11) Driving ranges.
 - (12) Feed and seed stores.
 - (13) Miniature golf courses.
 - (14) Skating rinks.
- (Ord. 2004-2602, passed 9-20-04)

§ 151.531.5 INTERIM LIMITATIONS ON ZONE CHANGES WITHIN BYPASS INTERCHANGE OVERLAY.

To achieve the purpose of the Bypass Interchange Overlay, the City of Newberg will not approve zone changes within the boundaries of the BI Overlay during the interim period before Interchange Area Management Plans are prepared and adopted for the East Newberg and Oregon 219 interchanges. Exceptions will be allowed for the following:

(A) Zone changes associated with annexation may be approved when the city zone implements the acknowledged Comprehensive Plan designation in effect at the date of adoption of the BI Overlay.

(B) A small portion of the Springbrook Oaks Specific Plan falls within the one-quarter mile Interchange Overlay associated with the East Newberg interchange. The boundaries of the specific plan residential, industrial and mixed-use zone may be adjusted as allowed in the Springbrook Oaks Specific Plan.

(C) Zone changes associated with the construction of the Northern Arterial in the general location shown on the acknowledged Newberg Transportation System Plan.
(Ord. 2004-2602, passed 9-20-04)

BUILDING AND SITE DESIGN STANDARDS

§ 151.535 MAIN BUILDINGS AND USES AS ACCESSORY BUILDINGS.

(A) Hereinafter, any building which is the only building on a lot is a main building.

(B) In any residential district except RP, there shall be only one main use per lot or development site, provided that home occupations shall be allowed where permitted.

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(C) In any residential district, there shall be no more than two accessory buildings on any lot or development site.
(Ord. 96-2451, passed 12-2-96)

(C) The maximum height of buildings and uses permitted conditionally shall be stated in the conditional use permits.

(D) Institutional:

§ 151.536 BUILDING HEIGHT LIMITATION.

(1) The maximum height of any building or structure will be 75 feet except as follows:

(A) Residential:

(1) In the R-1, R-2 and RP Districts, no main building shall exceed two and one-half stories, or 30 feet in height, whichever is lesser. Accessory buildings in the R-1, R-2, R-3 and RP Districts are limited to one story, or 16 feet in height, whichever is lesser.

(a) Within 50 feet of an interior property line abutting a C-1, R-1, R-2 or R-P District, no main building may exceed 30 feet.

(b) Within 50 feet of an interior property line abutting an R-3 District, no main building may exceed 45 feet.

(2) In the R-3 District, no main building shall exceed three stories or 45 feet in height, whichever is lesser, except where an R-3 district abuts upon an R-1 District, the maximum permitted building height shall be limited to two and one-half stories or 30 feet, whichever is the lesser, for a distance of 50 feet from the abutting boundary of the aforementioned district.

(c) Within 100 feet of a property line abutting a public street or railroad right-of-way, or within 100 feet of property lines abutting parcels with an R-1, R-2, R-3, R-P, C-1, C-2, C-3, M-1, M-2, or M-3 zoning designation, no main building may exceed 50 feet in height.

(3) Single family dwellings permitted in commercial or industrial districts shall not exceed two and one-half stories or 30 feet in height, whichever is the lesser.

(d) To utilize the maximum permitted height standard, at least 80% of the building's ground coverage must be beyond the setback area designated in subdivision (c) above. The maximum encroachment may not exceed 25 feet.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2001-2550, passed 5-21-01; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

(B) Commercial and industrial:

(1) In the C-1 District no main building or accessory building shall exceed two and one-half stories or 30 feet in height, whichever is the lesser.

§ 151.537 BUILDING HEIGHT EXEMPTIONS.

(2) In the C-2, C-3, M-1, M-2, and M-3 Districts there is no building height limitation, except when said districts abut upon a residential district, the maximum permitted building height shall not exceed the maximum building height permitted in the abutting residential district for a distance of 50 feet from the abutting boundary.

Roof structures and architectural features. For the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers, flagpoles, chimneys, smokestacks, wireless masts, T.V. antennas, steeples and similar structures may be erected above the height limits prescribed in this code, provided that no roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space. Provided, further, that no roof structure or architectural feature shall be erected more than 18 feet above the height of the main building,

(3) In the C-4 District, building height limitation is described in § 151.527.4(J)(1) of this code.

whether such structure is attached to it or freestanding.
(Ord. 96-2451, passed 12-2-96)

§ 151.538 PUBLIC ACCESS REQUIRED.

No building or structure shall be erected or altered except on a lot fronting or abutting on a public street or having access to a public street over a private street or easement of record approved in accordance with provisions contained in this code. New private streets may not be created to provide access. Existing private streets may not be used for access for new dwelling units, except as allowed under § 151.567. No building or structure shall be erected or altered without provisions for access roadways as required in the Uniform Fire Code, as adopted by the city.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2507, passed 3-1-99) Penalty, see § 151.999

§ 151.539 RULES AND EXCEPTIONS GOVERNING SINGLE FAMILY ATTACHED.

In all residential districts, single family attached dwelling units may be permitted provided:

(A) Each dwelling unit shall be situated on an individual, legally subdivided or partitioned lot which include existing lots of record.

(B) The dwelling units shall have a common wall at the “zero” lot line.

(C) The combined area of lots shall not be less than the lot area required in the residential district.

(D) The lot or development site area requirement per dwelling unit listed in this code shall apply to each individual lot.

(E) The setback requirements will apply to each dwelling unit independently, except that the setback for the “zero” lot line shall be waived.

(F) Each dwelling unit shall have independent services which include, but are not limited to sewer, water and electricity.

(G) Authorization of single family attached dwelling units does not waive any requirement specified within the Uniform Building Codes or other applicable requirements.

(H) Maximum lot coverage requirements specified in this code shall apply to each individual lot.

(I) A site plan is approved by the Director prior to issuance of a building permit. In approving a site plan, the Director may attach any conditions necessary to fulfill the purpose of this code.
(Ord. 96-2451, passed 12-2-96)

§ 151.540 HOME OCCUPATION.

Home occupations shall be processed as a Type I procedure. Home occupation uses shall comply with the following standards:

(A) Signs shall comply with the standards of § 151.590 of this code.

(B) There is no display that will indicate from the exterior that the building is used in whole or in part for any purpose other than a dwelling.

(C) The building retains the characteristics of a residence.

(D) There is no outside storage of materials parts, tools, supplies, or other items related to the use as a home occupation, other than nursery plants.

(E) No more than one outside paid employee shall be permitted to work at the residence at any given time.

(F) The use does not destroy the residential character of the neighborhood.

(G) All work being performed at the site is done within the confines of a building and no noise, odor, dust, smoke or other evidence of the home occupation permeates beyond the confines of the property.

(H) The home occupation is incidental to the use of the building and site for residential purposes.

(I) The work does not involve the use of hazardous substances or materials which might create a fire hazard or danger to the environment or neighboring properties, including but not limited to gasoline, paint, oxygen/acetylene tanks, or other flammable or hazardous materials.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2499, passed 11-2-98) Penalty, see § 151.999

YARD SETBACK REQUIREMENTS

§ 151.550 GENERAL YARD REGULATIONS.

(A) No yard or open space provided around any building for the purpose of complying with the provisions of this code shall be considered as providing a yard or open space for any other building.

(B) No yard or open space on adjoining property shall be considered as providing required yard or open space for another lot or development site under the provisions of this code.

(C) No front yards provided around any building for the purpose of complying with the regulations of this code shall be used for public or private parking areas or garages, or other accessory buildings, except as specifically provided elsewhere in this code.

(D) When the common property line separating two or more contiguous lots is covered by a building or a permitted group of buildings with respect to such common property line or lines does not fully conform to the required yard spaces on each side of such common property line or lines, such lots shall constitute a single development site and the yards as

required by this code shall then not apply to such common property lines.

(E) Dwellings where permitted above non-residential buildings. The front and interior yard requirements for residential uses shall not be applicable provided that all yard requirements for the district in which such building is located are complied with.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.551 FRONT YARD SETBACK.

(A) *Residential (Figure X).*

(1) R-1 and R-2 Districts shall have a front yard of not less than 15 feet. Said yard shall be landscaped and maintained.

(2) R-3 and RP Districts shall have a front yard of not less than 12 feet. Said yard shall be landscaped and maintained.

(3) The entrance to a garage or carport, whether or not attached to a dwelling, shall be set back at least 20 feet from the nearest property line of the street to which access will be provided. However, the foregoing setback requirement shall not apply where the garage or carport will be provided with access to an alley only.

(B) *Commercial.*

(1) All lots or development sites in the C-1 District shall have a front yard of not less than ten feet. Said yard shall be landscaped and maintained.

(2) All lots or developments sites in the C-2 District shall have a front yard of not less than ten feet. No parking shall be allowed in said yard. Said yard shall be landscaped and maintained.

(3) All lots or development sites in the C-3 District shall have no minimum front yard requirements. The maximum allowable front yard

shall be 20 feet. In the case of a through lot with two front yards, at least one front yard must meet the maximum setback requirement. In the case of three or more front yards, at least two front yards must meet the maximum setback requirements. No parking shall be allowed in said yard. Said yard shall be landscaped and maintained.

(4) All lots or development sites in the C-4 District will comply with the front yard requirements described in § 151.527.4(E) of this code.

(C) *Industrial.* All lots or development sites in the M-1, M-2 or M-3 Districts shall have a front yard of 20 feet.

(D) *Institutional and Community Facility.* All lots or development sites in the I and CF District shall have a front yard of 25 feet. Outdoor activity facilities, such as pools, basketball courts, tennis courts, or baseball diamonds including any accessory structures and uses are not permitted within the required setback.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2001-2550, passed 5-21-01; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

§ 151.552 INTERIOR YARD SETBACK.

(A) *Residential.*

(1) All lots or development sites in the R-1, R-2 and R-3 Districts shall have interior yards of not less than five feet, except that where a utility easement is recorded adjacent to a side lot line, there shall be a side yard no less than the width of the easement.

(2) All lots or development sites in the RP District shall have interior yards of not less than eight feet.

(B) *Commercial.*

(1) All lots or development sites in the C-1 and C-2 Districts have no interior yards required where said lots or development sites abut property

lines of commercially or industrially zoned property. When interior lot lines of said districts are common with property zoned residentially, interior yards of not less than ten feet shall be required opposite the residential districts.

(2) All lots or development sites in the C-3 District shall have no interior yards requirements.

(3) All lots or development sites in the C-4 District will comply with the interior yard requirements described in § 151.527.4(E) of this code.

(C) *Industrial.* All lots or development sites in the M-1, M-2 and M-3 Districts shall have no interior yards where said lots or development sites abut property lines of commercially or industrially zoned property. When interior lot lines of said districts are common with property zoned residentially, interior yards of not less than ten feet shall be required opposite the residential districts.

(D) *Institutional and Community Facility.* All lots or development sites in the I and CF District shall have interior yards of not less than ten feet, except outdoor activity facilities, such as pools, basketball courts, tennis courts, or baseball diamonds including any accessory structures and uses shall have an interior yard setback of 25 feet when abutting a residential district.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2001-2550, passed 5-21-01; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

§ 151.553 SETBACK AND YARD RESTRICTIONS AS TO SCHOOLS, CHURCHES, PUBLIC BUILDINGS.

(A) *Building setback.* No buildings shall be erected, used or maintained for a school, church or public or semi-public building or use, institution or similar use under the regulations of this code unless such building is removed at least 25 feet from every boundary line of any property included in any residential district.

(B) *Required yard.* No required front or interior yard of the lot on which such building or use is located shall be used for play or parking purposes. (Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.554 SPECIAL SETBACK REQUIREMENTS TO PLANNED RIGHT-OF-WAYS.

(A) Yard requirements for property abutting partial or future street rights-of-way:

(1) Except as provided in subdivision (2) below, no building shall be erected on a lot which abuts a street having only a portion of its required width dedicated, unless the yards provided and maintained in connection with such building have a width and/or depth needed to complete the street width plus the width and/or depths of the yards, required on the lot by this code.

(2) Where a comprehensive plan street design, or a future street plan exists, the placement of buildings and the establishment of yards where required by this code, shall relate to the future street boundaries as determined by said plans.

(B) Planned street right-of-way widths: Planned street right-of-way widths are hereby established as indicated below for the various categories of streets shown in the transportation system plan.

(C) A lot or parcel of land in any district adjoining a street for which the planned right-of-way width and alignment has been determined, shall have a building setback line equal to the yard required in the district, plus a distance of:

(1) 50 feet from and parallel with the centerline of expressways.

(2) 35 feet from and parallel with the centerline of major and minor arterials.

(3) 30 feet from and parallel with the centerline of multiple family, commercial and

industrial streets and single family collector streets.

(4) 30 feet from and parallel with the centerline of single family local streets.

(5) 25 feet from and parallel with the centerline of single family hillside, cul-de-sacs and local streets which will never be extended more than 2,400 feet in length and which will have a relatively even division of traffic to two or more exits.

Exceptions to the above five classifications are shown in the transportation system plan.

(D) The centerline of planned streets shall be either the officially surveyed centerline or a centerline as on a precise plan. In the event of conflict between the two, the latter described line shall prevail. In all other cases, a line midway between properties abutting the right-of-way shall be the centerline for the purposes of this code.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2004-2602, passed 9-20-04) Penalty, see § 151.999

§ 151.555 VISION CLEARANCE SETBACK.

The following vision clearance standards shall apply in all zones (Fig. IX).

(A) At the intersection of two streets, including private streets, a triangle formed by the intersection of the curb lines, each leg of the vision clearance triangle shall be a minimum of 50 feet in length.

(B) At the intersection of a private drive and a street, a triangle formed by the intersection of the curb lines, each leg of the vision clearance triangle shall be a minimum of 25 feet in length.

(C) Vision clearance triangles shall be kept free of all visual obstructions from two and one-half feet to nine feet above the curb line. Where curbs are absent, the edge of the asphalt or future curb location shall be used as a guide, whichever provides the greatest amount of vision clearance.

(D) There is no vision clearance requirement within the commercial zoning district(s) located within the Riverfront (RF) Overlay Sub-district. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2507, passed 3-1-99; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

§ 151.556 YARD EXCEPTIONS AND PERMITTED INTRUSIONS INTO REQUIRED YARD SETBACKS.

The following intrusions may project into required yards to the extent and under the conditions and limitations indicated:

(A) *Depressed areas.* In any district, open work fences, hedges, guard railing or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls, may be located in required yards, provided that such devices are not more than three and one-half feet in height.

(B) *Accessory buildings.* In front yards on through lots: Where a through lot has a depth of not more than 140 feet, accessory buildings may be located in one of the required front yards; provided, that every portion of such accessory building is not less than ten feet from the nearest street line.

(C) *Projecting building features.* The following building features may project into the required front yard no more than five feet and into the required interior yards no more than two feet; provided, that such projections are no closer than three feet to any interior lot line:

(1) Eaves, cornices, belt courses, sills, awnings, buttresses or other similar features.

(2) Chimneys and fireplaces, provided they do not exceed eight feet in width.

(3) Porches, platforms or landings which do not extend above the level of the first floor of the building.

(4) Mechanical structures (heat pumps, air conditioners, emergency generators and pumps).

(D) *Fences and walls.*

(1) In the residential district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

(a) Not to exceed six feet in height. Located or maintained within the required interior yards. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of a six foot fence on the property line. In no case may a fence extend into the clear vision zone as defined in § 151.555.

(b) Not to exceed four feet in height. Located or maintained within all other front yards.

(2) In any commercial or industrial district, a fence or wall shall be permitted to be placed at the property line or within a yard setback as follows:

(a) Not to exceed eight feet in height. Located or maintained in any interior yard except where the requirements of vision clearance apply. For purposes of fencing only, lots that are corner lots or through lots may select one of the street frontages as a front yard and all other yards shall be considered as interior yards, allowing the placement of an eight foot fence on the property line.

(b) Not to exceed four feet in height. Located or maintained within all other front yards.

(3) If chain link (wire-woven) fences are used, they are manufactured of corrosion proof materials of at least 11½ gauge.

(4) The requirements of vision clearance shall apply to the placement of fences.

(E) *Parking and service drives* (also refer to §§ 151.610 through 151.617).

(1) In any district, service drives or accessways providing ingress and egress shall be permitted, together with any appropriate traffic control devices in any required yard.

(2) In any residential district, public or private parking areas and parking spaces shall not be permitted in any required yard except as provided herein:

(a) Required parking spaces shall be permitted on service drives in the required front yard in conjunction with any single family or two family dwelling on a single lot.

(b) Recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use, are restricted to parking in the front yard setback for not more than 48 hours; and recreational vehicles, boat trailers, camperettes and all other vehicles not in daily use, are permitted to be located in the required interior yards.

(c) Public or private parking areas, parking spaces or any building or portion of any building intended for parking which have been identified as a use permitted in any residential district, shall be permitted in any interior yard that abuts an alley, provided said parking areas, structures or spaces shall comply with the parking table and diagram (Diagrams 1-3).

(d) Public or private parking areas, service drives or parking spaces which have been identified as a use permitted in any residential district, shall be permitted in interior yards, provided that said parking areas, service drives or parking spaces shall comply with other requirements of this code.

(3) In any commercial or industrial district, except C-1, C-4 and M-1, public or private parking areas or parking spaces shall be permitted in any required yard (see § 151.552). Parking requirements

in the C-4 District are described in § 151.527.4(H) of this code.

(4) In the I District, public or private parking areas or parking spaces may be no closer to a front property line than 20 feet, and no closer to an interior property line than five feet.

(F) *Public telephone booths and public transit shelters*. Public telephone booths and public transit shelters shall be permitted, provided that vision clearance is maintained for vehicles requirements for vision clearance.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2564, passed 4-15-02; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

LOT REQUIREMENTS

§ 151.565 LOT AREA; LOT AREAS PER DWELLING UNIT.

(A) In the following districts, each lot or development site shall have an area as shown below except as otherwise permitted by this code.

(1) In the R-1 District, each lot or development site shall have a minimum area of 7,500 square feet or as may be established by a sub-district.

(2) In the R-2, R-3, RP, C-1, C-2, and C-3 Districts, each lot or development site shall have a minimum of 5,000 square feet or as may be established by a sub-district.

(3) In the M-1, M-2 and M-3 Districts, each lot or development site shall have a minimum area of 20,000 square feet.

(4) Institutional Districts shall have a minimum size of five contiguous acres in order to create a large enough campus to support institutional

uses; however, additions to the district may be made in increments of any size.

(5) Within the commercial zoning district(s) of the Riverfront Overlay Sub-district, there is no minimum lot size required, provided the other standards of this code can be met.

(B) Lot or development site area per dwelling unit.

(1) In the R-1 District, there shall be a minimum of 7,500 square feet per dwelling unit.

(2) In the R-2 and R-P Districts, there shall be a minimum of 3,750 square feet of lot or development site area per dwelling unit.

(3) In the R-3 District, there shall be a minimum of 1,500 square feet of lot or development site area per dwelling unit.

(C) In calculating lot area for this section, lot area does not include land within public or private streets.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2507, passed 3-1-99; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

§ 151.566 LOT AREA EXCEPTIONS.

The following shall be exceptions to the required lot areas:

(A) Lots of record with less than the area required by this code.

(B) Lots or development sites which, as a process of their creation were approved in accordance with this code.

(C) Planned unit developments, provided they conform to requirements for planned unit development approval.

(Ord. 96-2451, passed 12-2-96)

§ 151.567 LOT DIMENSIONS AND FRONTAGE.

(A) *Width.* Widths of lots shall conform to the standards of this code.

(B) *Depth.* Each lot and parcel shall have an average depth between the front and rear lines of not more than two and one-half times the average width between the side lines. Depths of lots shall conform to the standards of this code.

(C) *Area.* Lot sizes shall conform to standards set forth in this code. Lot area calculations shall not include area contained in public or private streets as defined by this code.

(D) *Frontage.*

(1) No lot or development site shall have less than the following lot frontage standards:

(a) Each lot or development site shall have either frontage on a public street for a distance of at least 25 feet or have access to a public street through an easement that is at least 25 feet wide. No new private streets, as defined in §§ 151.003, shall be created to provide frontage or access.

(b) Each lot in an R-1, R-2, R-3 or RP Zone shall have a minimum width of 50 feet at the front building line.

(2) The above standards apply with the following exceptions:

(a) Legally created lots of record in existence prior to the effective date of this code.

(b) Lots or development sites which as a process of their creation, were approved with sub-standard widths in accordance with provisions of this code.

(c) Existing private streets may not be used for new dwelling units, except private streets that

were created prior to March 1, 1999, including paving to fire access roads standards and installation of necessary utilities.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2507, passed 3-1-99) Penalty, see § 151.999

§ 151.568 LOT COVERAGE AND PARKING COVERAGE REQUIREMENTS.

(A) For all buildings and uses the following shall mean the maximum permitted lot coverage, maximum coverage of public or private parking areas or garages, and/or combined maximum lot and parking combined coverage required in the various districts expressed in percentage of the area of the lot or development site in which district such coverage is permitted or required (Fig. IV).

(1) Maximum lot coverage.

(a) R-1: 30%.

(b) R-2 and RP: 40%.

(c) R-3: 50%.

(2) Maximum coverage for parking lots; aisles and access; and parking structures, where 50% or more of the perimeter of such structure is open on its sides: R-1, R-2, R-3, and RP: 30%.

(3) Combined maximum lot and parking area coverage:

(a) R-1, R-2 and RP: 60%.

(b) R-3: 70%.

(B) All other districts not listed in division (A) of this section shall not be limited as to lot coverage and parking area coverage.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

LANDSCAPING AND OUTDOOR AREAS

§ 151.580 REQUIRED MINIMUM STANDARDS.

(A) *Private and shared outdoor recreation areas in residential developments.*

(1) *Private areas.* Each ground level living unit in a residential development subject to a design review plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide increased privacy for unit residents, their guests and neighbors.

(2) *Individual and shared areas.* Usable outdoor recreation space shall be provided for the individual and/or shared use of residents and their guests in any duplex or multi-family residential development, as follows:

(a) One or two bedroom units: 200 square feet per unit.

(b) Three or more bedroom units: 300 square feet per unit.

(c) Storage areas are required in residential developments. Convenient areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, and the like. These shall be entirely enclosed.

(B) *Required landscaped area.* The following landscape requirements are established for all developments except single family dwellings.

(1) A minimum of 15% of the lot area shall be landscaped; provided however, that computation of this minimum may include areas landscaped under subdivision (3) below. Development in the C-3 (Central Business District) Zoning District is exempt from the 15% landscape area requirement of this section. Additional landscaping requirements in the C-4 District are described in § 151.527.4(K) of this code.

(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.

(3) The following landscape requirements shall apply to the parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

(b) A parking, loading area, or drive aisle which runs adjacent to a property line shall be separate from any lot line adjacent to a street by landscaped strip at least ten feet in interior width or the width of the required yard, whichever is greater, and any other lot line by a landscaped strip of at least five feet in interior width. See subdivisions (c) and (d) below for material to plant within landscape strips.

(c) A landscaped strip separating a parking area, loading area, or drive aisle from a street shall contain street trees spaced as appropriate to the species, not to exceed 50 feet apart on an average, and a combination of shrubs and ground cover, or lawn. This landscaping shall provide partial screening of these areas from the street.

(d) A landscaped strip separating a parking area, loading area, or drive aisle from an interior lot line shall contain any combination of trees, shrubs, ground cover or lawn. Plant material shall be selected from at least two different plant material groups (example: trees and shrubs, or lawn and shrubs, or lawn and trees and shrubs).

(e) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

(f) Landscaping areas in a parking lot, service drive or loading area shall have an interior width of not less than five feet.

(g) All multi-family, institutional, commercial, or industrial parking areas, service

drives, or loading zones, which abut a residential district shall be enclosed with a 75% opaque, site obscuring fence, wall or evergreen hedge along and immediately adjacent to any interior property line which abuts the residential district. Landscape plantings must be large enough to provide the required minimum screening requirement within 12 months after initial installation. Adequate provisions shall be maintained to protect walls, fences or plant materials from being damaged by vehicles using said parking areas.

(h) An island of landscaped area shall be located to separate blocks of parking spaces. At a minimum, one deciduous shade tree per seven parking spaces shall be planted to create a partial tree canopy over and around the parking area. No more than seven parking spaces may be grouped together without an island separation unless otherwise approved by the Director based on the following alternative standards:

1. Provision of a continuous landscaped strip, with a five foot minimum width, which runs perpendicular to the row of parking spaces (Fig. XIII).

2. Provision of tree planting landscape islands, each of which is at least 16 square feet in size, and spaced no more than 50 feet apart on average, within areas proposed for back to back parking (Fig. XIV).

(4) Trees, shrubs and ground covers: The species of street trees required under this section shall conform to those authorized by the City Council through resolution. The Director shall have the responsibility for preparing and updating the street tree species list which shall be adopted in resolution form by the City Council.

(a) Arterial and minor arterials street trees shall have spacing of approximately 50 feet on center. These trees shall have a minimum two inch caliper tree trunk or stalk at a measurement of two feet up from the base and shall be balled and burlapped or boxed.

(b) Collector and local street trees shall be spaced approximately 35-40 feet on center. These trees shall have a minimum of an one and one-half or one and three-quarter inch tree trunk or stalk and shall be balled and burlapped or boxed.

(c) Accent trees: Accent trees are trees such as flowering cherry, flowering plum, crabapple, Hawthorne and the like. These trees shall have a minimum one and one-half inch caliper tree trunk or stalk and shall be at least eight to ten feet in height. These trees may be planted bare root or balled and burlapped. The spacing of these trees should be approximately 25 - 30 feet on center.

(d) All broad leafed evergreen shrubs and deciduous shrubs shall have a minimum height of 12 - 15 inches and shall be balled and burlapped or come from a two gallon can. Gallon can size shrubs will not be allowed except in ground covers. Larger sizes of shrubs may be required in special areas and locations as specified by the design review board. Spacing of these shrubs shall be typical for the variety, three to eight feet, and shall be identified on the landscape planting plan.

(e) Ground cover plant material. Ground cover plant material such as greening juniper, cotoneaster, minor Bowles, English ivy, Hypericum, and the like, shall be one of the following sizes in specified spacing for that size:

Gallon cans	3 feet on center
4" containers	2 feet on center
2¼" containers	18" on center
Rooted cuttings	12" on center

(5) Automatic, underground irrigation systems shall be provided for all areas required to be planted by this section. The Director shall retain the flexibility to allow a combination of irrigated and non-irrigated areas. Landscaping material used within non-irrigated areas must consist of drought resistant varieties. Provision must be made for alternative irrigation during the first year after initial installation to provide sufficient moisture for plant establishment.

(6) Required landscaping shall be continuously maintained.

(7) Maximum height of tree species shall be considered when planting under overhead utility lines.

(8) Landscaping requirements and standards for parking and loading areas [subdivision (B)(2)] will apply to development proposals unless the institution has addressed the requirements and standards by an approved site development master plan. With an approved site development master plan, the landscape requirements will be reviewed through an Administrative Type I review process.

(C) *Installation of landscaping.* All landscaping required by these provisions shall be installed prior to the issuance of occupancy permits, unless security equal to 110% of the cost of the landscaping as determined by the Director is filed with the city, insuring such installation within six months of occupancy. "Security" - cash, certified check, time certificates of deposit, assignment of a savings account, bond or such other assurance of completion as shall meet with the approval of the City Attorney shall satisfy the security requirements. If the installation of the landscaping is not completed within the six month period, or within an extension of time authorized by the Director, the security may be used by the city to complete the installation. Upon completion of the installation, any portion of the remaining security deposited with the city shall be returned to the applicant.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2513, passed 8-2-99; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

§ 151.581 LANDSCAPING AND AMENITIES IN PUBLIC RIGHTS-OF-WAY.

The following standards are intended to create attractive streetscapes and inviting pedestrian spaces. A review body may require any of the following landscaping and amenities to be placed in abutting

public rights-of way as part of multiple dwelling, commercial, industrial, or institutional design reviews, or for subdivisions and planned unit developments. In addition, any entity improving existing rights-of-way should consider including these elements in the project. A decision to include any amenity shall be based on comprehensive plan guidelines, pedestrian volumes in the area, and the nature of surrounding development.

(A) *Pedestrian space landscaping.* Pedestrian spaces shall include all sidewalks and medians used for pedestrian refuge. Spaces near sidewalks shall provide plant material for cooling and dust control, and street furniture for comfort and safety, such as benches, waste receptacles and pedestrian-scale lighting. These spaces should be designed for short as well as long-term use. Elements of pedestrian spaces shall not obstruct sightlines and shall adhere to any other required city safety measures. Medians used for pedestrian refuge shall be designed for short-term use only with plant material for cooling and dust control, and pedestrian-scale lighting. The design of these spaces shall facilitate safe pedestrian crossing with lighting and accent paving to delineate a safe crossing zone visually clear to motorists and pedestrians alike.

(1) Street trees planted in pedestrian spaces shall be planted according to § 151.580(B)(4).

(2) Pedestrian spaces shall have low (2.5 feet) shrubs and groundcovers for safety purposes, enhancing visibility and discouraging criminal activity.

(a) Plantings shall be 90% evergreen year-round, provide seasonal interest with fall color or blooms, and at maturity maintain growth within planting area (refer to plant material matrix below).

(b) Plant placement shall also adhere to clear sight line requirements as well as any other relevant city safety measures.

(3) Pedestrian-scale lighting shall be installed along sidewalks and in medians used for pedestrian refuge.

(a) Pole lights as well as bollard lighting may be specified, however the amount and type of pedestrian activity during evening hours, i.e. transit stops, nighttime service districts, shall ultimately determine the type of fixture chosen.

(b) Luminaire styles shall match the area/district theme of existing luminaires and shall not conflict with existing building or roadway lights causing glare.

(c) Lighting heights and styles shall be chosen to prevent glare and to designate a clear and safe path and limit opportunities for vandalism (See Figure XVII, Typical Pedestrian Space Layouts).

(d) Lighting shall be placed near the curb to provide maximum illumination for spaces furthest from building illumination. Spacing shall correspond to that of the street trees to prevent tree foliage from blocking light.

(4) Street furniture such as benches and waste receptacles shall be provided for spaces near sidewalks only.

(a) Furniture should be sited in areas with the heaviest pedestrian activity, such as downtown, shopping districts, and shopping centers.

(b) Benches should be arranged to facilitate conversation between individuals with L-shaped arrangements and should face the area focal point, such as shops, fountain, plaza, and should divert attention away from nearby traffic.

(5) Paving and curb cuts shall facilitate safe pedestrian crossing and meet all ADA requirements for accessibility.

(B) *Planting strip landscaping.* All planting strips shall be landscaped. Planting strips provide a physical and psychological buffer for pedestrians from traffic with plant material that reduces heat and dust creating a more comfortable pedestrian environment. Planting strips shall have different arrangements and combinations of plant materials according to the

frequency of on-street parking (See Figures XVIII and XIX).

(1) Planting strips which do not have adjacent parking shall have a combination of groundcovers, low (2.5 feet) shrubs and trees. Planting strips adjacent to frequently used on-street parking, as defined by city staff, shall only have trees protected by tree grates, and planting strips adjacent to infrequently used on-street parking shall be planted with groundcover as well as trees (Figures XVIII and XIX Typical Planting Strip Landscaping). District themes or corridor themes linking individual districts should be followed utilizing a unifying plant characteristic, i.e. bloom color, habit, or fall color. When specifying thematic plant material, monocultures should be avoided, particularly those species susceptible to disease.

(2) Street trees shall be provided in all planting strips as provided in § 151.580(B)(4).

(a) Planting strips without adjacent parking or with infrequent adjacent parking shall have street trees in conjunction with groundcovers and/or shrubs.

(b) Planting strips with adjacent parking used frequently shall have only street trees protected by tree grates.

(3) Shrubs and groundcovers shall be provided in planting strips without adjacent parking with low (2.5 feet) planting masses to enhance visibility, discourage criminal activity, and provide a physical as well as psychological buffer from passing traffic.

(a) Plantings shall be 90% evergreen year-round, provide seasonal interest with fall color or blooms, and at maturity maintain growth within planting area.

(b) Groundcover able to endure infrequent foot traffic shall be used in combination with street trees for planting strips with adjacent occasional parking (refer to plant material matrix below).

(c) All plant placement shall adhere to clear sight line requirements as well as any other relevant city safety measures.

(C) *Maintenance.* All landscapes shall be maintained for the duration of the planting to encourage health of plant material as well as public health and safety. All street trees and shrubs shall be pruned to maintain health and structure of the plant material for public safety purposes.

[See plant matrix on next page]

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Newberg - Land Usage

[insert plant matrix here]

(Ord. 99-2513, passed 8-2-99)

2002 S-2

EXTERIOR LIGHTING**§ 151.585 PURPOSE.**

The purpose of this subchapter is to regulate the placement, orientation, distribution patterns, and fixture types of on-site outdoor lighting. The intent of this section is to provide minimum lighting standards that promote safety, utility, and security, prevent glare on public roadways, and protect the privacy of residents. Public street lighting is governed by § 151.586.

(Ord. 2000-2537, passed 11-6-00)

§ 151.586 APPLICABILITY AND EXEMPTIONS.

(A) *Applicability.* Outdoor lighting shall be required for safety and personal security in areas of assembly, parking, and traverse, as part of multi-family residential, commercial, industrial, public, recreational and institutional uses. The applicant for any Type I or Type II development permit shall submit, as part of the site plan, evidence that the proposed outdoor lighting plan will comply with this section. This information shall contain but not be limited to the following:

(1) The location, height, make, model, lamp type, wattage, and proposed cut-off angle of each outdoor lighting fixture.

(2) Additional information the Director may determine is necessary, including but not limited to illuminance level profiles, hours of business operation, and percentage of site dedicated to parking and access.

(3) If any portion of the site is used after dark for outdoor parking, assembly or traverse, an illumination plan for these areas is required. The plan must address safety and personal security.

(B) *Exemptions.* The following uses shall be exempt from the provisions of this section:

(1) Public street and airport lighting.

(2) Circus, fair, carnival, or outdoor governmentally sponsored event or festival lighting.

(3) Construction or emergency lighting, provided such lighting is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting.

(4) *Temporary lighting.* In addition to the lighting otherwise permitted in this code, a lot may contain temporary lighting during events as listed below:

(a) *Grand opening event.* A grand opening is an event of up to 30 days duration within 30 days of issuance of a Certificate of Occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the City in writing of the beginning and ending dates prior to the grand opening event.

(b) *Other events.* A lot may have two other events per calendar year. The events may not be more than eight consecutive days duration, nor less than 30 days apart.

(5) Lighting activated by motion sensor devices.

(6) Non-conforming lighting in place as of September 5, 2000. Replacement of non-conforming lighting is subject to the requirements of §§ 151.140 through 151.149.

(Ord. 2000-2537, passed 11-6-00)

§ 151.587 ALTERNATIVE MATERIALS AND METHODS OF CONSTRUCTION, INSTALLATION, OR OPERATION.

The provisions of this section are not intended to prevent the use of any design, material, or methods of

installation or operation not specifically prescribed by this section, provided any such alternate has been approved by the Director. Alternatives must be an approximate equivalent to the applicable specific requirement of this section, and must comply with all other applicable standards in this section.

(Ord. 2000-2537, passed 11-6-00)

§ 151.588 REQUIREMENTS.

(A) *General requirements: All zoning districts.*

(1) Low level light fixtures include exterior lights which are installed between ground level and six feet tall. Low level light fixtures are considered non-intrusive and are unrestricted by this code.

(2) Medium level light fixtures include exterior lights which are installed between six feet and 15 feet above ground level. Medium level light fixtures must either comply with the shielding requirements of division (B) below, or the applicant shall show that light trespass from a property has been designed not to exceed 0.5 foot-candle at the property line.

(3) High level light fixtures include exterior lights which are installed 15 feet or more above ground level. High level light fixtures must comply with the shielding requirements of (B) below, and light trespass from a property may not to exceed 0.5 foot-candle at the property line.

(B) *Table of shielding requirements*

<u>Fixture Lamp Type</u>	<u>Shielded</u>
Low/High Pressure Sodium, Mercury Vapor, Metal Halide and Fluorescent over 50 watts	Fully
Incandescent over 160 watts	Fully
Incandescent 160 watts or less	None
Fossil fuel	None
Any light source of 50 watts or less	None
Other sources	As approved by § 151.587
Note: Incandescent includes tungsten-halogen (quartz) lamps	

(Ord. 2000-2537, passed 11-6-00)

UNDERGROUND UTILITY

§ 151.589 UNDERGROUND UTILITY INSTALLATION.

(A) All new utility lines, including but not limited to electric, communication, natural gas, and cable television transmission lines, shall be placed underground. This does not include surface mounted transformers, connections boxes, meter cabinets, service cabinets, temporary facilities during construction, and high capacity electric lines operating at 50,000 volts or above.

(B) Existing utility lines shall be placed underground when they are relocated, or when an addition or remodel requiring a Type II design review is proposed, or when a developed area is annexed to the City.

(C) The Director may make exceptions to the requirement to underground utilities based on one or more of the following criteria:

(1) The cost of under grounding the utility is extraordinarily expensive.

(2) There are physical factors that make under grounding extraordinarily difficult.

(3) Existing utility facilities in the area are primarily overhead and are unlikely to be changed.

(Ord. 2000-2537, passed 11-6-00)

SIGNS

§ 151.590 PURPOSE.

(A) The citizens of Newberg desire a clean, attractive, economically vibrant, and safe community. Well planned and constructed signs can contribute to the community's success by directing and informing the public about commercial and other activities, and by creating attractive commercial and other

neighborhoods. On the other hand, unregulated signage can create clutter, distractions, and hazards.

(B) These regulations are designed:

(1) To improve, maintain and preserve Newberg as a pleasing environment so as to improve the quality of life of all residents.

(2) To enhance the attractiveness of Newberg as a place to conduct business.

(3) To enable the identification of places of residences and business.

(4) To allow the freedom of expression.

(5) To reduce distractions and obstructions from signs which would adversely affect safety.

(6) To reduce the hazards from improperly placed or constructed signs.

(Ord. 98-2499, passed 11-2-98)

§ 151.591 APPLICABILITY AND EXEMPTIONS.

(A) All signs placed or maintained anywhere within the city shall comply with the standards of this code, with the exception of the following:

(1) Public signs.

(2) Signs that are required to be placed by law and that are no more than 50% larger than the minimum size required by law or, if there is no minimum size specified, signs with lettering height no more than four inches.

(3) Signs painted on or attached to windows that do not cover more than 50% of the surface of that window.

(4) Signs located entirely within a building and not on a window.

(5) Signs not legible from the public right-of-way.

(B) If any of the signs listed above require permits under the Uniform Sign Code, the sign shall be placed only following issuance of such permit.

(C) Nothing in this subchapter shall be construed to allow placement of a sign on a property without the authority of the property owner.
(Ord. 98-2499, passed 11-2-98)

§ 151.592 PERMIT REQUIRED.

(A) Except as follows, no person or entity shall place any sign within the city without first obtaining a permit from the Director.

(B) The following do not require sign permits, but must otherwise comply with the standards of this code.

- (1) Minor freestanding signs.
- (2) Minor attached signs.
- (3) Temporary signs.
- (4) Portable signs.

(5) If any of the signs listed above require permits under the Uniform Sign Code, the sign shall be placed only following issuance of such permit.
(Ord. 98-2499, passed 11-2-98) Penalty, see § 151.999

§ 151.593 GENERAL REQUIREMENTS; ALL SIGNS.

(A) All signs shall comply with the standards contained in the Uniform Sign Code, 1997 edition or most recent, published by the International Conference of Building Officials. If the standards of that code and this Development Code conflict, this Development Code shall prevail. All signs shall be kept in repair and in proper state of preservation as required under the Uniform Sign Code.

(B) No sign shall have bright or flashing lights shining on a public way that blind or impair the vision of drivers. No sign shall be constructed such that it may be confused with any traffic sign, signal or device.

(C) No animated sign shall exceed ten square feet in area. In the C-3 Zone, animated signs are prohibited.

(D) All signs shall comply with the vision clearance standards of § 151.555 of this code.

(E) Signs located in the Airport Overlay Sub-district shall comply with the height and visual interference restrictions of that district.
(Ord. 98-2499, passed 11-2-98; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2565, passed 4-1-02) Penalty, see § 151.999

§ 151.594 MAJOR FREESTANDING SIGNS.

(A) *Number.*

(1) *C-3 Zone.* No major freestanding signs shall be allowed greater than six feet in height.

(2) *Other zones.* Not more than one major freestanding sign shall be located on any one street frontage.

(B) *Size.*

(1) *Residential Zones:* No major freestanding sign shall be larger than 0.2 square foot per foot of street frontage, up to a maximum of 30 square feet. At least six square feet of signage will be allowed. Major freestanding signs are not allowed on lots containing only one single family dwelling or duplex.

(2) *C-1 and I Zones:* No major freestanding sign shall be larger than 0.5 square foot per foot of street frontage, up to a maximum of 100 square feet. At least 12 square feet of signage will be allowed.

(3) Other zones: No major freestanding sign shall be larger than 1.0 square foot per foot of street frontage, up to a maximum of 100 square feet. At least 40 square feet of signage will be allowed. For any lot at least ten acres in size with at least 200 feet of frontage on a street, the one sign on that street may be up to 200 square feet total size.

(C) Height and setbacks: Freestanding signs regulated by this section are not subject to the setback requirements of §§ 151.550 through 151.556 or the projecting building features requirements of said sections. Height and setbacks of freestanding signs shall conform to the following requirements:

(1) A sign up to three feet in height is not required to be setback from any property line.

(2) A sign taller than three feet and up to six feet shall be setback at least five feet from any property line.

(3) A sign taller than six feet and up to eight feet shall be setback at least ten feet from any front property line and five feet from any interior property line.

(4) A sign taller than eight feet and up to 15 feet shall be setback at least 15 feet from any front property line and five feet from any interior property line.

(5) A sign taller than 15 feet and up to 20 feet shall be setback at least 20 feet from the front property line and five feet from any interior property line.

(6) A sign on a lot that is at least ten acres in size in a zone other than residential, C-1, or I and that has at least 200 feet of frontage on a street may be up to 30 feet high provided it is set back at least 20 feet from the front property line and at least ten feet from any interior property line.
(Ord. 98-2499, passed 11-2-98; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2565, passed 4-1-02) Penalty, see § 151.999

§ 151.595 MINOR FREESTANDING SIGNS.

(A) Number: Not more than two minor freestanding signs shall be located in the front yard on any one street frontage, plus one for each full 100 feet of street frontage. This number limit shall not apply to minor freestanding signs located outside a required front yard and more than ten feet from the public right-of-way.

(B) Size:

(1) Residential Zones: No minor freestanding sign shall exceed three square feet in area.

(2) Other zones: No minor freestanding sign shall exceed six square feet in area.

(C) Height: No minor freestanding sign shall exceed three feet in height.
(Ord. 98-2499, passed 11-2-98; Am. Ord. 2002-2561, passed 4-1-02) Penalty, see § 151.999

§ 151.596 MAJOR ATTACHED.

(A) Number:

(1) C-3 Zone. Allowed major attached signs include: flat wall signs and signs that project over the sidewalk. Prohibited signs include: signs on roofs, chimneys or balconies.

(2) All zones. The number of major attached signs on any building face shall not exceed one per 25 feet of building frontage of that face.

(B) Size:

(1) R-1, R-2, and R-3 Zones: The total of all major attached signs on any building frontage shall not exceed 0.2 square foot for each foot of building frontage. At least six square feet of signage will be allowed up to a maximum of 30 square feet. Major attached signs are not allowed on lots containing only one single family dwelling or duplex.

(2) RP, C-1, and I Zones: The total of all major attached signs on any building frontage shall not exceed 0.5 square foot for each foot of building frontage. At least 12 square feet of signage will be allowed.

(3) Other zones: The total of all major attached signs on any building frontage shall not exceed 1.0 square foot for each foot of building frontage. At least 40 square feet of signage will be allowed.

(C) Height:

(1) C-3 Zone: Maximum mounting height for wall signs shall be 18 feet above the sidewalk, measured from the top of the sign. The top signboard of a projecting sign on a single story building shall not be higher than the wall from which it projects. For multi-story buildings, the signboard shall not be higher than the average sill height of the second story windows. Projecting signs shall be mounted such that the distance between the lower edge of the signboard and the ground level is not less than eight feet. The distance from the building wall to the signboard shall be a maximum of six inches.

(2) Other zones: Major attached signs shall not extend above the roof line of the building they are attached to by more than eight feet, and shall not exceed the maximum height of the zone in which they are located.

(D) Projections: Major attached signs may project into the required front yard no more than five feet and into the required interior yards not more than two feet, provided that such projections are no closer than three feet to any interior lot line. For buildings in the C-3 Zone, major attached signs may project up to five feet into the right-of-way, but not closer than two feet from the curb line. The lower edge of any major attached sign shall be at least eight feet above ground level. This requirement supercedes the relevant sign standards in the Uniform Sign Code. (Ord. 98-2499, passed 11-2-98; Am. Ord. 2002-2561, passed 4-1-02) Penalty, see § 151.999

§ 151.597 MINOR ATTACHED SIGNS AND AWNING SIGNAGE.

(A) Minor attached signs.

(1) Spacing: No two minor attached signs on one building that are both visible from any one point shall be closer than 25 feet.

(2) Size:

(a) Residential Zones: Minor attached signs shall not exceed three square feet in area.

(b) Other zones: Minor attached signs shall not exceed six square feet in area.

(3) Height: Minor attached signs shall not extend above the roof line of the building they are attached to.

(4) Projections:

(a) C-3 Zone: Minor attached signs may project no more than three feet into a public right-of-way, but no closer than two feet from the curb line. The lower edge of any minor attached sign shall be at least eight feet above ground level. This requirement supercedes the relevant sign standards in the Uniform Sign Code.

(b) Other zones: The same projection is allowed as for major attached signs, § 151.596.

(B) Awning signage: Awnings are encouraged along the frontage of buildings in the C-3 district.

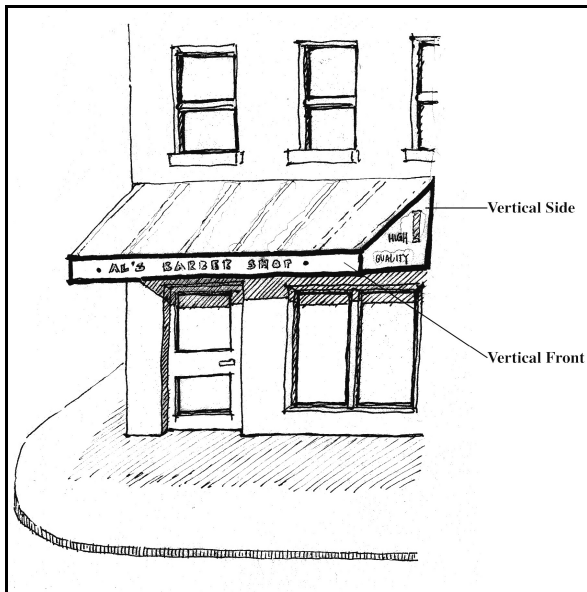
(1) C-3 Zone: Back-lit translucent awnings are not allowed. Lettering may appear on curved surfaces, but shall be limited to the lowest 12 inches of the awning (measured vertically from the lowest edge). Freestanding letters mounted on top of the front vertical surface are also allowed, though they shall not exceed eight inches in height.

(a) Other minor attached signs may be attached to or suspended from an awning or canopy provided they are less than six square feet in size.

(b) The lower edge of any awning shall be at least eight feet above ground level. This requirement supercedes the relevant sign standards in the Uniform Sign Code.

(c) Signage is not allowed on any awning surfaces that are not specifically permitted in this section.

(2) Other zones: Awning signs in other zones shall be regulated as either minor or major attached signs.



(Ord. 98-2499, passed 11-2-98; Am. Ord. 2002-2561, passed 4-1-02) Penalty, see § 151.999

§ 151.598 PORTABLE SIGNS.

(A) Number: Not more than one portable sign may be located on any one street frontage, except temporary signs allowed per § 151.599 below.

(B) Size:

(1) Residential Zones:

(a) Residential uses: One portable sign not to exceed six square feet.

(b) All other permitted uses: One portable sign not to exceed six square feet if located in the front yard, or 16 square feet if located elsewhere on the property.

(2) Other zones: The one portable sign may not exceed 12 square feet if located in the front yard, or 40 square feet if located elsewhere on the property.

(C) Design: No portable sign shall be permanently affixed to any structure or the ground. No portable sign shall be attached to a tree or utility pole. All signs shall be designed to be removed quickly. No portable sign shall be animated or internally illuminated. No readerboard shall be used as portable sign, except as a temporary sign as permitted § 151.599 below.

(D) Location: No portable sign shall be located within the public right-of-way except as allowed under § 151.600 of this code.

(E) Height: The height of a portable sign shall not exceed the maximum height of buildings in that zone.
(Ord. 98-2499, passed 11-2-98) Penalty, see § 151.999

§ 151.599 TEMPORARY SIGNS FOR EVENTS.

In addition to the portable signs otherwise permitted in this code, a lot may contain temporary signs in excess of the number and size allowed by § 151.598 above, during events as listed below:

(A) Grand opening event: A grand opening is an event of up to 30 days duration within 30 days of issuance of a certificate of occupancy for a new or remodeled structure, or within 30 days of change of business or ownership. No lot may have more than one grand opening event per calendar year. The applicant shall notify the city in writing of the beginning and ending dates prior to the grand opening event. If there are no freestanding signs on a frontage after the grand opening event, one of the temporary

signs may remain on the property for the 60 days immediately after the end of the grand opening event.

(B) Election event: An election event begins 90 days prior to and end 14 days after any public election. During this event a lot may contain up to two additional temporary signs not to exceed 12 square feet total area for both signs. These signs shall not be located in the public right-of-way.

(C) Other events: A lot may have two other events per calendar year. The events may not be more than eight consecutive days duration, nor less than 30 days apart.

(D) Flag displays: One flag display is permitted on each street frontage. An unlimited number of displays is permitted on any legal holiday or Newberg City Council designated festival. (Ord. 98-2499, passed 11-2-98) Penalty, see § 151.999

§ 151.600 SIGNS WITHIN THE PUBLIC RIGHT-OF-WAY.

(A) Public signs are permitted in the public right-of-way as permitted by the governmental agency responsible for the right-of-way.

(B) For lots in the C-3 and C-4 Zones, the one allowed portable sign per street frontage may be located, without permit, in the public right-of-way fronting that lot provided it meets the following standards:

(1) The sign may not be less than two feet nor more than four feet high.

(2) The sign may not be located within the vehicular path.

(3) If located on a sidewalk, the sign must leave a clear area of at least five feet measured horizontally, and may not be located on a wheel chair ramp.

(4) If the sign is located adjacent to a striped on-street parking area, the sign must be located adjacent to the stripe.

(5) The sign may not be located within three feet of a fire hydrant.

(6) The sign must be removed during non-business hours or hours the adjoining property is uninhabited.

(7) The property owner abutting the right-of-way shall grant permission for any sign, other than a public sign, that is placed within that right-of-way fronting his or her lot.

(8) If more than one sign is located in the right-of-way fronting one lot, all signs may be forfeited as per division (E) below.

(C) For lots in other zones, the one portable sign per street frontage may be allowed in the public right-of-way provided:

(1) The applicant first obtains a sign permit from the Director approving the location of the sign. Approval is at the sole discretion of the Director. The permit shall be affixed to the sign.

(2) The standards of subdivisions (B)(1) through (B)(6) above are met.

(D) No other signs shall be placed within the public right-of-way except as specifically permitted by this code.

(E) Any sign installed or placed in the public right-of-way, except in conformance with the requirements of this code, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign. (Ord. 98-2499, passed 11-2-98; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

§ 151.601 DOWNTOWN (C-3) SIGN STANDARDS.

(A) *Purpose.* Newberg's downtown is the heart of the community. A variety of early 20th Century commercial buildings define its character. The community's vision is for this area to be a lively, customer and pedestrian friendly district with a variety of successful businesses. Competition from other retail areas requires this area to have an identity and look that is distinct and attractive. Capturing the historic and unique feel of the downtown through sign design standards will aid in its vitality. These standards are intended to promote the economic vitality of downtown by promoting attractive, historically-themed, and pedestrian-oriented signage.

(B) *Design standards.* In addition to meeting other standards within this code, any major attached or freestanding sign within the C-3 district shall score at least 10 points using the following scale. Where more than one sign exists on a frontage, the total score shall be the average score for all signs on that frontage.

[Sign Point Scale on next page]

Development Code

150A

Points Possible	Element
	Sign Type
4	The sign is attached to a mounting bracket and allowed to swing freely.
4	The sign is on an awning and meets the standards in § 151.597 below.
3	The sign is a fin sign extending at least 2 feet from the building surface.
3	The sign primarily includes raised or engraved individual letters or graphics on a background wall.
2	The sign is freestanding and less than 6 feet high.
	Sign Material
4	The sign is sandblasted or carved wood.
4	The sign includes natural finished wood in the frame, background or lettering (plywood excluded).
4	The sign includes a frame, background or lettering in aluminum, copper or brass in natural finishes.
2	The sign is on an opaque fabric awning made of cotton-based canvas or woven acrylic and includes free-hanging trim or vertical front.
2	The sign incorporates decorative wrought iron.
	Sign Face
4	The outline of the sign frame (or the letters and graphics if no frame) is predominantly curved or non-rectangular.
3	All colors on the sign are low intensity, such as muted earth tones. Bright, fluorescent, or neon colors are excluded.
2	The most prominent lettering on the sign, such as the business' name, uses a serif or cursive font.
2	At least 15% of the sign area is a landscape, nature, or similar art scene.
	Lighting
2	The sign uses neon tube lighting for letters or graphics.
minus 2	The sign uses internal illumination with greater than 30% transparent or light-colored face.
minus 2	The sign is on a backlit, translucent awning.
minus 4	The sign uses blinking, flashing, or chasing lights
	Sign Size
1 point per 20% reduction	For major attached signage, one point for each full 20% reduction in the total sign area allowed on that building frontage. For major freestanding signage, one point for each full 20% reduction in the total area allowed for that sign.

(C) *Bonus provisions.*

(1) Notwithstanding other provisions of this code, a proposed in the C-3 district that scores in excess of ten points using the above scale may be larger than the maximum allowable size of sign otherwise allowed by this code. An increase of 10% of the maximum size is allowed for each point scored over ten points.

(2) The Director may refund 25% of sign design review fees paid for any sign scoring in excess of 15 points on the scale.
(Ord. 2002-2561, passed 4-1-02)

OFF-STREET PARKING REQUIREMENTS

§ 151.610 REQUIRED OFF-STREET PARKING.

(A) Off-street parking shall be provided on the development site for all R-1, C-1, M-1, M-2 and M-3 Zones. In all other zones, the required parking shall be on the development site or within 400 feet of the development site which the parking is required to serve. All required parking must be under the same ownership as the development site served except through special covenant agreements as approved by the City Attorney, which bind the parking to the development site.

(B) Off-street parking is not required in the C-3 District, except for:

(1) Dwelling units as noted in § 151.371,

(2) New development which is either immediately adjacent to a residential district or separated by nothing but an alley.

(C) Within the C-4 District, the minimum number of required off-street parking spaces shall be 50% of the number required by § 151.612 of the

code, except that no reduction is permitted for residential uses.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2002-2561, passed 4-1-02; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

§ 151.611 PARKING AREA AND SERVICE DRIVE DESIGN.

(A) All public or private parking areas, parking spaces, or garages shall be designed, laid out and constructed in accordance with the minimum standards as set forth in § 151.616.

(B) Groups of three or more parking spaces, except those in conjunction with single family or two family dwellings on a single lot shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a street, other than an alley will be required. Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety in traffic access and egress and maximum safety of pedestrian and vehicular traffic on the site, but in no case shall two-way and one-way service drives be less than 20 feet and 12 feet respectively. Service drives shall be improved in accordance with the minimum standards as set forth in § 151.615.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.612 PARKING SPACES REQUIRED.

[Table of required parking spaces on following pages]

<i>Use</i>	<i>Parking Space Required</i>
RESIDENTIAL TYPES	
Dwelling, multiple	2 for each dwelling unit; where fractioned, next highest full unit
Dwelling, single family or two family	2 for each dwelling unit on a single lot
Fraternities, sororities, cooperatives and dormitories	1 for each three occupants for which sleeping facilities are provided
Hotels, motels, motor hotels, etc.	1 for each guest room
Rooming or boarding houses	1 for each guest room
INSTITUTIONAL TYPES	
Churches, clubs, lodges	1 for every 4 fixed seats or every 8 feet of bench length or every 28 sq. ft. where no permanent seats or benches are maintained - in main auditorium (sanctuary or place of worship)
Continuing care retirement community not including nursing care.	1 space per living unit.
Day care facility	5 spaces per each 1,000 gross sq. ft.
Hospitals (including accessory retail wholly-contained within a hospital building)	2 spaces for each 1,000 gross sq. ft.
Libraries, museums, art galleries	1 for each 250 sq. ft. of gross floor area
Medical/dental offices and laboratories	3.5 spaces for each 1,000 gross sq. ft.
Nursing homes, homes for the aged, group care homes, asylums, etc.	1 for each 3 beds
Schools	Colleges - "Commuter" type, 1 for every full-time equivalent student (Plus ½ of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**.
Schools	Colleges - "Resident" type, 1 for every 3 full-time equivalent students (Plus ½ of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1)**.
Schools	Elementary or junior high, 1½ for each teaching station plus 4 for every classroom, or 1 for every 42 sq. ft. of seating area where there are no fixed seats in auditorium or assembly area.
Schools	High schools, 1½ for each teaching station, plus 8 for every class room, or 1 for every 28 sq. ft. of seating area where there are no fixed seats in an auditorium or assembly area.

Newberg - Land Usage

<i>Use</i>	<i>Parking Space Required</i>
Schools	Colleges - Commercial or business, 1 for every 3 classroom seats (Plus ½ of the requirements for accessory buildings, i.e., 1.-E* and 3.-G(1))**.
Welfare or correctional institutions	1 for each 5 beds
COMMERCIAL TYPES	
Barber and beauty shops	1 for each 75 sq. ft. of gross floor area.
Bowling alleys	6 for each bowling lane.
Establishments or enterprises of a recreational or an entertainment nature	
Establishments for the sale and consumption on the premises of food and beverages with a drive-up window	1 for each 75 sq. ft. of gross floor area
Establishments for the sale and consumption on the premises of food and beverages without a drive-up window	1 for each 100 sq. ft. of gross floor area
Participating type, e.g., skating rinks, dance halls	1 for each 75 sq. ft. of gross floor area
Spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly	1 parking space for each 4 seats
Office buildings, business and professional offices	1 for every 400 sq. ft. of gross floor area.
Pharmacies	1 for each 150 sq. ft. of gross floor area.
Retail establishments, except as otherwise specified herein	1 for each 300 sq. ft. of gross floor area.
Retail stores handling bulky merchandise, household furniture, or appliance repair	1 for each 600 sq. ft. of gross floor area.
INDUSTRIAL TYPES	
Except as specifically mentioned herein, industrial uses listed as permitted in the "M" Districts: M-1, M-2, M-3	1 for each 500 sq. ft. of gross floor area
Laboratories and research facilities	1 for each 300 sq. ft. of gross floor area

<i>Use</i>	<i>Parking Space Required</i>
Machinery or equipment	1 for each 400 sq. ft. of gross sales floor area
Wholesale and storage operations	1 for each 700 sq. ft. of gross floor area
<i>Notes - Please note that:</i>	
* 1-E refers to fraternities, sororities, cooperatives and dormitories that require one parking space for each three occupants for whom sleeping facilities are provided.	
** 3.G(1) refers to establishments or enterprises of a recreational or an entertainment nature (spectator type, e.g., auditoriums, assembly halls, theaters, stadiums, places of public assembly) that require one parking space for each four seats.	

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2001-2550, passed 5-21-01) Penalty, see § 151.999

§ 151.613 PARKING REQUIREMENTS FOR USES NOT SPECIFIED.

The parking space requirements for buildings and uses not set forth herein shall be determined by the Director through a Type I procedure. Such determination shall be based upon the requirements for the most comparable building or use specified herein.

(Ord. 96-2451, passed 12-2-96)

parking facilities required by said uses and any other parking facility, provided that:

(1) The applicant shows that there is no substantial conflict in the principal operating hours of the building or use for which the joint use of parking facilities is proposed.

(2) The parking facility for which joint use is proposed is no further than 400 feet from the building or use required to have provided parking.

(3) The parties concerned in the joint use of off-street parking facilities shall evidence agreement for such joint use by a legal instrument approved by the City Attorney as to form and content. Such instrument, when approved as conforming to the provisions of the ordinance shall be recorded in the office of the county recorder and copies thereof filed with the Director.

§ 151.614 COMMON FACILITIES FOR MIXED USES.

(A) In the case of mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except as provided below.

(B) Joint uses of parking facilities: The Director may, upon application, authorize the joint use of

(C) Commercial establishments within 200 feet of a commercial public parking lot may reduce the required number of parking spaces by 50%.

(Ord. 96-2451, passed 12-2-96)

§ 151.615 PARKING AREA AND SERVICE DRIVE IMPROVEMENTS.

All public or private parking areas, outdoor vehicle sales areas, and service drives shall be improved according to the following:

(A) All parking areas and service drives shall have surfacing of asphaltic concrete or portland cement concrete or other hard surfacing such as brick or concrete pavers. Other durable and dust-free surfacing materials may be approved by the Director for infrequently used parking areas. All parking areas and service drives shall be graded so as not to drain storm water over the public sidewalk or onto any abutting public or private property.

(B) All parking areas shall be designed not to encroach on public streets, alleys, and other right-of-ways. Parking areas shall not be placed in the area between the curb and sidewalk or, if there is no sidewalk, in the public right-of-way between the curb and the property line. The Director may issue a permit for exceptions for unusual circumstances where the design maintains safety and aesthetics.

(C) All parking areas, except those required in conjunction with a single family or two family dwelling, shall provide a substantial bumper which will prevent cars from encroachment on abutting private and public property.

(D) All parking areas, including service drives, except those required in conjunction with single family or two family dwellings shall be screened in accordance with § 151.580(B).

(E) Any lights provided to illuminate any public or private parking area or vehicle sales area shall be so arranged as to reflect the light away from any abutting or adjacent residential district.

(F) All service drives and parking spaces shall be substantially marked and comply with § 151.616.

(G) Parking areas for residential uses shall not be located in a required front yard, except as follows:

(1) Attached or detached single family or two family - parking is authorized in a front yard on a service drive which provides access to an improved parking area outside the front yard.

(2) Three or four family - parking is authorized in a front yard on a service drive which is adjacent to a door at least seven feet wide intended and used for entrance of a vehicle (Fig. XII).

(H) A reduction in size of the parking stall may be allowed for up to a maximum of 30% of the total number of spaces to allow for compact cars. For high turn-over uses, such as convenience stores or fast-food restaurants, at the discretion of the Director, all stalls will be required to be full-sized.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99; Am. Ord. 2006-2628, passed 1-3-06) Penalty, see § 151.999

§ 151.616 PARKING TABLES AND DIAGRAMS.

The following tables provides the minimum dimensions of public or private parking areas:

[Tables on following pages]

Diagram 1

<i>TABLE OF DIMENSIONS (in feet)</i>					
<i>BASIC STALL</i>			<i>BACK TO BACK</i>	<i>AISLES</i>	
<i>Angle - θ</i>	<i>A</i>	<i>B</i>	<i>C</i>	<i>D (One-Way)</i>	<i>E (Two-Way)</i>
30°	18	16.8	25.8	12	20
38°	14.6	18.2	29.3	12	20
45°	12.7	19.1	31.8	12	20
52°	11.4	19.7	33.9	13	20
55°	11	19.9	34.6	14	20
60°	10.4	20.1	35.7	15	20
70°	9.6	20	36.9	18	20
80°	9.1	19.3	37	20	20

Diagram 2

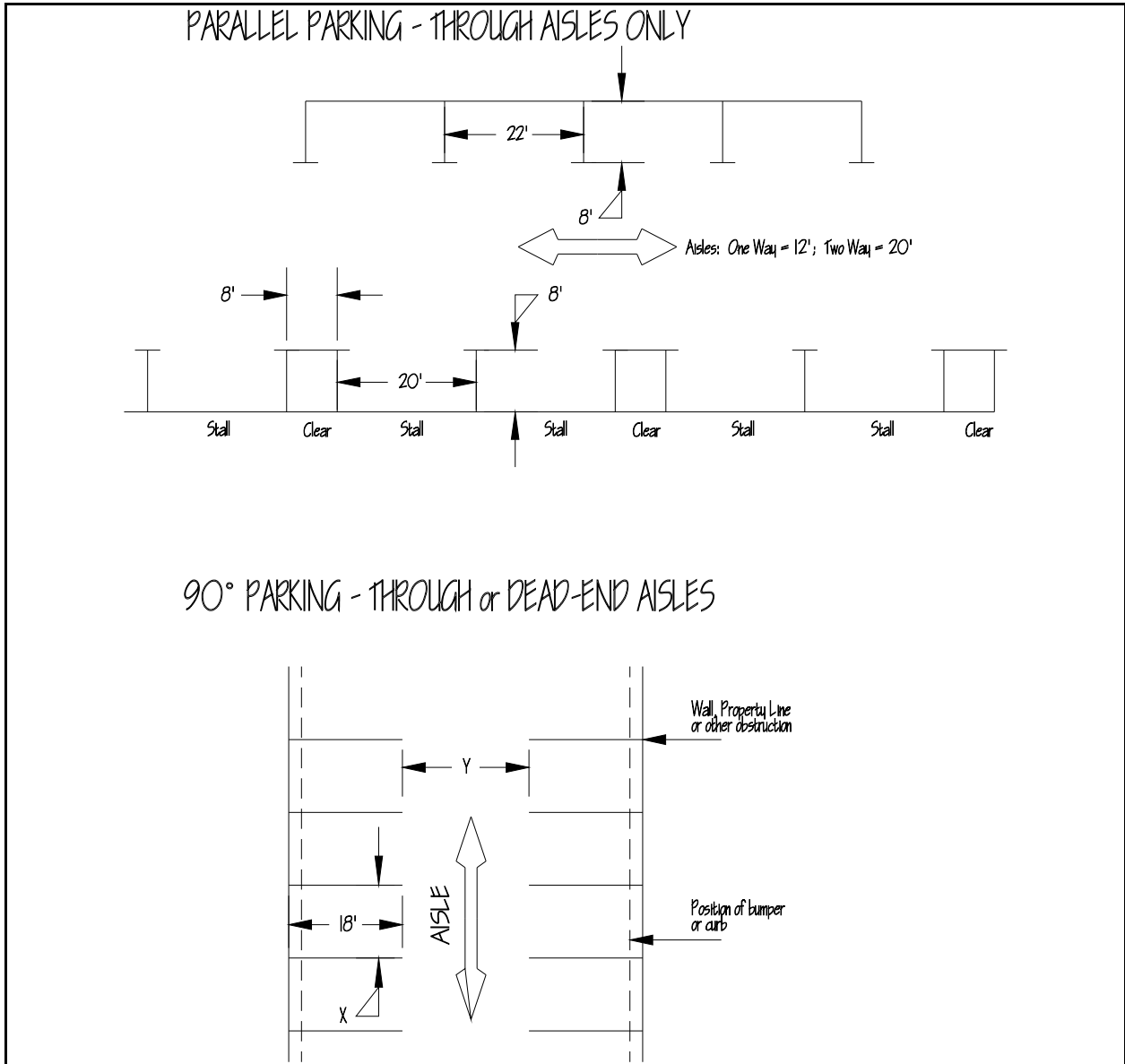
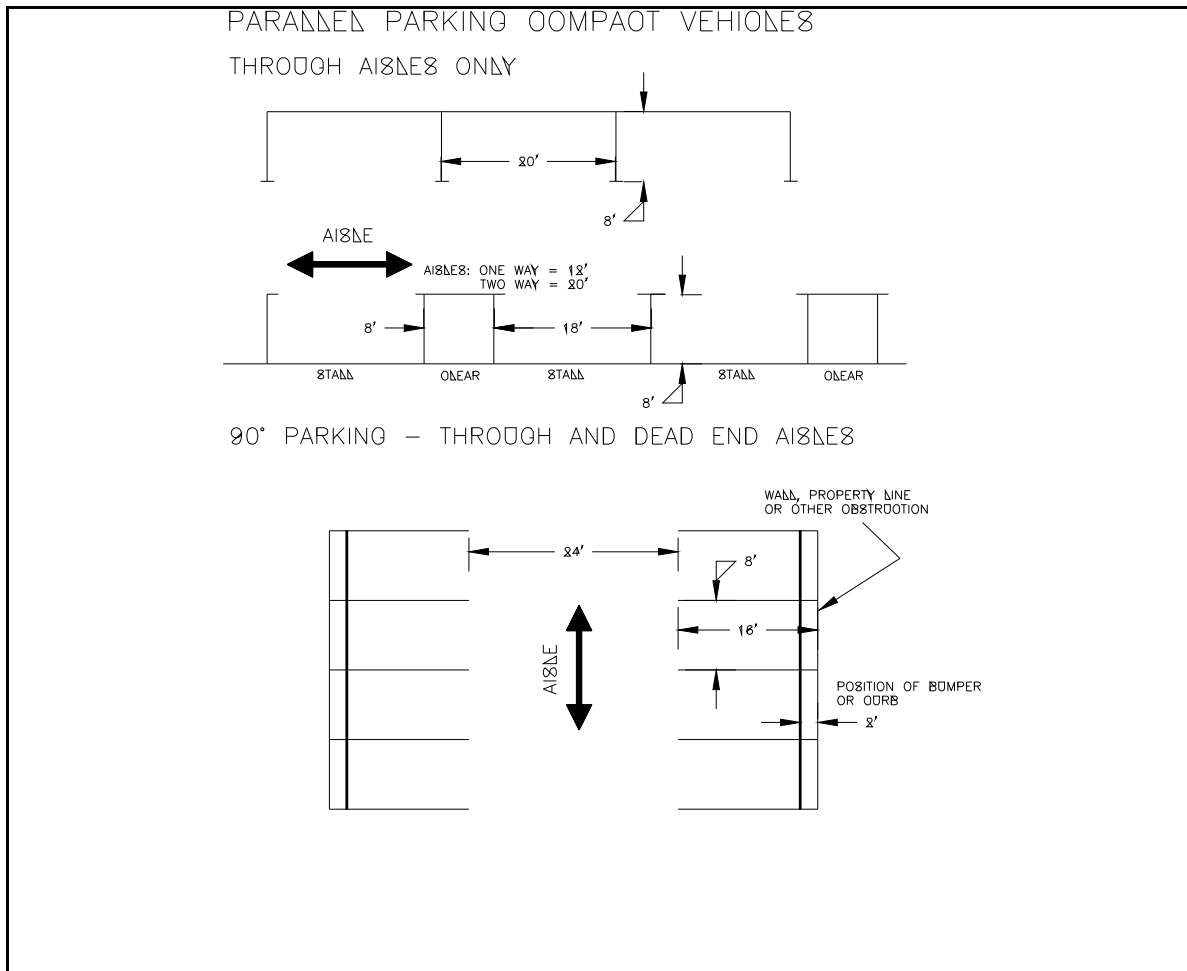


TABLE OF DIMENSIONS (in feet)						
Stall Width With Corresponding Aisle Width						
Stall Width = X	9	9.5	10	10.5	11	12
Aisle Width = Y	24	24	22	22	20	20

NOTES FOR DIAGRAM 2:

1. Bumpers must be installed where paved areas abut street right-of-way (except at driveways).
2. No stalls shall be such that cars must back over the property line to enter or leave stall.
3. Stalls must be clearly marked and the markings must be maintained in good condition.
4. The sketches show typical situations to illustrate the required standards. For further information or advice, contact the Community Development Department at 537-1210.

Diagram 3



NOTES FOR DIAGRAM 3:

1. Bumpers must be installed where paved areas abut street right-of-way (except at driveways).
2. No stalls shall be such that cars must back over the property line to enter or leave stall.
3. Stalls must be clearly marked and the markings must be maintained in good condition.
4. The sketches show typical situations to illustrate the required standards. For further information or advice, contact the Community Development Department at 537-1210.

(Ord. 96-2451, passed 12-2-96)

§ 151.617 OFF-STREET LOADING.

(A) Buildings to be built or substantially altered which receive and distribute materials and merchandise by trucks shall provide and maintain off-street loading berths in sufficient number and size to adequately handle the needs of the particular use.

(1) The following standards shall be used in establishing the minimum number of berths required:

<i>Gross Floor Area of the Building in Square Feet</i>	<i># of Berths</i>
Up to 10,000	1
10,000 and over	2

(2) A loading berth shall contain a space ten feet wide and 35 feet long, and have a vertical clearance of 14 feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required length of these berths shall be increased.

(3) Additional off-street loading requirements within the C-4 District are described in § 151.527.4(H)(7) of this code.

(B) The following provisions shall apply to off-street loading facilities:

(1) The provision and maintenance of off-street loading space is a continuing obligation of the property owner. No building permit shall be issued until plans are presented that show property that is and will remain available for exclusive use as off-street loading space. The subsequent use of property for which the building permit is issued shall be conditional upon the unqualified continuance and availability of the amount of loading space required by this code. Should the owner or occupant of any building change the use to which the building is put, thereby increasing off-street loading requirements, it shall be unlawful and a violation of this code to begin or maintain such altered use until such time as the increased off-street loading requirements are met.

(2) Owners of two or more buildings may agree to utilize jointly the same loading spaces when the hours of operation do not overlap; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds, leases or contracts to establish the joint use.

(3) A plan drawn to scale, indicating how the off-street loading requirements are to be fulfilled, shall accompany an application for a building permit.

(4) Design requirements for loading areas.

(a) Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces of asphaltic concrete or portland cement concrete, maintained adequately for all weather use and so drained as to avoid flow of water across the sidewalks.

(b) Loading areas adjacent to residential zones designed to minimize disturbance of residents.

(c) Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential zone or on any adjacent dwelling.

(d) Access aisles shall be of sufficient width for all vehicular turning and maneuvering.

(e) Vision clearance standards as identified in § 151.555 shall apply. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2002-2564, passed 4-15-02) Penalty, see § 151.999

PRIVATE WALKWAYS

§ 151.620.1 PURPOSE.

Sidewalks and private walkways are part of the city's transportation system. Requiring their construction is part of the city's plan to encourage

multi-modal travel and to reduce reliance on the automobile. Considerable funds have and will be expended to install sidewalks along the streets in the city. Yet there is little point to this expense if it is not possible for people to walk from the sidewalk to the developments along each side. The following requirements are intended to provide safe and convenient paths for employees, customers, and residents to walk from public sidewalks to development entrances, and to walk between buildings on larger sites.

(Ord. 99-2513, passed 8-2-99; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.620.2 WHERE REQUIRED.

Private walkways shall be constructed as part of any development requiring Type II design review, including mobile home parks. In addition, they may be required as part of conditional use permits or planned unit developments.

(Ord. 99-2513, passed 8-2-99; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.620.3 PRIVATE WALKWAY DESIGN.

(A) All required private walkways shall meet the applicable building code and Americans With Disabilities Act requirements.

(B) Required private walkways shall be a minimum of four feet wide.

(C) Required private walkways shall be constructed of Portland cement concrete or brick.

(D) Crosswalks crossing service drives shall, at a minimum, be painted on the asphalt or clearly marked with contrasting paving materials, or humps/raised crossings. If painted striping is used, it should consist of thermo-plastic striping or similar type of durable application.

(E) At a minimum, required private walkways shall connect each main pedestrian building entrance to each abutting public street and to each other.

(F) The review body may require on-site walks to connect to development on adjoining sites.

(G) The review body may modify these requirements where, in its opinion, the development provides adequate on-site pedestrian circulation, or where lot dimensions, existing building layout, or topography preclude compliance with these standards. (Ord. 99-2513, passed 8-2-99; Am. Ord. 2005-2619, passed 5-16-05)

BICYCLE PARKING

§ 151.625.1 PURPOSE.

Cycling is a healthy activity for travel and recreation. In addition, by maximizing bicycle travel, the community can reduce negative effects of automobile travel, such as congestion and pollution. To maximize bicycle travel, developments must provide effective support facilities. At a minimum, developments need to provide a secure place for employees, customers, and residents to park their bicycles.

(Ord. 99-2518, passed 9-21-99; Am. Ord. 2002-2564, passed 4-15-02)

§ 151.625.2 FACILITY REQUIREMENTS.

Bicycle parking facilities shall be provided for the uses shown in the following table. Fractional space requirements shall be rounded up to the next whole number.

Use	Minimum Number of Bicycle Parking Spaces Required
New multiple dwellings, including additions creating additional dwelling units	One bicycle parking space for every four dwelling units
New commercial, industrial, office, and institutional developments, including additions that total 4,000 square feet or more building	One bicycle parking space for every 10,000 square feet of gross floor area. In C-4 districts, two bicycle parking spaces, or one per 5,000 square feet of area must be provided, whichever is greater
Transit transfer stations and park and ride lots	One bicycle parking space for every 20 vehicle parking spaces
Parks	Two bicycle parking spaces within 50 feet of each developed playground, ball field, or shelter

(Ord. 99-2518, passed 9-21-99; Am. Ord. 2002-2564, passed 4-15-02)

(B) All bicycle parking spaces shall be at least 6 feet long and 2.5 feet wide. Spaces shall not obstruct pedestrian travel.

(C) All spaces shall be located within 50 feet of a building entrance of the development.

(D) Required bicycle parking facilities may be located in the public right-of-way adjacent to a development subject to approval of the authority responsible for maintenance of that right-of-way. (Ord. 99-2518, passed 9-21-99)

SPECIAL USE STANDARDS

Part 1. BED AND BREAKFAST ESTABLISHMENTS

§ 151.630 BED AND BREAKFAST ESTABLISHMENT.

Bed and breakfast establishments shall comply with the following conditions:

(A) The structure used for a bed and breakfast establishment shall be designed for and occupied as a single family residence. The structure shall maintain the characteristics of a single family residence.

§ 151.625.3 DESIGN.

(A) Bicycle parking facilities shall consist of one or more of the following:

(1) A firmly secured loop, bar, rack, or similar facility that accommodates locking the bicycle frame and both wheels using a cable or U-shaped lock.

(2) An enclosed locker.

(3) A designated area within the ground floor of a building, garage, or storage area. Such area shall be clearly designated for bicycle parking.

(4) Other facility designs approved by the Director.

(B) All residences used for bed and breakfast establishments shall be applicant occupied.

(C) A minimum of one off-street parking space shall be provided for every two permitted guest sleeping rooms. In addition, parking standards normally required for single family residences will apply.

(D) The duration of each guest's stay at the bed and breakfast establishment shall be limited to no more than seven consecutive days, and no more than 15 days within a 30 day period.

(E) Bed and breakfast establishments located in other than single story buildings shall provide permanent or portable fire escape systems from the upper floor(s) in a manner acceptable to the Newberg Fire Department.

(F) All bed and breakfast establishments shall conform to the requirements of the Uniform Building and Fire Codes.
(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

Part 2. MANUFACTURED HOMES ON INDIVIDUAL LOTS

§ 151.640 PURPOSE.

Manufactured homes are allowed on individual lots in all residential areas. These development standards will allow manufactured homes to be intermixed with traditional “stick built” housing while assuring that they are compatible with and contribute to the scale and harmony of their neighborhood.
(Ord. 96-2451, passed 12-2-96)

§ 151.641 USES.

These regulations allow manufactured homes on individual lots as a permitted use in all residential zones.
(Ord. 96-2451, passed 12-2-96)

§ 151.642 DEVELOPMENT STANDARDS.

Manufactured homes and manufactured home duplexes on individual lots in all residential districts shall meet the following minimum standards:

(A) Each manufactured home which provides only one residential dwelling unit shall enclose a space of not less than 1,000 square feet. Manufactured homes which provide two residential dwelling units (duplex) shall enclose a combined space of not less than 1,800 square feet. Each individual dwelling unit must be multi-sectional.

(B) Each manufactured home shall be placed on an excavated and back filled foundation and enclosed on the perimeter such that the chassis shall be located not more than 12 inches above grade and any axles or other transportation mechanisms shall be removed.

(C) Each manufactured home shall have a roof slope no less than three feet in height for every 12 feet in width.

(D) Each manufactured home shall have exterior siding and roofing which in color, material, and appearance is similar to the exterior siding and roofing material commonly used on “stick built” residential dwellings within the community or which is comparable to the predominate materials used on surrounding dwellings as determined by the Director.

(E) All manufactured homes shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce levels equivalent to the performance standards required of single-family dwellings constructed under the state building codes defined in O.R.S. 455.010.

(F) All dwelling units shall have a carport or garage constructed of like materials. A garage shall be provided where such is consistent with the predominate construction of immediately surrounding dwellings.

(G) Manufactured homes shall not be located immediately adjacent to, have a common property line with, or be separated only by a street from historic

resources listed on the Final Inventory of Historic Resources in the comprehensive plan.
(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

Part 3. MOBILE HOMES; MOBILE HOME SUBDIVISIONS; RV PARKS

§ 151.655 DESCRIPTION AND PURPOSE.

The regulations contained in this subchapter are intended to provide a suitable living environment for residents of mobile home parks and mobile home subdivisions and set forth development standards that will be compatible with adjacent land uses.
(Ord. 96-2451, passed 12-2-96)

§ 151.656 APPLICABILITY.

It is the policy of the city to conform its regulations to federal and state laws and regulations, and this subchapter are a supplement to federal and state statutes, rules and regulations governing the manufacture and installation of mobile homes and mobile home accessory structures, and the design and development of mobile home parks and mobile home subdivisions. Nothing herein contained shall be construed to supersede or replace federal or state statutes, rules or regulations with respect to, but not limited to, park and mobile home setbacks, coverage, minimum play area, patio requirements, street and walkway design and lighting, accessory buildings and structures, skirting, tie down, plumbing, electrical, fire safety, sanitation, certification and inspection requirements.
(Ord. 96-2451, passed 12-2-96)

§ 151.657 PERMITTED LOCATIONS.

Unless otherwise provided herein, upon compliance with applicable regulations and processes, mobile homes for dwelling purposes only shall be permitted:

(A) In licensed and approved mobile home parks.

(B) In approved mobile home subdivisions.

(C) In newly annexed areas on individual lots not located in a mobile home park or mobile home subdivision, provided:

(1) The owner records the occupancy of the lot by the mobile home with the Director; and

(2) There is no change in residents subsequent to annexation; and

(3) The owner's use of the lot for mobile home occupancy is not discontinued for a period of more than six months.

(D) In newly annexed areas in mobile home parks, provided:

(1) Within 90 days of annexation the owner or Director of the park submits to the Director an application for a license, a plot plan, and such additional related information as may be required by the Director; and

(2) Within 120 days of annexation a written agreement is executed between the Director and park owner or Director specifying the modifications that will be accomplished to provide that compliance to a degree satisfactory to the Director with current statutes, rules and regulations.

(E) In newly annexed areas on individual lots in mobile home subdivisions, provided the owner records each lot occupancy with the Director.

(F) Outside mobile home parks or mobile home subdivisions, provided, however, a mobile home may not be used for sleeping or living purposes for a period of time in excess of 14 days.

(G) As general offices in commercial or industrial districts for a period of not more than 18 consecutive months, provided:

(1) The Director finds that such use will be reasonably compatible with and have minimal impact

on uses on abutting property and in the surrounding neighborhood and grants approval based thereon; and

(2) Within six months from the date approval is granted on application for a building permit for a permanent structure or the permit is filed with the Director. Failure to submit the application within the specified time will terminate the approval.

(H) For temporary construction office use on the premises of new constructions until the construction is completed.

(I) As permanent living quarters for a night watchman or caretaker in commercial or industrial districts upon a finding by the Director that such use will be reasonably compatible with and have minimal impact on uses on abutting property and in the surrounding neighborhood, is required for property security and issues a permit therefor.
(Ord. 96-2451, passed 12-2-96)

§ 151.658 APPLICATION AND PROCESSING - TYPE I.

An application for a mobile home park or the enlargement of an existing mobile home park shall be processed under the Type I procedure, subject to the following provisions:

(A) The services of an architect, a landscape architect and an engineer, all licensed to practice in Oregon, shall be employed in the preparation and execution of all plans. Upon proof by the applicant that the scope of the proposal does not require the services of an architect, the Director may waive that requirement.

(B) In the event of denial, applications may be resubmitted within one year of the denial, provided the Director finds the denial was based on internal (on-site) factors and now plans have been submitted which are sufficiently modified to warrant consideration by the city.

(C) An enlargement of a mobile home park site or an increase in the number of mobile home spaces

shall be subject to the provisions of this code regulating new mobile home parks.
(Ord. 96-2451, passed 12-2-96)

§ 151.659 LIMITING MOBILE HOME PARKS TO MOBILE HOME PARK USES.

Except as set forth in this code, no building or land within the boundary of a mobile home park shall be used for any other purpose. Mobile home parks shall conform to plans as approved by the city and the state.
(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.660 LICENSE OF MOBILE HOME PARK.

(A) *Transfer of license.* If a transfer of license for a mobile home park under the provisions of this code is desired, an application for transfer shall be filed with the Director. The application shall contain the name and address of the present licensee, the applicant and the location of the park. Before the transfer of license is approved, the application shall be signed by the Director, certifying that the mobile home park conforms to all city regulations governing mobile home parks. Upon receipt of the application, the Director shall issue a new license to be valid until January 1 next following.

(B) *Display of license.* Any required mobile home park license shall be displayed in a conspicuous place on the mobile home park premises.

(C) *Revocation of license.*

(1) The City Council may revoke any license to maintain and operate a trailer park if either of the following conditions occur:

(a) The certificate of sanitation for the park is revoked.

(b) The park does not conform to the provisions of this code and other ordinances of the city or requirements of the state relative thereto.

(2) Prior to revocation of a license, the licensee shall be given notice of a hearing before the City Council, at which time the revocation will be considered. The notice shall be before the hearing. For the purpose of the notice, the name and address that appears on the application for license or transfer of license shall be used.

(3) If the license is revoked, the City Council may later authorize issuance of the license after the owner of the park has obtained a certificate of sanitation and conforms to the provisions of this code.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.661 APPLICATION FOR LICENSE TO OPERATE.

(A) No person shall maintain or operate a mobile home park within the city without compliance to this code and applicable state requirements.

(B) All mobile home parks within the Newberg city limits must have a Director or representative who can be contacted. The mobile home park director or representative's name, address and telephone number for where they can be reached between the hours of 8:00 a.m. to 5:00 p.m., must remain current, on file within the Director. It shall be the responsibility of the Director or representative to notify the Director of any change in address.

(C) No building on land within the boundaries of a mobile home park area shall be used for any purpose except for the uses permitted by this code.

(D) The application for a license to operate a new mobile home park or to expand an existing park shall be accompanied by ten copies of the plot plan for the proposed park. The plan shall be drawn on a sheet of 18 x 24 inches in size or a multiple thereof at a scale of one inch equals 100 feet, and shall show the following information:

(1) Proposed name of the mobile home park or trailer park.

(2) Name and address of applicant.

(3) Name and address of the owner.

(4) Name and address of the contractor.

(5) Name and address of the engineer.

(6) Scale and Northpoint of the plan.

(7) Vicinity map showing relationship of the mobile home park to adjacent properties.

(8) Boundaries and dimensions of the mobile home park.

(9) Location and dimensions of the mobile home space.

(10) Location of existing and proposed buildings.

(11) Location and width of access roads.

(12) Location and access to utilities, including fire hydrants.

(13) Location and width of walkways.

(14) Location of recreation areas and buildings.

(15) Location and type of fencing or screening.

(16) Location of telephone service for the park.

(17) Enlarged plot plan of a typical mobile home space showing location of the stand, patio, storage space, parking, sidewalk and utility connections.

(18) Plans and specifications must be stamped and signed by a registered engineer.

(19) Plans and specifications must be approved and signed by the city prior to issuing any permit for construction in the mobile home park.

(E) When the Director have approved the completed mobile home park, as indicated by their final inspection, and upon issuance of a certificate of sanitation by the delegated authority, the city shall issue a license to the applicant.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.662 LIMITING TRAVEL TRAILERS AND MOBILE HOMES.

No vacation trailer, motor home or pickup camper off of its vehicle shall be parked at the curb of any city street for more than 48 hours. No person shall maintain an occupied travel trailer or mobile home at any location other than a mobile home park licensed under the provisions of the state, except as follows:

(A) Temporary use.

(1) Bonafide vacation trailers and pickup campers may be used by visitors of the residents, and shall be allowed on lots in residence areas for a period of time not to exceed 14 days.

(2) Vacation trailers (equipped with bath) or mobile homes may be used for a residence on a private lot for a period of not more than six months, during construction of a new home situated on the same lot. A bond or check of \$200 shall be posted with the City Recorder; and upon the removal of the trailer or mobile home from the premises, the check or bond will be returned. If, at the end of six months, the trailer or mobile home has not been removed, the bond or check will be forfeited, and the city will use this for the removal of the trailer or mobile home from the property. Before the trailer or mobile home is used, it will be connected to the city water and sewer systems and passed on by the City Plumbing Inspector. A temporary permit must be obtained from the Director and displayed on the trailer or mobile home.

(3) Travel trailers or mobile homes placed where specifically authorized by any other ordinance of the city.

(B) Residential use.

(1) Prior to the occupancy of any mobile home upon real property in the City of Newberg, Yamhill County, in accordance with the provisions of this code, the property owner shall secure an installation permit from the Building Inspector of the city.

(2) The Building Inspector of the City of Newberg, prior to occupancy of a mobile home or house trailer, shall inspect such mobile home to determine if such occupancy for permanent living quarters complies with all the laws, provisions, ordinances and regulations of the State of Oregon and the City of Newberg relating to the use and occupancy of the mobile homes.

(3) Upon issuance of an installation permit for the installation of the mobile home, a permit indicating approval of the mobile home and its installation shall be placed by the Building Inspector in the unit so as to be visible from the street or road, unless otherwise screened from view.

(4) Said mobile home shall have continuous noncombustible skirting around its perimeter.

(5) All plumbing facilities outside of trailers for occupied mobile homes shall be designed, constructed and maintained in accordance with rules and regulations as set forth in the Plumbing Code for the City of Newberg and the State of Oregon. No plumbing or sewage disposal system repair, alteration, renovation or installation covered by the Plumbing Code shall be begun until a plumbing permit shall have first been obtained by the person, firm or corporation which is to perform the work.

(6) Nothing within these regulations shall be construed to allow a travel trailer as a permanent dwelling.

(7) Mobile Homes may be placed where specifically authorized by any other ordinance of the city.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.663 PROHIBITED OCCUPANCY OF RECREATIONAL VEHICLES.

(A) No owner or person in charge of premises within the city shall occupy or allow the occupancy of a recreational vehicle upon the premises as permanent living quarters.

(B) Nothing contained herein shall prevent the parking of an unoccupied recreational vehicle not in daily use on the owner's property, except, the vehicle may not be parked in the required front yard setback for more than 48 hours.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.664 MOBILE HOME AND MANUFACTURED HOME PARKS; GENERAL PROVISIONS.

(A) *Minimum area.* Five acres.

(B) *Maximum area of lots or spaces.* 150 or distinct neighborhoods with a maximum of 100 spaces each.

(C) *Maximum density.* Shall not exceed the permitted density of the district.

(D) *Perimeter treatment.* Except as required for vision clearance, the outer perimeter of each park shall be improved with:

(1) A masonry wall not less than four feet not more than six feet in height shall be built around the perimeter of the park. Acceptable materials include brick, split-face concrete block, and concrete block with a stucco finish. Other types of exposed masonry may be used subject to review and approval of the Director;

(2) In addition to subdivision (1), adjacent to public streets, a landscape planter that is at least ten feet in depth (this shall be in addition to the width of any required sidewalk). This landscaped area shall be dedicated as part of the public street.

(E) *Perimeter setbacks.* As measured from the property line, a minimum setback of 15 feet shall be provided for all homes and accessory structures along a public street. A minimum of five feet shall be provided for all other property lines. Projections as allowed under § 151.556 shall apply to these setbacks. (Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2505, passed 2-1-99) Penalty, see § 151.999

§ 151.665 MOBILE HOME SUBDIVISIONS; GENERAL PROVISIONS; TYPE III.

(A) *Intent.* It is the intent of this section to provide mobile home owners with an alternative to renting space in a mobile home park; provided the opportunity for smaller groupings of mobile homes in areas where available land does not permit park developments of an adequate size to be financially feasible; establish standards for permanent installation of mobile homes in subdivisions which are intended primarily for resident owners; and establish certain design features enabling mobile homes to blend with conventional housing.

(B) *Minimum number of lots.* Eighteen.

(C) *Minimum size.* Five acres per subdivision.

(D) *Dwelling types permitted.* Mobile homes which are used as permanent residences and comply with the National Mobile Home Construction and Safety Standards.

(E) *Perimeter treatment.*

(1) Boundary screening shall not be required; however, each mobile home shall be:

(a) Equipped with skirting which in design, color, and texture appears to be an integral part of the adjacent exterior wall of the mobile home; and

(b) Covered by a roof pitched at a minimum slope of two inches in 12 inches, which is finished in non-reflective paint or permanently covered with non-reflective material.

(2) When screening is installed, the Director may require each owner-occupant in the subdivision to execute a homeowner's association

agreement or record protective covenants which have been approved by the city, and provides for its permanent maintenance.

(F) *Occupied area surface treatment.* Unless in conflict with state laws and regulations, all areas covered by mobile homes and accessory buildings shall be paved with asphalt or concrete, or covered with permanently contained crushed rock.

(G) *Mobile home and accessory building support and tie-down.* Mobile home and accessory building foundations shall be of sufficient strength to support the required live-loads and actual dead-loads imposed by the mobile home and any attached or supported structure based on accepted engineering design standards. Foundations, tie-downs, or other supports shall be provided to withstand the specified horizontal up-lift and overturning wind forces on the mobile home and any attached or supported structure based on accepted engineering design standards.

(H) *Code conformance.* Mobile homes in mobile home subdivisions must conform in all respects to local, state and federal requirements in effect at the time of their installation.

(I) *Ownership.* Lots shall be owner-occupied, except that an owner-occupant may own one additional lot in the same subdivision for rental purposes. This provision shall be made a part of and a condition or covenant of resident ownership in the subdivision.

(J) *Removal.* If a mobile home is removed from its foundation and not replaced by another home within 30 days, the owner of the lot shall immediately thereafter remove the foundation, additions, and accessory structures, and disconnect and secure all utilities.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.666 MOBILE HOME SUBDIVISIONS; APPLICATION AND PROCESSING.

Land divisions for mobile home subdivisions shall be subject to the provisions of this code to the same

degree and in the same manner as conventional residential subdivisions.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.667 RECREATIONAL VEHICLE PARK; GENERAL PROVISIONS; TYPE III PROCEDURE.

RV parks shall require a conditional use permit in accordance with Chapter 10.30.

(A) *Site development plan.* A site plan shall be submitted which conforms with the site development plan standards listed in § 151.192.

(B) *Development standards.*

(1) *Park density.* Maximum density shall not exceed 25 spaces per acre.

(2) *Space size.* Each recreational vehicle space shall be at least 1,000 square feet in size.

(3) *Setbacks.* No recreational vehicle space or park structure shall be located within 25 feet of a property line. When abutting a residential district, the setback shall be 50 feet.

(4) *Roadways.* Roadways shall be finished with a durable dust free surface. Asphalt or concrete may be required adjacent to residential areas or commercial areas. The roadway widths shall be as follows:

(a) A one-way roadway shall be a minimum of 12 feet in width, posted “no parking - fire lane.”

(b) A two-lane road shall be a minimum of 20 feet wide, posted “no parking - fire lane.”

(5) *Parking.* One parking space shall be provided at each recreational vehicle space. The parking space shall be finished with a durable dust free surface. Asphalt or concrete may be required adjacent to residential areas or commercial areas.

(6) *Common facilities.* The park shall provide toilets, lavatories, and showers in accordance to the Oregon Revised Statutes.

(7) *Perimeter treatment.* In addition to other landscaping improvements required by this code, the park shall screen all areas, other than entrances and landscaped street frontages, with the following:

(a) A sight-obscuring fence or wall six feet in height; or

(b) A maintained landscape hedge that will mature within three years and reach at least six feet in height; or

(c) A combination of subdivisions (a) and (b) above.

(C) *Miscellaneous provisions.*

(1) *Length of stay.* The length of use shall be limited to no more than three months during any 12 month period. To remain in the park for more than 30 days, a recreational vehicle shall be equipped with plumbing facilities and shall be connected with the water and sewer systems of the park.

(2) *Accessory uses.* Accessory commercial operations shall cater only to the residents of the park. Such operations shall present no visible evidence from any street of their commercial character which would attract customers from outside the park. (Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

Part 4. TELECOMMUNICATIONS FACILITIES

§ 151.670 DESCRIPTION AND PURPOSE.

The purpose of Part 4 is to:

(A) Allow new transmission towers, but only

when necessary to meet functional requirements of the broadcast industry.

(B) Minimize visual impacts of towers through careful design, siting and vegetative screening.

(C) Avoid potential damage to adjacent properties from tower failure and falling ice, through engineering and careful siting of tower structures.

(D) Lessen impacts on surrounding residential areas.

(E) Maximize use of any new transmission tower so as to minimize the need to construct new towers. (Ord. 2000-2536, passed 11-6-00)

§ 151.671 APPROVAL CRITERIA.

New transmission towers or replacement of existing towers may be allowed, based on findings by the approval authority that the following criteria are met:

(A) A good faith effort has been made to demonstrate that an existing tower cannot accommodate the proposed antennae and/or transmitter.

(B) The tower and associate structures meet the setback, landscaping, parking and vegetation requirements of § 151.674.

(C) The proposed tower has been structurally designed to accommodate the maximum number of additional users technically practicable.

(D) The tower has minimal visual impact on the environment

(E) The tower meets the design review provisions of § 151.192.

(F) The tower does not intrude into the airport imaginary surface areas as defined in § 151.003. (Ord. 2000-2536, passed 11-6-00)

§ 151.672 APPLICATION REQUIREMENTS.

An application for approval of a Type II or Type III decision for a radio or television transmission tower shall contain at least the following information before it is complete:

(A) *Site plan.* Site plan or plans to scale specifying the location of tower(s), guy anchors (if any), transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Such plan shall also demonstrate compliance with § 151.674(B) and (C).

(B) *Landscape plan.* Landscape plan to scale indicating size, spacing and type of plantings required in § 151.674(H).

(C) *Engineer's report.* Report from a professional engineer licensed in the State of Oregon, documenting the following:

(1) Tower height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design. A cross-section of the tower structure shall be included.

(2) Total anticipated capacity of the structure, including number and types of antennas which can be accommodated.

(3) Evidence of structural integrity of the tower structure as required by the Building Official.

(4) Failure characteristics of the tower and demonstration that site and setbacks are of adequate size to contain debris.

(5) Ice hazards and mitigation measures which have been employed, including increased setbacks and/or deicing equipment.

(6) Specific design and reconstruction plans indicating the means by which the shared use provisions of this section will be met. This submission is required only in the event that the applicant intends to meet the shared use requirements of this section by subsequent reinforcement and reconstruction of the tower.

(7) The requirement of division (C)(6) may be deferred if:

(a) At the time the building permit for the tower is issued, there are no applications before the FCC that could use the tower; or

(b) The applications which are before the FCC have contractual arrangements for the use of other towers.

(D) *Letter of intent.*

(1) The applicant shall provide a letter of intent to lease excess space on the tower structure and to lease additional applicant controlled excess land on the tower site when the shared use potential of the tower is absorbed, if structurally and technically possible. A reasonable pro rata charge may be made for shared use, consistent with an appropriate sharing of construction, financing and maintenance costs. Fees may also be charged for any structural or RF changes necessitated by such shared use. Such sharing shall be a condition of approval if approval is granted.

(2) The applicant shall base charges on generally accepted accounting principles and shall explain the elements included in the charge, including, but not limited to, a pro rata share of actual site selection and processing costs, land costs, site design, construction and maintenance costs, finance costs, return on equity, and depreciation.

(E) *Tower capacity.* The applicant shall quantify the additional tower capacity anticipated, including the approximate number and types of antennas. The applicant shall also describe any limitations on the ability of the tower to accommodate other uses, e.g., radio frequency interference, mass height, frequency or other characteristics. The applicant shall describe the technical options available to overcome those limitations and reasons why the technical options considered were not chosen to be incorporated. The approval authority shall approve those limitations if they cannot be overcome by reasonable technical means.

(F) *Evidence of lack of space.* Evidence of the lack of space on all suitable existing towers to locate the proposed antenna and of the lack of space on existing tower sites to construct a tower for the proposed antenna.

(G) *Written authorization.* Written authorization from adjoining property owners if needed, under § 151.674(C).

(H) *Written evidence.* Written evidence from the Federal Communications Commission related to a request for approval of a reduction in the capacity of the proposed tower under § 151.674(D), if needed. (Ord. 2000-2536, passed 11-6-00)

§ 151.673 CONDITIONS OF APPROVAL.

The following conditions of approval must be met prior to issuance of a building permit for any telecommunication facility:

(A) *Agency Statements.* The applicant shall provide the following information in writing from the appropriate responsible official:

(1) Confirmation that a Federal Communications Commission (FCC) antenna structure registration application (FCC 854 form) has been approved, or a statement that an application is not required.

(2) Confirmation that the Federal Aviation Administration (FAA) has been notified and that the facility has not been found to be a hazard to air navigation under FAA regulations, or a statement that compliance is not required.

(3) A statement from the Oregon State Department of Aviation (OSDA) that the application has been found to comply with the applicable regulations of the Department, or a statement that no such compliance is required.

(4) The Director may waive the statements in (A) through (C) when the applicant demonstrates that a good faith, timely effort was made to obtain

such responses but that no such response was forthcoming, provided the applicant conveys any response received; and further provided any subsequent response that is received is conveyed to the approval authority as soon as possible.

(B) *Franchise agreement.* The applicant shall complete a franchise or license agreement with the city if the facility is located within the public right-of-way. (Ord. 2000-2536, passed 11-6-00)

§ 151.674 INSTALLATION STANDARDS.

(A) *Shared use of existing towers.* The applicant shall make a good faith effort to substantially demonstrate that no existing tower can accommodate the applicant's proposed antenna/transmitter as described below.

(1) The applicant shall contact the owners of all existing towers, of a height roughly equal to or greater than the height of the tower proposed by the applicant. A list shall be provided of all owners contacted, the date of such contact, and the form and content of such contact.

(2) Such contact shall be made in a timely manner; that is, sufficiently before the filing of an application for a hearing to include a response into the application when filed.

(a) Where an existing tower is known to have capacity for additional antennas of the sort proposed, the application for a new tower shall not be deemed complete until the owner of the existing tower responds. Failure of a listed owner to respond shall not be relevant to the approval authority if a timely, good faith effort was made to obtain a response, and a response was not received within 30 days of the request.

(b) The Director shall maintain and provide, on request, records of responses from each owner.

(c) Once an owner demonstrates an antenna of the sort proposed by the applicant cannot be accommodated on the owner's tower as described below, the owner need not be contacted by future applicants for antennas of the sort proposed.

(3) The applicant shall provide the following information from each owner contacted:

(a) Identification of the site by location, tax lot number, existing uses, and tower height.

(b) Whether each such tower could structurally accommodate the antenna proposed by the applicant without requiring structural changes be made to the tower. To enable the owner to respond, the applicant shall provide each such owner with the height, length, weight, and other relevant data about the proposed antenna.

(c) Whether each such tower could structurally accommodate the proposed antenna if structural changes were made, not including totally rebuilding the tower. If so, the owner shall specify in general terms what structural changes would be required.

(d) If structurally able, would shared use by such existing tower be precluded for reasons related to RF interference. If so, the owner shall describe in general terms what changes in either the existing or proposed antenna would be required to accommodate the proposed tower, if at all.

(e) If shared use is possible based on (a) and (d) above, the fee an owner of an existing tower would charge for such shared use.

(4) Shared use is not 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 approval authority may consider expert testimony to determine whether the fee and costs are reasonable. Costs exceeding new tower development are presumed unreasonable.

(B) *Tower setbacks.*

(1) Only one tower per lot is authorized. Towers shall be setback from any existing structure on the site, abutting properties, and public rights-of-way a minimum distance equal to 30% of the height of the tower, measured from the base of the tower to the structure, abutting property or public right-of-way.

(2) Towers must meet all setback, design and landscape requirements of the code.

(3) No new tower may be installed closer than 2000 ft. from any existing or proposed tower, unless approved through the Type III conditional use permit process.

(C) *Guy setback.*

(1) Guy anchors shall be setback a minimum of 25 ft. from any property line, public property or street, abutting the site.

(2) A guy anchor may be located on an adjoining property when:

(a) The owner of the adjoining property on which it is to be placed authorizes it in writing, and

(b) The guy anchor meets the requirements of (a) above as to all other setback requirements.

(c) Guy anchors may be located within required landscape areas.

(D) *Required sharing of new towers.* All new towers shall be designed to structurally accommodate the maximum number of additional users technically practicable, but in no case less than the following:

(1) For television antenna towers, at least three high power television antennas and one microwave facility or two FM antennas, and at least one two-way radio antenna for every ten feet of the tower over 200 feet.

(2) For any other towers, at least one two-way radio antenna for every ten feet of the tower, or at least one two-way radio antenna for every 20 feet of the tower and at least one microwave facility.

(3) Such other combination as found by the approval authority to provide the maximum possible number of foreseeable users.

(a) Such requirements may be reduced if the Federal Communications Commission provides a written statement that no more licenses for those broadcast frequencies that could use the tower will be available in the foreseeable future.

(b) Such requirements may be reduced if the size of the tower required significantly exceeds the size of the existing towers in the area and would therefore create an unusually onerous, visual impact that would dominate and alter the visual character of the area when compared to the impact of other existing towers. This provision is only to be applied in unusual circumstances not resulting from the applicant's action or site selection unless no other site is possible.

(4) Additional antennas and accessory uses to existing antennas may be added to an existing tower, under a Type I application, if the existing tower meets the setback and landscaping requirements of § 151.674(B) and (C). Accessory uses shall include only such buildings and facilities necessary for transmission function and satellite ground stations associated with them, but shall not include broadcast studios, offices, vehicle storage areas, nor other similar uses not necessary for the transmission function. Accessory uses may include studio facilities for emergency broadcast purposes or for other special, limited purposes found by the approval authority not to create significant additional impacts nor to require construction of additional buildings or facilities exceeding 25% of the floor area of other permitted buildings.

(5) If a new tower is approved, the applicant shall:

(a) Record the letter of intent required in § 151.672(D) in Miscellaneous Deed Records of the Office of the County Recorder;

(b) Respond in a timely, comprehensive manner to a request for information from a potential shared use applicant required under § 151.674(A);

(c) Negotiate in good faith for shared use by third parties; and

(d) Allow shared use where the third party seeking such use agrees in writing to pay reasonable, pro rata charges for sharing, including all charges necessary to modify the tower and transmitters to accommodate shared use, but not total tower reconstruction, and to observe whatever technical requirements are necessary to allow shared use without creating interference.

(e) 1. Willful, knowing failure of an owner whose tower was approved after November 6, 2000, to comply with the requirement of divisions (a) through (d) above shall be grounds for suspension or revocation of the use. Following report of such failure, the Director shall schedule a hearing to determine whether the use should be suspended or revoked. The hearing shall be processed as a Type III public hearing before the Planning Commission.

2. Such conditions shall run with the land and be binding on subsequent purchasers of the tower site.

(E) *Visual impact.* The applicant shall demonstrate that the tower can be expected to have the least visual impact on the environment, taking into consideration technical, engineering, economic and other pertinent factors. Towers shall be painted and lighted as follows:

(1) Towers 200 feet or less in height shall be painted in accordance with regulations of the Federal Aviation Administration and/or Oregon State Department of Aviation. Where such regulations do

not apply, towers shall have a galvanized finish or be painted silver except in areas where there are trees in the immediate area, such towers shall be painted brown or green from ground level to at least the mature height of the trees.

(2) Towers more than 200 feet in height shall be painted in accordance with regulations of the Federal Aviation Administration and the Oregon State Department of Aviation.

(3) Towers shall be illuminated as required by the Federal Aviation Administration and the Oregon State Department of Aviation.

(4) Towers shall be the minimum height necessary to provide parity with existing similar tower supported antenna, and shall be freestanding where the negative visual effect is less than would be created by use of a guyed tower.

(F) *Parking.* A minimum of two parking spaces shall be provided on each site; an additional parking space for each two employees shall be provided at facilities which require on-site personnel. The Director may authorize the joint use of parking facilities subject to the requirements of § 151.614.

(G) *Vegetation.* Existing landscaping on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.

(H) *Landscaping.* Landscape material shall include the following:

(1) For towers 200 feet tall or less, a 20 foot wide landscape buffer is required immediately adjacent to the structure containing the telecommunication facility. At least one row of evergreen trees or shrubs, not less than four feet high at the time of planting, and spaced not more than 15 feet apart, shall be provided within the landscape buffer. Shrubs should be of a variety which can be expected to grow to form a continuous hedge at least five feet in height within two years of planting. Trees

and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(2) For towers more than 200 feet tall, a 40 foot wide landscape buffer shall be provided immediately adjacent to the structure containing the telecommunication facility. Provide at least one row of evergreen shrubs spaced not more than five feet apart which will grow to form a continuous hedge at least five feet in height within two years of planting; one row of deciduous trees, not less than 1 ½ inch caliper measured three feet from the ground at the time of planting, and spaced not more than 20 feet apart; and at least one row of evergreen trees, not less than four feet at the time of planting, and spaced not more than 15 feet apart. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities and staff.

(3) In lieu of these standards, the approval authority may allow use of an alternate detailed plan and specifications for landscaping, screening, plantings, fences, walls, structures and other features designed to camouflage, screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved in divisions (H)(1) and (2) above, except as lesser requirements are desirable for adequate visibility for security purposes.

(4) Grounds maintenance, including landscaping, shall be provided and maintained for the duration of the use, to encourage health of plant material, and to protect public health and safety. The maintenance shall be the responsibility of the property owner, and/or the lessee of the property, and/or the owner of the tower.

(I) *Utility pole setback.* When a telecommunication facility is located on an existing utility pole, the standards identified in §§ 151.674(A) through (D) and 151.674(F) through (H) do not apply. (Ord. 2000-2536, passed 11-6-00)

§ 151.675 REMOVAL STANDARDS.

Telecommunication equipment facility removal is required if the equipment is out of use for more than 90 days.

(Ord. 2000-2536, passed 11-6-00)

§ 151.676 EXEMPTIONS.

The following uses are exempt from all requirements of this section:

(A) All portable, hand-held and vehicular transmission sources.

(B) Industrial, scientific, and medical equipment operating at frequencies designated for that purpose by the FCC.

(C) Radio frequency machines:

(1) Which have an effective radiated power of 7 watts or less;

(2) Which are designated and marketed as consumer products, such as microwave ovens, citizen band radios, and remote control toys, or which are in storage, shipment or on display for sale, provided such machines are not operated.

(3) Amateur intermittent sole source emitters of less than 1 KW average output.

(Ord. 2000-2536, passed 11-6-00)

Part 5. ACCESSORY DWELLING UNITS**§ 151.678.1 PURPOSE.**

This section provides clear and objective standards for the establishment of accessory dwelling units in existing and new detached single family residences to achieve the following:

(A) Increase the number of affordable housing units in the community.

(B) Increase residential densities with minimal impact on the quality or character of existing neighborhoods.

(C) Allow small and/or older households to retain large homes as residences.

(D) Permit young households to achieve home ownership by using the rent from the accessory unit to offset mortgage costs.

(E) Provide needed space for elderly family members, teenagers, and/or returning adult children. (Ord. 99-2505, passed 2-1-99)

§ 151.678.2 DEVELOPMENT STANDARDS.

(A) *Location.* Accessory dwelling units are permitted as conditional uses in the R-1 zone and as outright permitted uses in the R-2 and R-3 zones.

(B) *Limitations.* An accessory dwelling unit is permitted providing there is compliance with all of the following standards:

(1) An accessory dwelling unit may be created within or as an addition to a detached single family structure or as a free-standing accessory building.

(2) An accessory dwelling unit may not exceed 50% of the size of the primary unit, up to a maximum of 800 square feet.

(3) The number of residents permitted to inhabit the accessory dwelling unit is regulated by the Uniform Building Code.

(4) Either the primary or accessory dwelling unit must be owner-occupied.

(5) In addition to the number of parking spaces required for the primary residence, as established in § 151.612, one on-site parking space shall be provided for the accessory dwelling unit. This parking space shall be paved and/or covered.

(6) The front door of the accessory dwelling unit shall not be located on the front facade of the primary residence unless the door is already existing.

(7) There shall be compliance with all of the development standards established in the base zone.

(Ord. 99-2505, passed 2-1-99)

§ 151.678.3 APPROVAL.

To obtain approval to create an accessory dwelling unit, the applicant must demonstrate compliance with all of the requirements of § 151.678.2. If the proposed use is outright permitted in the zone, the application shall be processed as a Type I procedure as regulated by § 151.044. If the proposed use is conditionally permitted in the zone, the application shall be processed as a Type III procedure as regulated by § 151.046 and subject to conditional use criteria identified in § 151.046.

(Ord. 99-2505, passed 2-1-99)

Part 6. AMATEUR RADIO

§ 151.679 AMATEUR RADIO AND CITIZEN BAND ANTENNA.

(A) Amateur radio and citizen band antenna support structures an amateur radio and citizen band antennas, which themselves are deemed structures under the Uniform Building Code (UBC) of the State of Oregon, that are located in a residential district, shall require a development permit. All other amateur radio and citizen band antennas that are located in residential districts shall not require a development

permit but shall conform to the applicable provisions of this code.

(B) When a development permit is required, the application shall be processed under the Type I procedure. The application shall be found to be consistent with the requirements of subdivisions (B)(1) through (B)(9) of this section. The Type II procedure shall apply when the applicant requests consideration under subdivision (B)(10), which is an exception to the yard setback, locational and height provision requirements.

(1) The amateur radio or citizen band antenna shall not be located closer than six feet from a dwelling other than the dwelling on the same lot.

(2) The maximum height of an antenna and support structure shall be 100 feet. The height of a crank-up tower shall be measured when fully extended.

(3) Antenna support structures shall be located outside of required interior yard setbacks and behind the front building line of the dwelling or other primary structure on the site.

(4) Tower-type vertical antennas and antenna support structures, extending more than 35 feet in height from mounting point shall be set back from all property lines at least a distance equal to 30 percent of the height. For purposes of this subdivision, the height of an antenna support structure shall include the linear vertical distance to the highest point of any mast and/or antenna mounted on the structure, or the highest point of the support structure, whichever is greater. The setback distance shall be calculated from all property lines to the closest point of the vertical aspect of the affected antenna or support structure. Horizontal space occupied by an antenna shall not be included in the setback calculation. The wire portions of inverted-vee, dipole, sloper and similar-type antennas shall be exempt from this subdivision.

(5) Guy wires and anchors shall be located outside of required front yard setbacks.

(6) No part of an antenna or its support structure, including parts that can be rotated, shall extend over any adjacent lot.

(7) The following color standards apply to ground-mounted amateur radio or citizen band antenna support structures greater than 55 feet and up to 200 feet in height:

(a) Metal structures shall have a galvanized finish, or be flat or matte silver, or flat or matte gray in color.

(b) Wooden pole antenna support structures shall be of a natural wood color or a paint or stain approximating a natural wood color.

(8) Ground-mounted amateur radio or citizen band antenna support structures more than 200 feet in height shall comply with locational, painting and lighting regulations of the Oregon Aeronautics Division, Federal Aviation Administration, and Federal Communications Commission.

(9) If the antenna is mounted on a dwelling or other building without an antenna support structure, then the antenna shall be at least 20 feet from all property lines. This subsection does not apply to: the wire portions of inverted-vee, dipole, sloper and similar-type antennas; antennas with a wind-loading surface area of three square feet or less; wire antennas less than three feet above the height of the structure on which mounted; or “whip”-type antennas. No antenna mounted on a dwelling or other building without an antenna support structure shall exceed a height of 40 feet above the top of the structure.

(10) Exceptions to a yard setback, locational or height provisions are allowed if the yard setback, locational or the height provision would prevent effective amateur communications or the generation, detection or processing of radio frequency energy. The antenna and/or support structure may be excepted to the yard setback, locational or height provision provided that:

(a) The applicant provides documentation that the exception is needed for the operation of the amateur radio or citizen band facility; and

(b) The applicant provides documentation that the request is the minimum necessary exception from the yard setback, locational or height provisions of this section; and

(c) If the exception would result in any part of an antenna or support structure, including parts that can be rotated, extending over any adjacent property then the applicant shall provide a copy of an easement from the owner of the affected property authorizing such extension.

(Ord. 96-2451, passed 12-2-96)
Penalty, see § 151.999

***STREET AND TRANSPORTATION
IMPROVEMENTS DESIGN STANDARDS***

§ 151.680 PURPOSE.

The purpose of this section is to provide planning and design standards for streets and other transportation facilities. Streets are the most common public spaces, touching virtually every parcel of land. Therefore, one of the primary purposes of this section is to provide standards for attractive and safe streets that can accommodate vehicle traffic from planned growth, and provide a range of transportation options, including options for driving, walking and bicycling. This section is also intended to implement the Newberg Transportation System Plan.
(Ord. 2005-2619, passed 5-16-05)

§ 151.681 LAYOUT OF STREETS, ALLEYS, BIKEWAYS, AND WALKWAYS.

(A) Streets, alleys, bikeways, and walkways shall be laid out and constructed as shown in the Newberg Transportation System Plan or in adopted future street plans.

(B) In areas where the Transportation System Plan or future street plans do not show specific transportation improvements, roads and streets shall be laid out so as to conform to subdivisions, partitions, and developments previously approved for adjoining property as to width, general direction and in other aspects, unless it is found in the public interest to modify these patterns. In addition, transportation improvements shall conform to the standards within this code.
(Ord. 2005-2619, passed 5-16-05)

§ 151.682 CONSTRUCTION OF NEW STREETS AND ALLEYS.

The land divider or developer shall grade and pave all streets and alleys in the subdivision, partition

or development to the width specified in § 151.685, and provide for drainage of all such streets and alleys, construct curbs and gutters within the subdivision, partition or development in accordance with specifications adopted by the City Council under § 151.717. Such improvements shall be constructed to specifications of the city under the supervision and direction of the Director. It shall be the responsibility of the land divider or developer to provide street signs.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.683 IMPROVEMENTS TO EXISTING STREETS.

A subdivision, partition or development requiring a Type II design review abutting or adjacent to an existing road of inadequate width, shall dedicate additional right-of-way to and improve the street to the width specified in § 151.685.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.684 IMPROVEMENTS RELATING TO IMPACTS.

Improvements required as a condition of development approval shall be roughly proportional to the impact of development on public facilities and services. The review body must make findings in the development approval that indicate how the required improvements are roughly proportional to the impact. Development may not occur until required transportation facilities are in place or guaranteed, in conformance with the provisions of this code. If required transportation facilities cannot be put in place or be guaranteed, then the review shall deny the requested land use application.

(Ord. 2005-2619, passed 5-16-05)

§ 151.685 STREET WIDTH AND DESIGN STANDARDS.

(A) *Design standards.* All streets shall conform with the standards contained in Table 151.685.C. Where a range of values is listed, the Director shall determine the width based on a consideration of the

total street section width needed, existing street widths, and existing development patterns. Preference shall be given to the higher value. Where values may be modified by the Director, the overall width shall be determined using the standards under divisions (B) through (E).

**Table 151.685.C
STREET DESIGN STANDARDS**

Type of Street	Right of Way Width	Curb to Curb Pavement Width	Motor Vehicle Travel Lanes	Center Turn Lane	Striped Bike Lane (both sides)	On-Street Parking
<i>Arterial Streets</i>						
Expressway	**	**	**	**	**	**
Major Arterial	85-100 feet	74 feet	4 lanes	Yes	Yes	No*
Minor Arterial	60-80 feet	46 feet	2 lanes	Yes*	Yes	No*
<i>Collectors</i>						
Major	60-80 feet	34 feet	2 lanes	No*	Yes	No*
Minor	56-65 feet	34 feet	2 lanes	No*	No*	Yes*
<i>Local Streets</i>						
Local Residential	54-60 feet	32 feet	2 lanes	No	No*	Yes
Local Commercial/Industrial	56-65 feet	34 feet	2 lanes	No*	No*	No*
*May be modified with approval of the Director. Modification will change overall curb-to-curb and ROW width.						
** All standards shall be per ODOT Expressway standards.						

(B) *Motor vehicle travel lanes.* Collector and arterial streets shall have a minimum width of 12 feet. Where circumstances warrant, the Director may allow a reduction of this width to 11 feet.

(C) *Bike lanes.* Striped bike lanes shall be a minimum of five feet wide. Where circumstances warrant, the Director may allow a reduction of this width to four feet. Bike lanes shall be provided where shown in the Newberg Transportation System Plan.

(D) *Parking lanes.* Where on-street parking is allowed on collector and arterial streets, the parking lane shall be a minimum of eight feet wide. Where circumstances warrant, the Director may allow a reduction of this width to seven feet.

(E) *Center turn lanes.* Where a center turn lane is provided, it shall be a minimum of 12 feet wide.

(F) *Sidewalks.* Sidewalks shall be provided on both sides of all public streets. Minimum width is five feet.

(G) *Planter strip.* A planter strip shall be provided between the sidewalk and the curb line. This strip shall be landscaped in accordance with the standards in § 151.581.

(H) *Slope easements.* Slope easement shall be provided adjacent to the street where required to maintain the stability of the street.
(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2494, passed 4-6-98; Am. Ord. 99-2507, passed 3-1-99; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.686 INTERIM STREET IMPROVEMENTS.

(A) *Temporary street improvements.* Three-quarter width streets may be provided temporarily to access lots where a full street will eventually be provided when all abutting lots are developed, unless otherwise approved as a half street by the Director and Fire Chief.

(B) *Temporary turn-arounds.* Where a street will be extended as part of a future phase of a development, or as part of development of an abutting property, the street may be terminated with a temporary turn around in lieu of a standard street connection or circular cul-de-sac bulb. The Director and Fire Chief shall approve the temporary turn around. It shall have an all-weather surface. The turn around may include a hammerhead-type turn around

meeting fire apparatus access road standards, a paved or graveled circular turn around, or a paved or graveled temporary access road. For streets extending less than 150 feet and/or with no significant access, the Director may approve the street without a temporary turn around.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2494, passed 4-6-98; Am. Ord. 99-2507, passed 3-1-99; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.687 RESERVE BLOCK.

The Director may require the land divider to create a reserve block controlling the access to a street, said block to be placed under the jurisdiction of the Director determines that a block is necessary.

(A) To prevent access to abutting land at the end of a street in order to assure the proper extension of the street pattern and the orderly development of land lying beyond the street.

(B) To prevent access to the side of a street on the side where additional width is required to meet the right-of-way standards provided in this code.

(C) To prevent access to land abutting a street of the partition or subdivision, but not within the partition or subdivision itself.

(D) To prevent access to land unsuitable for building development.

[Table begins on following page.]

Local Street Width					
Local Street Standard	Intended Land Use Type		Maximum Amount of Development with Street Access*	Maximum Block Length*	Comments
32' parking both sides 54' to 65' right-of-way	Single family	Y	No maximum	500 feet	34' in commercial areas if substantial on-street truck parking is anticipated
	Multi dwelling	Y	No maximum		
	Commercial	Y	40,000 sq. ft. floor area		
	Industrial	N	NA		
44' parking both sides 65' right-of-way	Single family	N	NA	500 feet	Intended for Community Commercial (C-2 zone) and industrial areas with significant large truck traffic
	Multi dwelling	N	NA		
	Commercial	Y	No maximum		
	Industrial	Y	No maximum		
45' radius cul-de-sac	Single family	Y	18 units	400 feet	35' radius may be allowed if the street has no parking, a mountable curb, attached sidewalks and sprinkler systems in every building along the street
	Multi dwelling	Y	No maximum		
	Commercial	N	NA		
	Industrial	N	NA		
* With direct driveway access and/or indirect access via a common parking area or driveway to the street					
** Block length is the distance between public streets that have a minimum clear width of 20 feet					

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2513, passed 8-2-99)

§ 151.688 INTERSECTIONS OF STREETS.

(A) *Angles.* Streets shall intersect one another at an angle as near to the right angle as is practicable considering topography of the area and previous adjacent layout; where not so practicable, the right-of-way and street paving within the acute angle shall have a minimum of 30 feet centerline radius where such angle is not less than 75 degrees. In the case of streets intersecting at an angle of less than 75 degrees, then of such minimum as the Director may determine in accordance with the purpose of this code.

(B) *Offsets.* Intersections shall be so designed that no offset dangerous to the traveling public is created as a result of staggering of intersections; and in no case shall there be an offset of less than 100 feet centerline to centerline.

(C) New or improved intersection construction shall incorporate the minimum intersection curb return radii requirements shown in the following table:

Minimum Curb Return Radii (feet) Edge of Pavement/Curb	
Lowest Street Classification of Two Intersection Streets	Minimum Curb Return Radius*
Major arterial	30 feet
Minor arterial	30 feet
Major collector	25 feet
Minor collector	25 feet
Local residential street	15 feet
Local commercial/ industrial street	30 feet
* If bicycle lane or on-street parking exists, the turning radii may be reduced by five feet	

(Ord. 96-2451, passed 12-2-96; Am. Ord. 99-2513, passed 8-2-99) Penalty, see § 151.999

§ 151.689 TOPOGRAPHY.

The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this code.

(Ord. 96-2451, passed 12-2-96)

§ 151.690 FUTURE EXTENSION OF STREETS.

Where the subdivision or partition is adjacent to land likely to be divided in the future, streets shall continue through to the boundary lines of the area under the same ownership of which the subdivision or partition is a part, where the Director determines that such continuation is necessary to provide for the orderly division of such adjacent land or the transportation and access needs of the community.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2494, passed 4-6-98)

§ 151.691 CUL-DE-SAC.

(A) Cul-de-sacs shall only be permitted when one or more of the circumstances listed in this section exist. When cul-de-sacs are justified, public walkway connections shall be provided to connect with another street, greenway, school, or similar destination unless one or more of the circumstances listed in this section exist.

(1) Physical or topographic conditions make a street or walkway connection impracticable. These conditions include but are not limited to controlled access streets, railroads, steep slopes, wetlands, or water bodies where a connection could not be reasonably made.

(2) Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment.

(3) Where streets or accessways would violate provisions of leases, easements, or similar restrictions.

(4) Where the streets or accessways abut the urban growth boundary and rural resource land in farm or forest use, except where the adjoining land is designated as an urban reserve area.

(B) There shall be no cul-de-sacs more than 400 feet long (measured from the centerline of the intersection to the radius point of the bulb) or serving more than 18 single family dwellings.

(C) Each cul-de-sac shall have a circular end with a minimum diameter of 90 feet, curb-to-curb, within a 103-foot minimum diameter right-of-way. For residential uses, a 35-foot radius may be allowed if the street has no parking, a mountable curb, attached sidewalks, and sprinkler systems in every building along the street.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2494, passed 4-6-98; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.692 STREET NAMES AND STREET SIGNS.

Streets that are in alignment with existing named streets shall bear the names of such existing streets. Names for streets that are not in alignment with existing streets are subject to approval by the Director and the Fire Chief and shall not unnecessarily duplicate or resemble the name of any existing or platted street in the city. It shall be the responsibility of the land divider to provide street signs.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.693 GRADES AND CURVES.

Unless otherwise approved by the Director because topographical conditions will not reasonably permit, grades shall not exceed six percent on arterials, ten percent on collector streets, or 12 percent on all other streets. Centerline radii on curves shall not be less than 300 feet on arterials, or 230 feet on all other streets.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.694 PLATTING STANDARDS FOR ALLEYS.

(A) *Dedication.* The Director may require adequate and proper alleys to be dedicated to the public by the land divider of such design and in such location as necessary to provide for the access needs of the subdivision or partition in accordance with the purpose of this code.

(B) *Width.* Width of right-of-way and paving design for alleys shall be not less than 20 feet, except that for an alley abutting land not in the subdivision or partition a lesser width may be allowed at the discretion of the Director where the land divider presents a satisfactory plan whereby such alley will be expanded to the width otherwise required. Slope easements shall be dedicated in accordance with

specifications adopted by the City Council under §§ 151.715 et seq.

(C) *Corner cut-offs.* Where two alleys intersect, ten feet corner cut-offs shall be provided.

(D) *Grades and curves.* Unless otherwise approved by the Director where topographical conditions will not reasonably permit, grades shall not exceed 12% on alleys, and centerline radii on curves shall be not less than 100 feet.

(E) *Other requirements.* All provisions and requirements with respect to streets identified in this code shall apply to alleys the same in all respects as if the word "street" or "streets" therein appeared as the word "alley or alleys" respectively.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.695 PLATTING STANDARDS FOR BLOCKS.

Block length shall not exceed 500 feet. The average perimeter of blocks formed by streets shall not exceed 1,500 feet. Exceptions to the block length and perimeter standards shall only be granted where street location and design are restricted by controlled access streets, railroads, steep slopes, wetlands, water bodies, or similar circumstances.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2494, passed 4-6-98; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.696 [RESERVED.]

§ 151.697 [RESERVED.]

§ 151.698 [RESERVED.]

§ 151.699 [RESERVED.]

§ 151.700 GUIDELINES FOR LOCATING MAJOR STREET ALIGNMENTS.

(A) The Director shall determine the location of major streets including collectors, minor arterials, and arterials, which do not have a set alignment, by applying the guidelines defined in this section. A major street location shall be prepared which addresses each of these guidelines. The Director shall use a Type II process as outlined in this Development Code to establish the street alignment after the Director determines that the guidelines have been adequately addressed by the applicant.

(B) Guidelines for locating major streets, which do not have a set alignment are as follows:

(1) Availability or existence of right-of-way. An evaluation of the cost of purchase versus dedicating the right-of-way.

(2) Efficiency of the identified route versus other routes as defined by the following:

(a) Commercial and industrial access and circulation:

1. Route does not traverse local streets.

2. Route minimizes out-of-direction travel.

3. Route reduces or maintains travel time and trip length.

(b) Residential circulation.

1. Route does not traverse local streets.

2. Route minimizes out-of-direction travel.

(c) Number of stops and starts.

(d) Access which meets the standards. Route minimizes traffic conflict and access points.

(3) Safety enhancements provided by the proposed route.

(4) Reduction in number or improvement to rail crossings.

(a) Route minimizes the number of railroad tracks to be crossed.

(b) Route minimizes interference with railroad operations.

(c) Route improves crossing angle and/or visibility at crossing.

(5) Neighborhood compatibility.

(a) Route provides a buffer between adjacent neighborhoods and traffic.

(b) Route is used to separate different land uses.

(6) Compatibility with city plans.

(7) Alternative mode enhancements. Route improves bicycle and pedestrian access.

(8) Stream corridor impacts are minimized and in compliance with this Development Code.

(9) Cost of the route. Cost factors are evaluated including right-of-way acquisition, design and construction costs based on the length and efficiency of the route.

(Ord. 98-2494, passed 4-6-98)

§ 151.701 PRIVATE STREETS.

New private streets, as defined in § 151.003, shall not be created.

(Ord. 99-2507, passed 3-1-99) Penalty, see § 151.999

roads to maintain safe maneuvering of vehicles in and out of properties and to allow safe through movements. If vehicular access and circulation are not properly designed, these roadways will be unable to accommodate the needs of development and serve their transportation function.

§ 151.702 TRAFFIC CALMING.

(A) The following roadway design features may be required in new street construction where traffic calming needs are anticipated:

- (1) Serpetine alignment.
- (2) Curb extensions.
- (3) Traffic diverters/circles.
- (4) Raised medians and landscaping.

(5) Other methods shown effective through engineering studies.

(B) Traffic calming measures such as speed humps and additional stop signs should be applied to mitigate traffic operations and/or safety problems on existing streets. They should not be applied with new street constructions.

(Ord. 99-2513, passed 8-2-99)

(B) *Access spacing standards.* Public street intersection and driveway spacing shall follow the table below:

[Table begins on following page.]

§ 151.703 VEHICULAR ACCESS STANDARDS.

(A) *Purpose.* The purpose of these standards is to manage vehicle access to maintain traffic flow, safety, roadway capacity, and efficiency. They help to maintain an adequate level of service consistent with the functional classification of the street. Major roadways, including arterials, and collectors serve as the primary system for moving people and goods within and through the city. Access is limited and managed on these roads to promote efficient through movement. Local streets and alleys provide access to individual properties. Access is managed on these

Access Spacing Standards						
Roadway Functional Classification	Area ¹	Minimum Public Street Intersection Spacing (Feet) ²	Frontage Required per Additional Driveway ³	Driveway Setback from Intersecting Street ⁴	Typical Median Treatment	Minimum Spacing of Median Openings
Expressway	All	As shown in Newberg Transportation System Plan	NA	NA	Recessed swale and/or crash barrier	NA
Major arterial	Urban CBD	600 200	300 300	150 100	Raised median or center left-turn lane	600 NA
Minor arterial	Urban CBD	300 100	200 200	100 100	Raised median or center left-turn lane	300 NA
Major collector	All	200	150	100	Center left-turn lane	NA
Minor collector	All	150	75	75	None	NA
Local streets	All	100	75	50	None	NA
<p>1 “Urban” refers to intersections inside the city urban growth outside the Central Business District (C-3 Zone). “CBD” refers to intersections within the Central Business District (C-3 Zone). “All” refers to all intersections within the Newberg Urban Growth Boundary.</p> <p>2 Measured centerline to centerline.</p> <p>3 Requirement is the minimum frontage required per additional driveway beyond the first. Where two driveways are constructed, at least one curb parking space shall separate each driveway approach.</p> <p>4 The setback is based on the higher classification of the intersecting streets. Measured from the curblines of the intersecting street to the beginning of the driveway, excluding flares. If the driveway setback listed above would preclude a lot from having at least one driveway, including shared driveways or driveways on adjoining streets, one driveway is allowed as far from the intersection as possible.</p>						

(C) *Properties with multiple frontages.* Where a property has frontage on more than one street, access shall be limited to the street with lesser classification.

(D) *Alley access.* Where a property has frontage on an alley and the only other frontages are on collector or arterial streets, access shall be taken from the alley only.

(E) *Closure of existing accesses.* Existing accesses that are not used as part of development or redevelopment of a property shall be closed and replaced with curbing, sidewalks, and landscaping, as appropriate.

(F) *Shared driveways.* The number of driveways onto arterial streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The city shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

(1) Where there is an abutting developable property, a shared driveway shall be provided. When shared driveways are required, they shall be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway temporarily ends at the property line, but may be accessed or extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

(2) Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

(3) No more than two lots may access one shared driveway.

(G) *Frontage streets and alleys.* The review body for a design review or subdivision may require construction of a frontage street to provide access to properties fronting an arterial or collector street.

(H) *Exceptions.* The Director may allow exceptions to the access standards above in any of the following circumstances:

(1) Where existing and planned future development patterns or physical constraints, such as topography, parcel configuration, and similar conditions, prevent access in accordance with the above standards.

(2) Where the proposal is to relocate an existing access for existing development, where the relocated access is closer to conformance with the standards above and does not increase the type or volume of access.

(3) Where the proposed access results in safer access, less congestion, a better level of service, and more functional circulation, both on-street and on-site, than access otherwise allowed under these standards.

Where an exception is approved, the access shall be as safe and functional as practical in the particular circumstance. The Director may require that the applicant submit a traffic study by a registered engineer to show the proposed access meets these criteria.

(Ord. 99-2513, passed 8-2-99; Am. Ord. 2005-2619, passed 5-16-05)

§ 151.704 SIDEWALKS.

Sidewalks shall be located and constructed in accordance with the provisions of § 151.717. Minimum width is five feet.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.705 PUBLIC WALKWAYS.

(A) The review body for a design review or land division may require easements for and construction of public walkways where such walkway is needed for the public safety and convenience or where the walkway is necessary to meet the standards of this code or a walkway plan. Public walkways are to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for networks of public paths according to adopted plans, or to provide access to schools, parks or other community destinations or public areas of such design, width, and location as reasonably required to facilitate public use. Where possible, said dedications may also be employed to accommodate public utilities.

(B) Public walkways shall be located within a public access easement a minimum of 15 feet in width.

(C) A walk strip, not less than five feet in width, shall be paved in the center of all public walkways easements. Such paving shall conform to specifications adopted by the City Council under § 151.717.

(D) Public walkways shall be designed, as far as practical, to meet the Americans with Disabilities Act requirements.

(E) Public walkways connecting one right-of-way to another shall be designed to provide as short and straight of a route as practical.

(F) The developer of the public walkway shall provide a homeowners association or similar entity to maintain the public walkway and associated improvements.

(G) Lighting may be required for public walkways in excess of 250 feet in length.

(H) The review body may modify these requirements where it finds that topographic, pre-existing development, or similar constraints exist. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

IMPROVEMENTS; SPECIFICATIONS

§ 151.715 SUBMITTING SPECIFICATIONS.

The Director shall prepare and submit to the City Council specifications and amendments thereto for construction of streets and alleys, construction of curbs and gutters, dedication of slope easements for streets and alleys, construction of drainage facilities, and construction of pedestrian ways in subdivisions and partitions. Such specifications shall conform to proper engineering standards relevant thereto, and be

so devised as to facilitate provision for the health, safety and welfare needs of the city and area affected, in accordance with this code.

(Ord. 96-2451, passed 12-2-96)

§ 151.716 PROCEDURE.

The procedure of preparing, submitting, and adopting all such specifications and amendments thereto, including notice and hearing, shall conform to that required by law for the enactment of resolutions.

(Ord. 96-2451, passed 12-2-96)

§ 151.717 ADOPTION OF SPECIFICATIONS.

Upon adoption by the City Council of any such specifications and amendments thereto, as from time to time may be submitted by the Director, a copy thereof shall be filed with the City Recorder and a copy shall be kept in the office of the Director, for the use and information of the general public.

(Ord. 96-2451, passed 12-2-96)

§ 151.718 WATER SUPPLY.

All lots and parcels within subdivisions and partitions shall be served by the water system of the city.

(Ord. 96-2451, passed 12-2-96)

§ 151.719 SEWAGE.

All lots and parcels within subdivisions and partitions shall, where practicable, as determined by the Director, in accordance with the provisions of this code, be served by the sewage system of the city.

(Ord. 96-2451, passed 12-2-96)

§ 151.720 LAND SURFACE DRAINAGE.

Such grading shall be done and such drainage facilities shall be constructed by the land divider as are adequate for the purpose of proper drainage of the

partition or subdivision, of areas affected thereby, and for the preservation of healthful and convenient surroundings and conditions for residents of the subdivision or partition, and for the general public, in accordance with specifications adopted by the City Council under § 151.717.

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.721 [RESERVED.]

§ 151.722 [RESERVED.]

§ 151.723 [RESERVED.]

§ 151.724 [RESERVED.]

§ 151.725 STREET TREES.

Street trees shall be provided adjacent to all public rights-of-way abutting or within a subdivision or partition. Street trees shall be installed in accordance with the provisions of § 151.580(B)(4).

(Ord. 96-2451, passed 12-2-96) Penalty, see § 151.999

§ 151.726 EASEMENTS FOR UTILITIES.

Dedication of easements for storm water sewers, and for access thereto for maintenance, in order to safeguard the public against flood damage and the accumulation of surface water, and maintenance, and dedication of easements for other public utilities, may be required of the land divider at sufficient widths for their intended uses, by the Director along lot or parcel rear lines or side lines, or elsewhere as necessary to provide needed facilities for present or future development of the area in accordance with the

purpose of this code. Before a partition or subdivision can be approved, there shall appear thereon a restriction providing that no building, structure, or other obstruction shall be placed or located on or in a public utility easement.

(Ord. 96-2451, passed 12-2-96; Am. Ord. 98-2494, passed 4-6-98; Am. Ord. 2005-2619, passed 5-16-05) Penalty, see § 151.999

§ 151.999 PENALTY.

Violation of any provision of this code is a city Class 2 civil infraction and shall be processed in accordance with the “Uniform Civil Infraction Procedure,” Chapter 40 of this code. Each day of a continuing violation constitutes a separate violation.

(Ord. 96-2451, passed 12-2-96)

[Next printed page is p.181.]

APPENDIX A: FIGURES

Figure

- I. Basement
- II. Cellar
- III. Grade
- IV. Lot coverage
- V. Lot lines, depth & width
- VI. Interior lots
- VII. Through lots
- VIII. Sun exposure plane
- IX. Vision clearance
- X. Yards
- XI. Corner lots
- XII. Driveway/driveway approach
- XIII. Landscape strip
- XIV. Landscape island
- XV. Building face and building frontage
- XVI. Sign area
- XVII. Typical pedestrian space layouts
- XVIII. Typical planting strip layouts
- XIX. Typical planting strip layouts
- XX. Springbrook Oaks Conceptual Use Plan
- XXI. Arterial streets
- XXII. Collector streets

FIGURE I. BASEMENT.

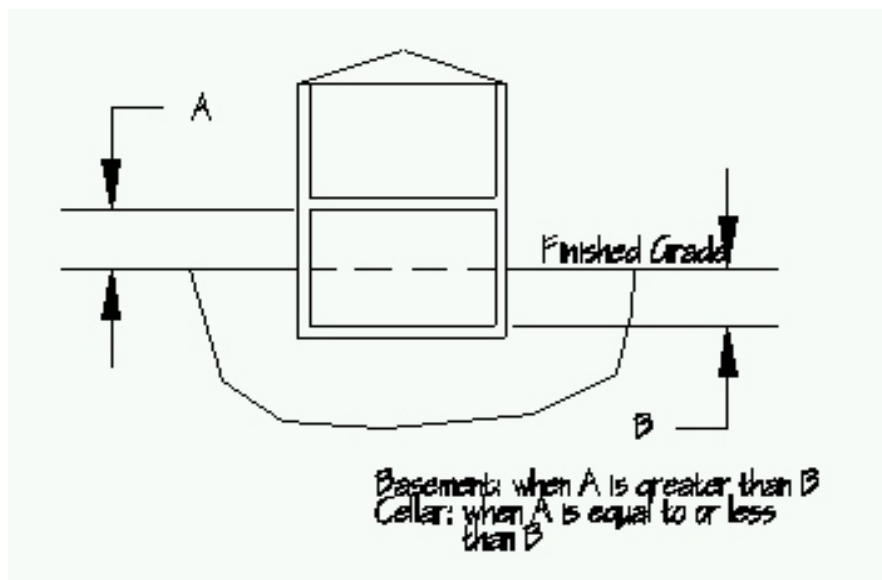


FIGURE II. CELLAR.

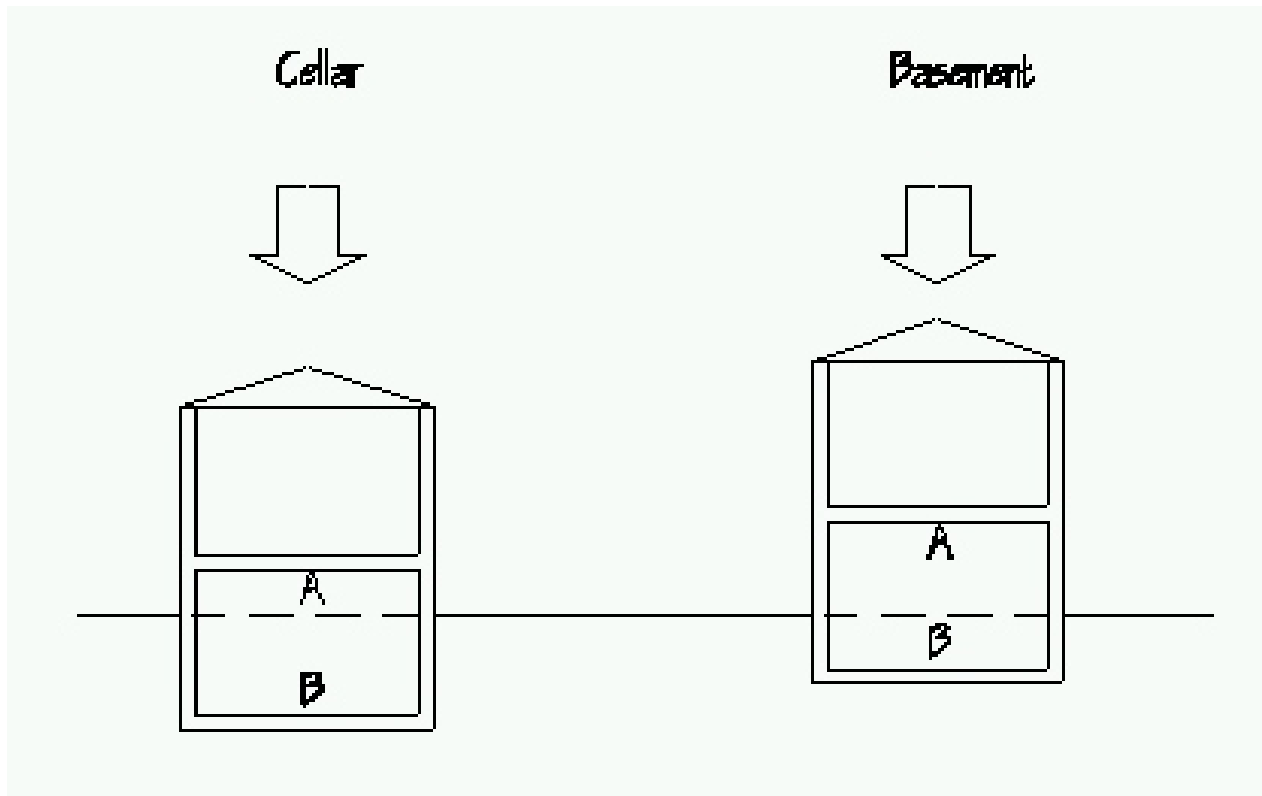


FIGURE III. GRADE.

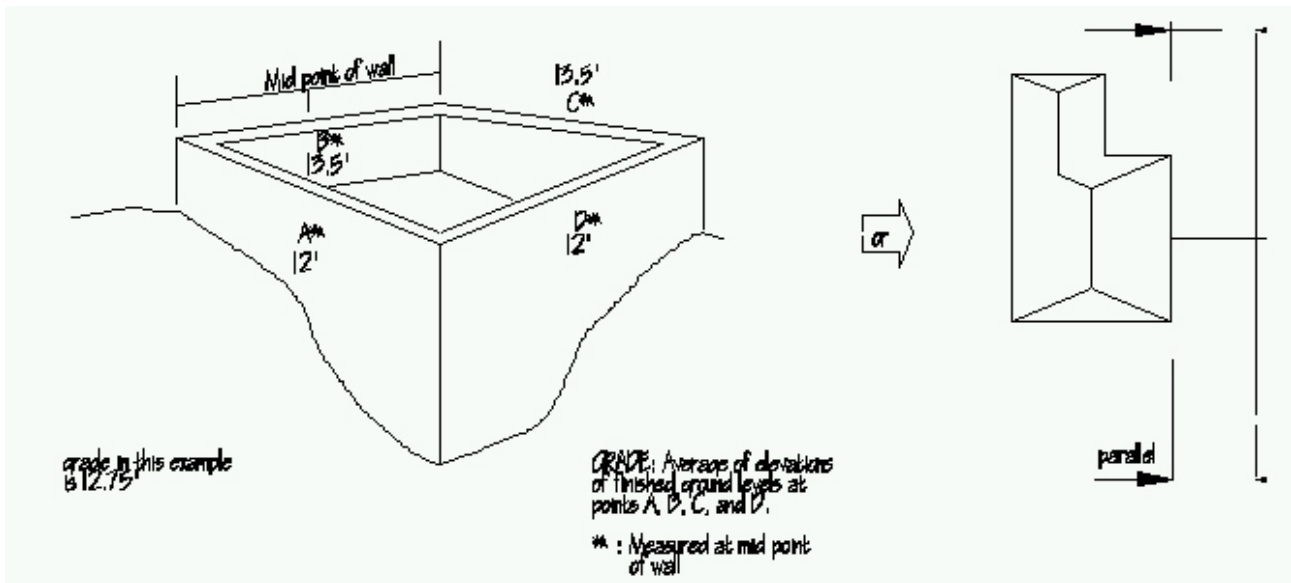
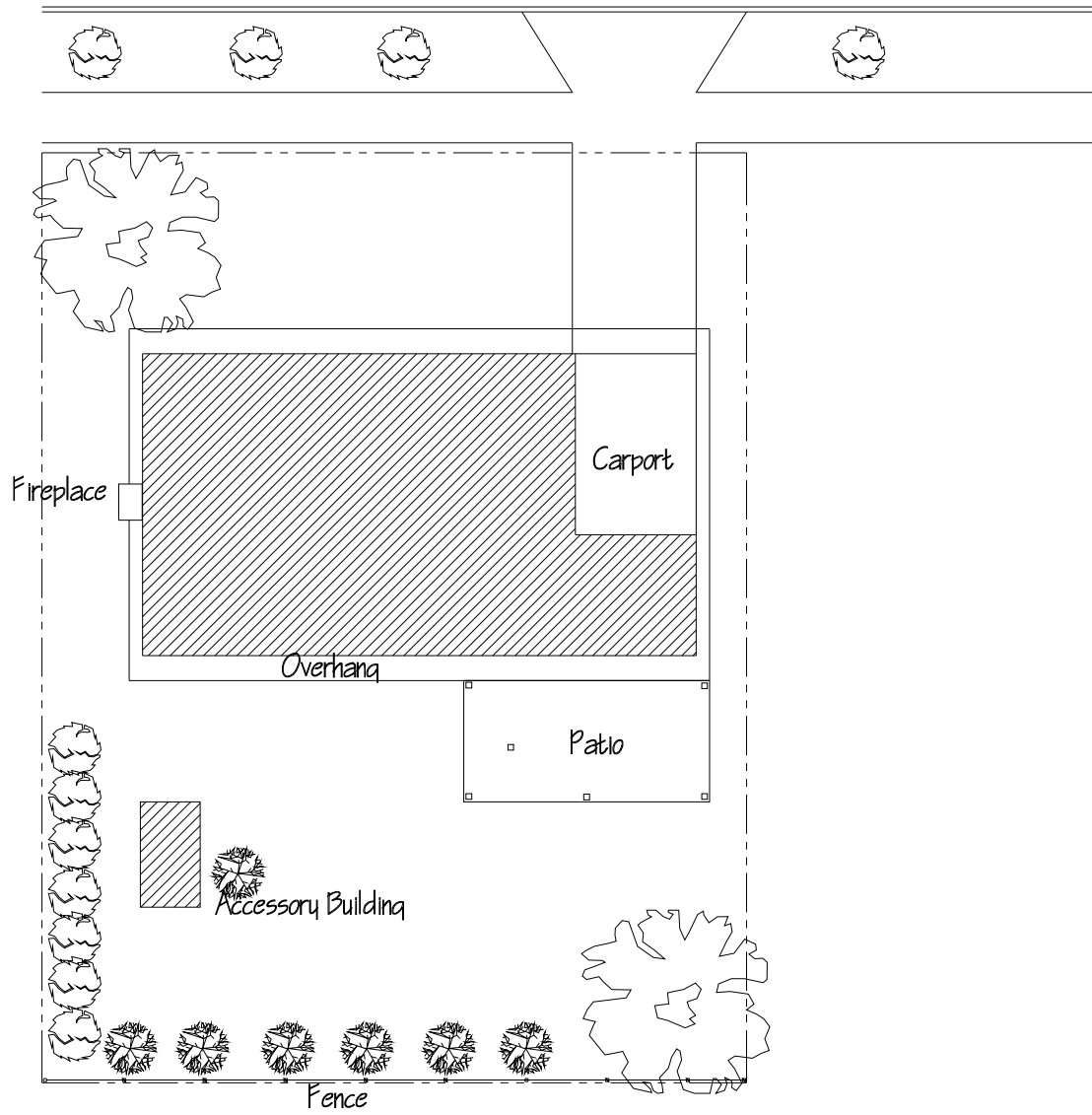


FIGURE IV. LOT COVERAGE.



Shaded area is computed coverage

FIGURE V. LOT LINE, DEPTH & WIDTH.

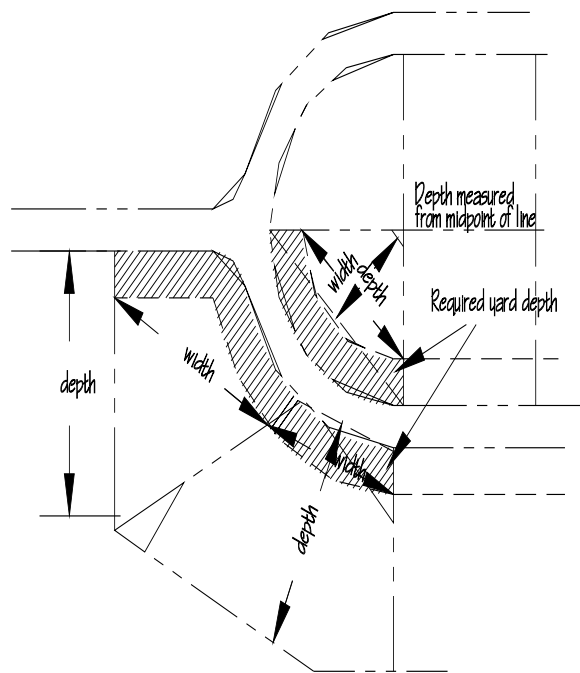
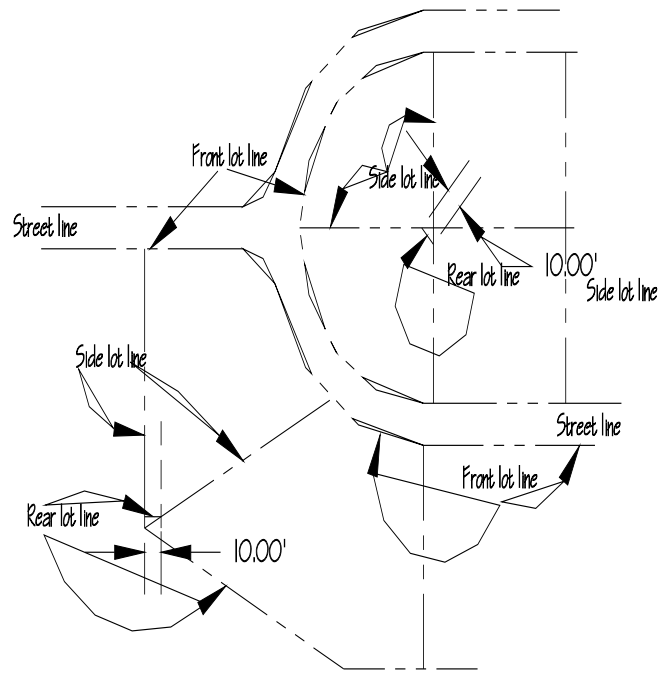


FIGURE VI. INTERIOR LOTS.

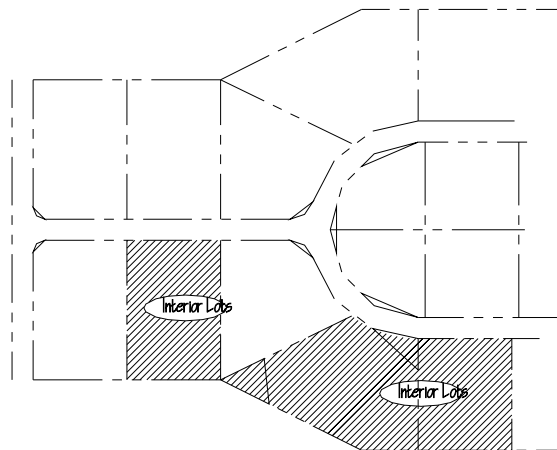
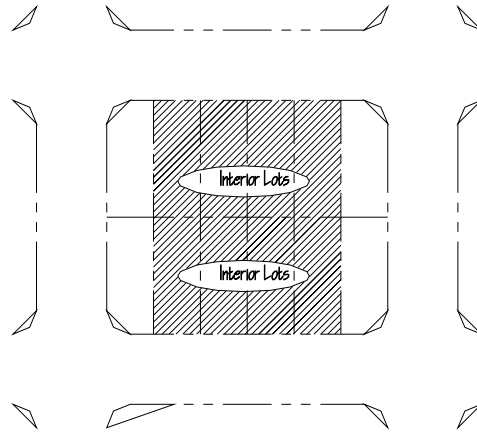


FIGURE VII. THROUGH LOTS.

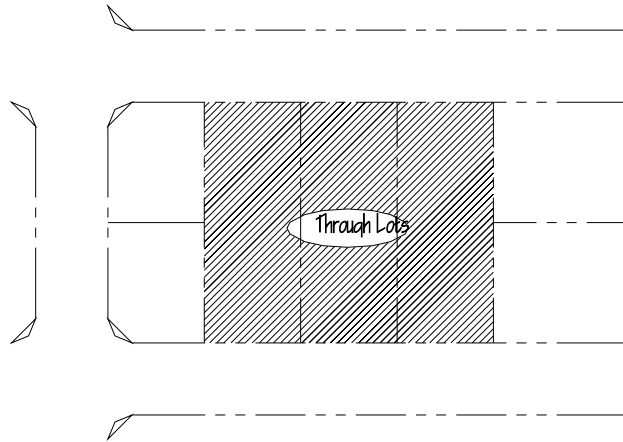


FIGURE VIII. SUN EXPOSURE PLANE.

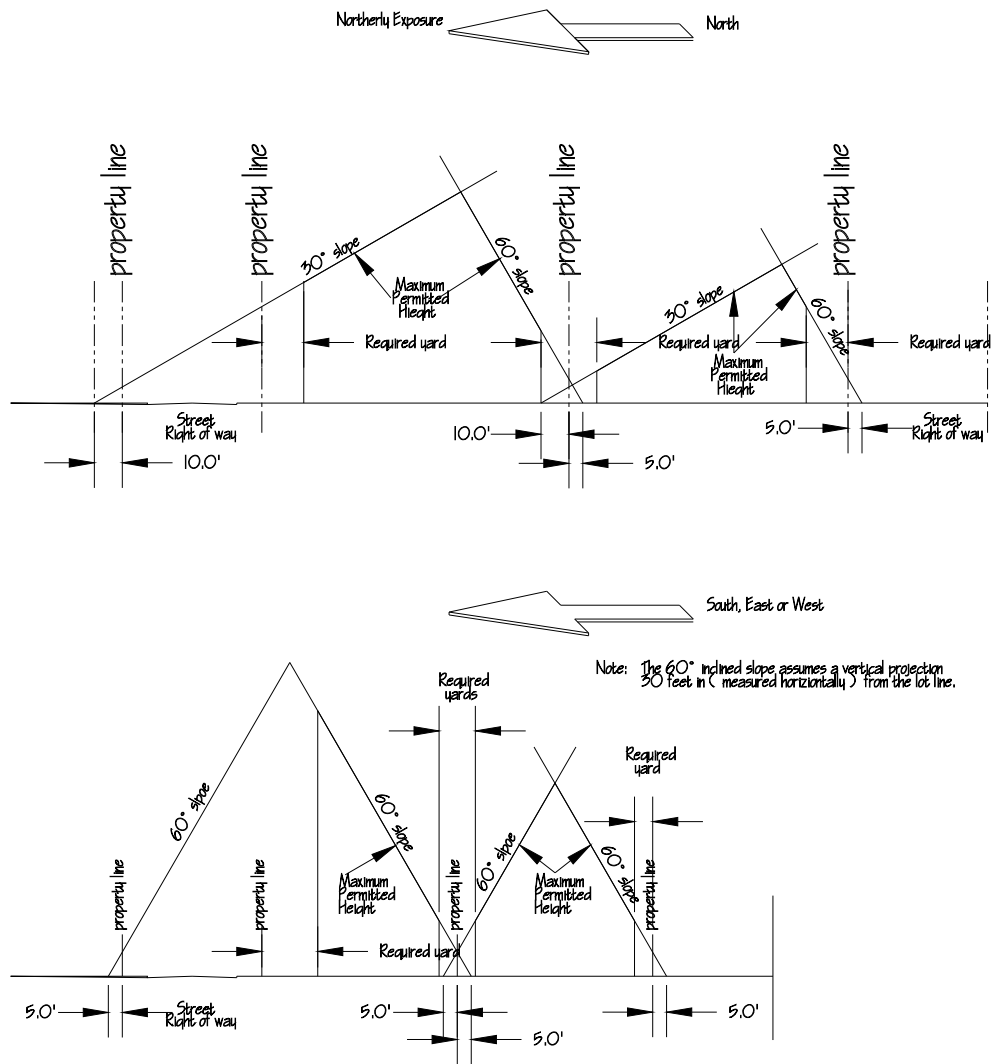


FIGURE IX. VISION CLEARANCE.

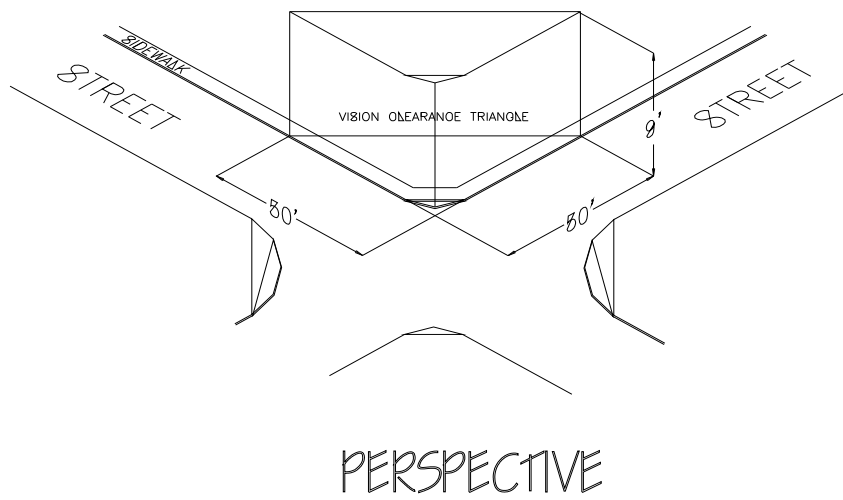
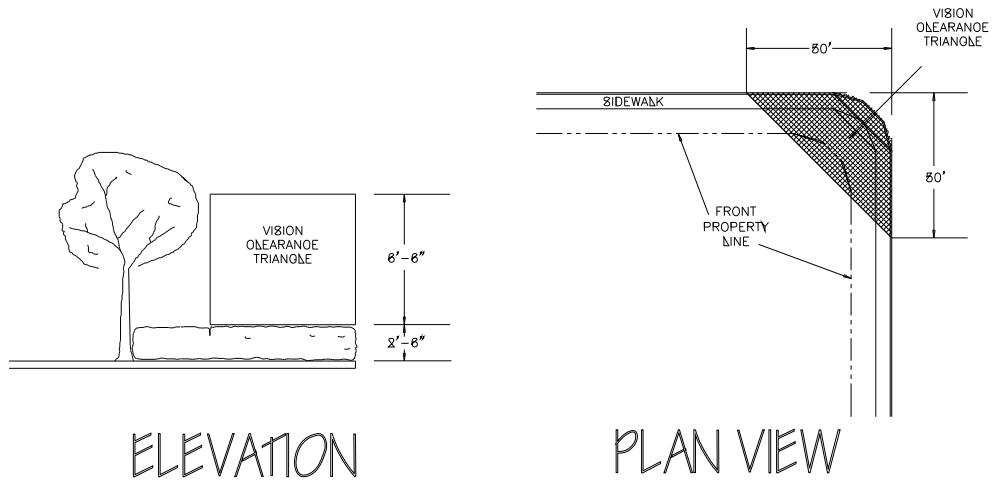


FIGURE X. YARDS.

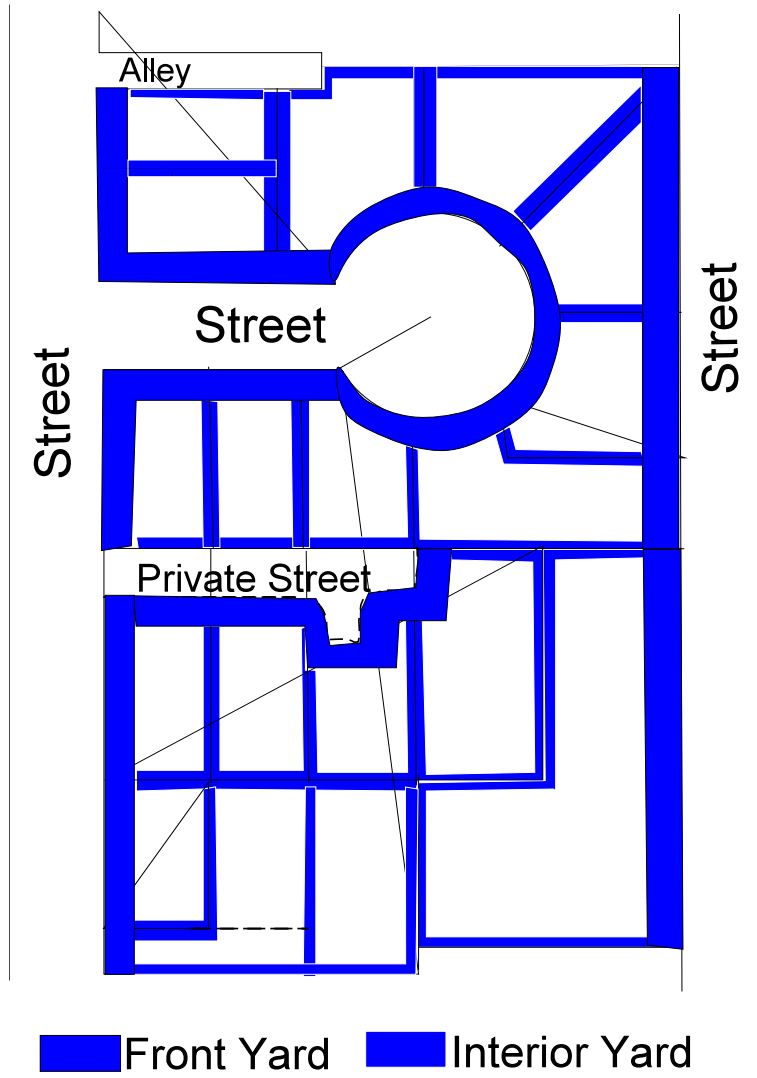


FIGURE XI. CORNER LOTS.

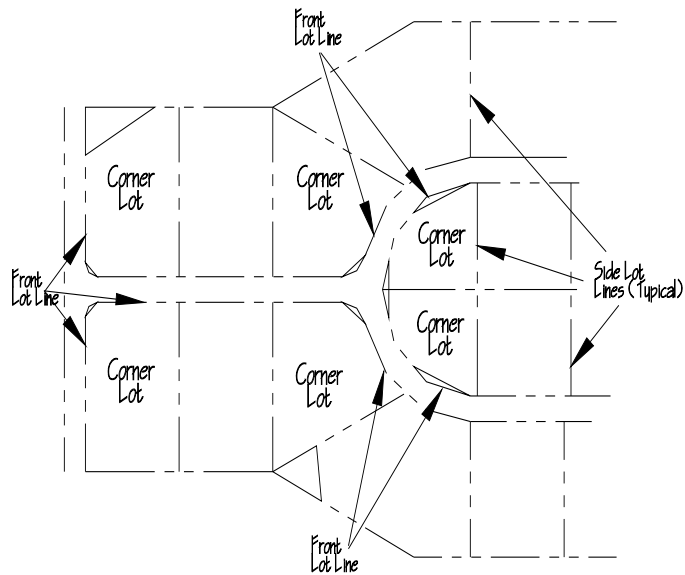
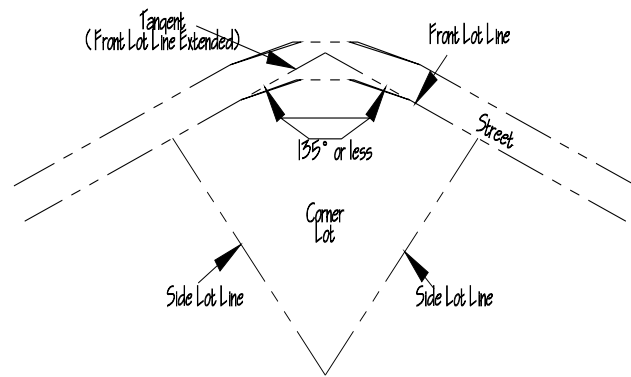


FIGURE XII. DRIVEWAY/DRIVEWAY APPROACH.

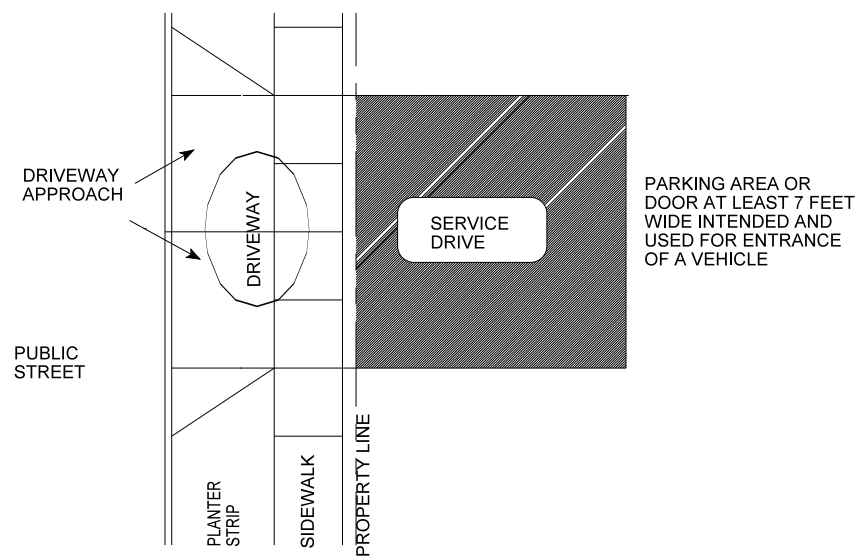


FIGURE XIII. LANDSCAPE STRIP.

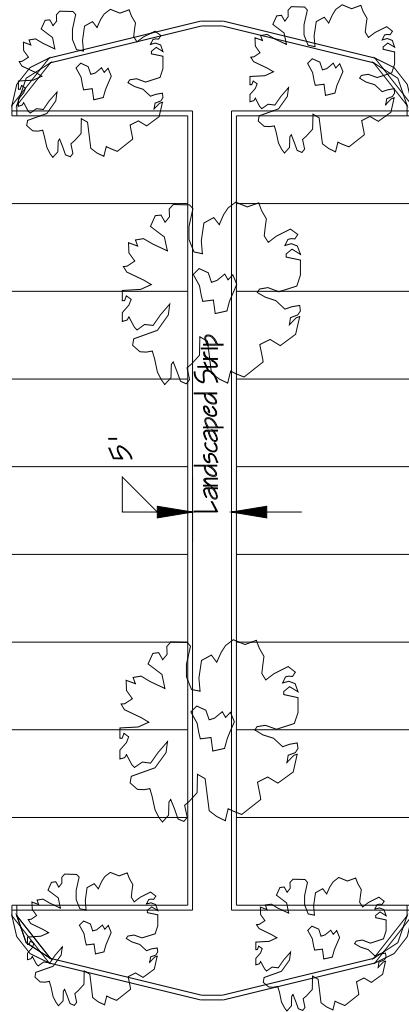


FIGURE XIV. LANDSCAPE ISLAND.

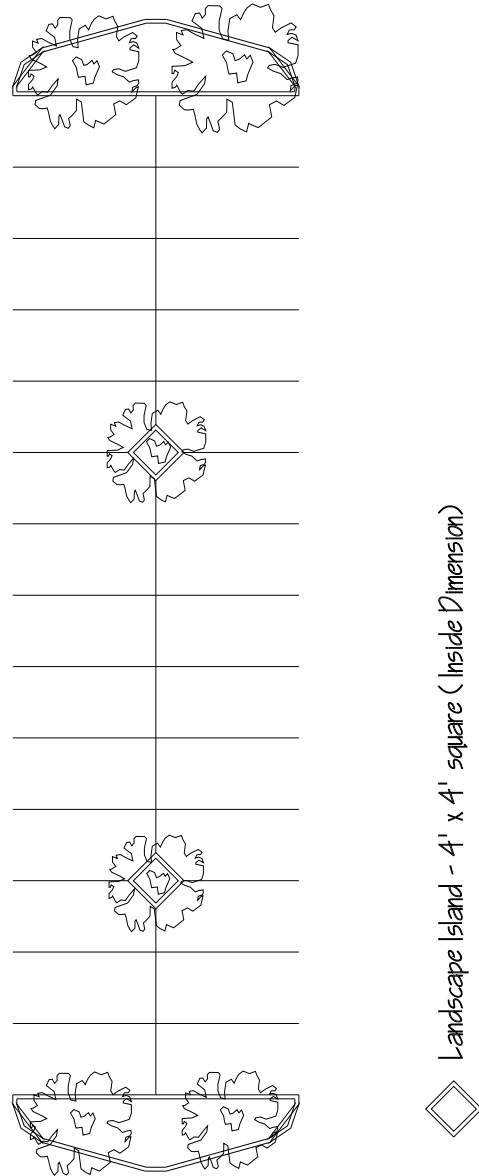


FIGURE XV. BUILDING FACE AND BUILDING FRONTAGE.

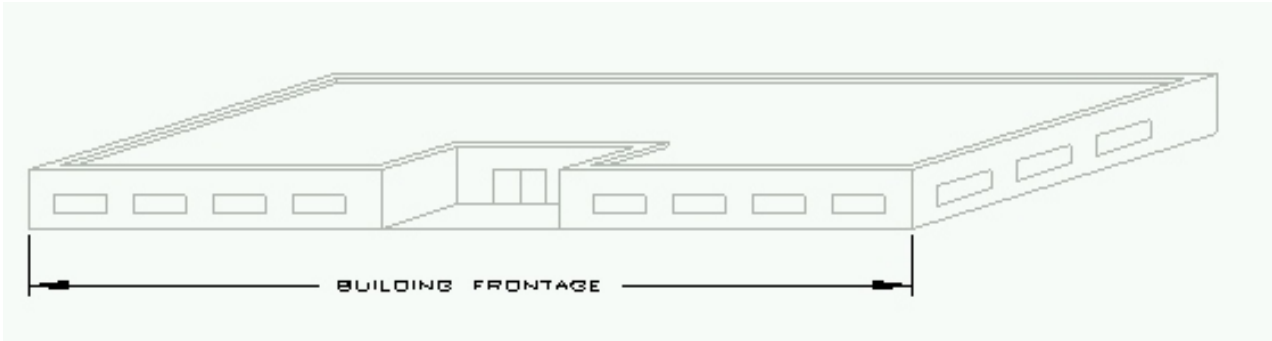


FIGURE XVI. SIGN AREA.

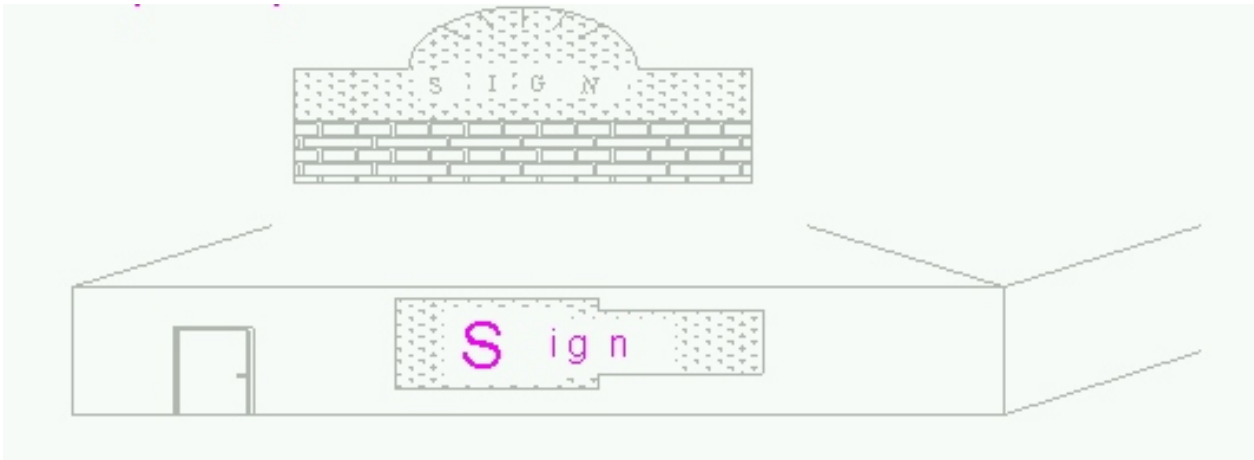
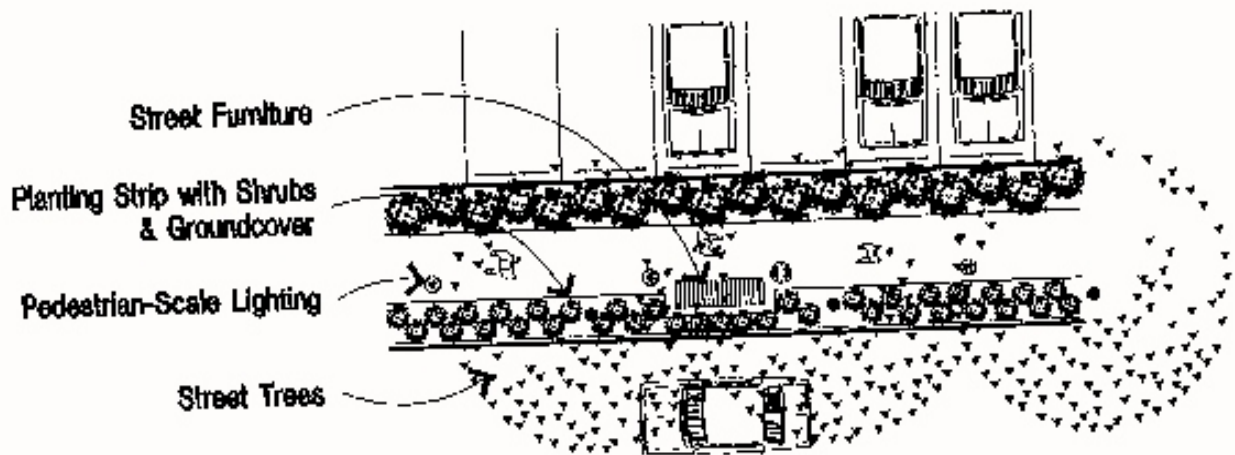


FIGURE XVII. TYPICAL PEDESTRIAN SPACE LAYOUTS.



Low Density

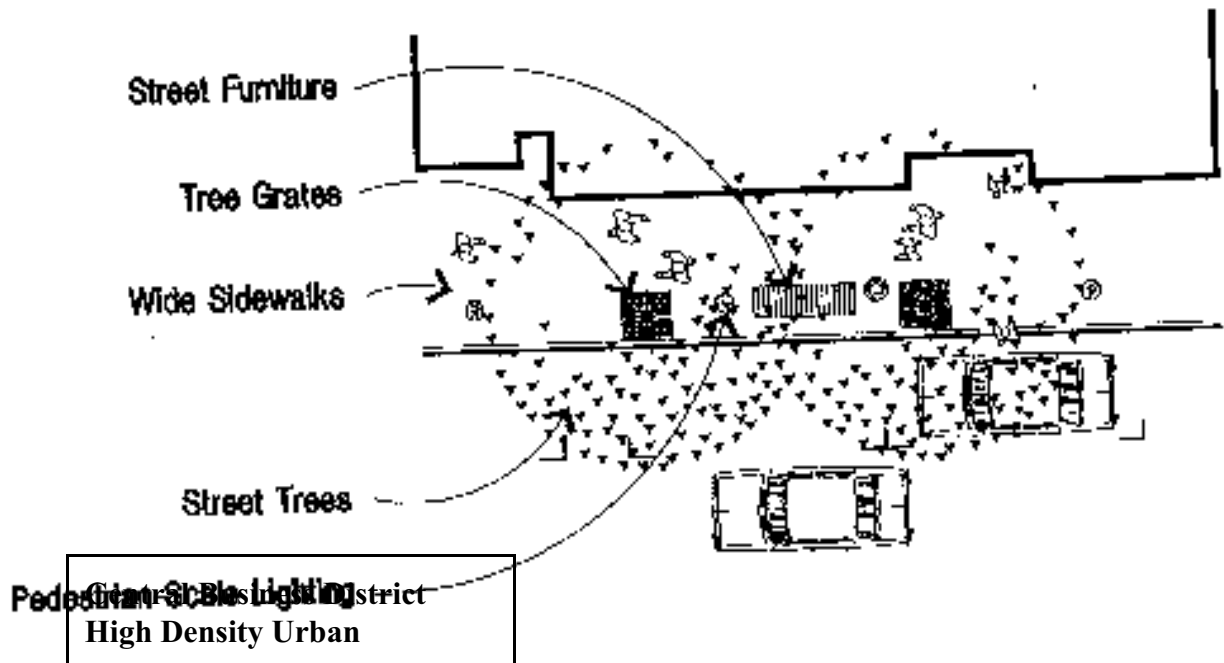


FIGURE XVIII. TYPICAL PLANTING STRIP LAYOUTS.

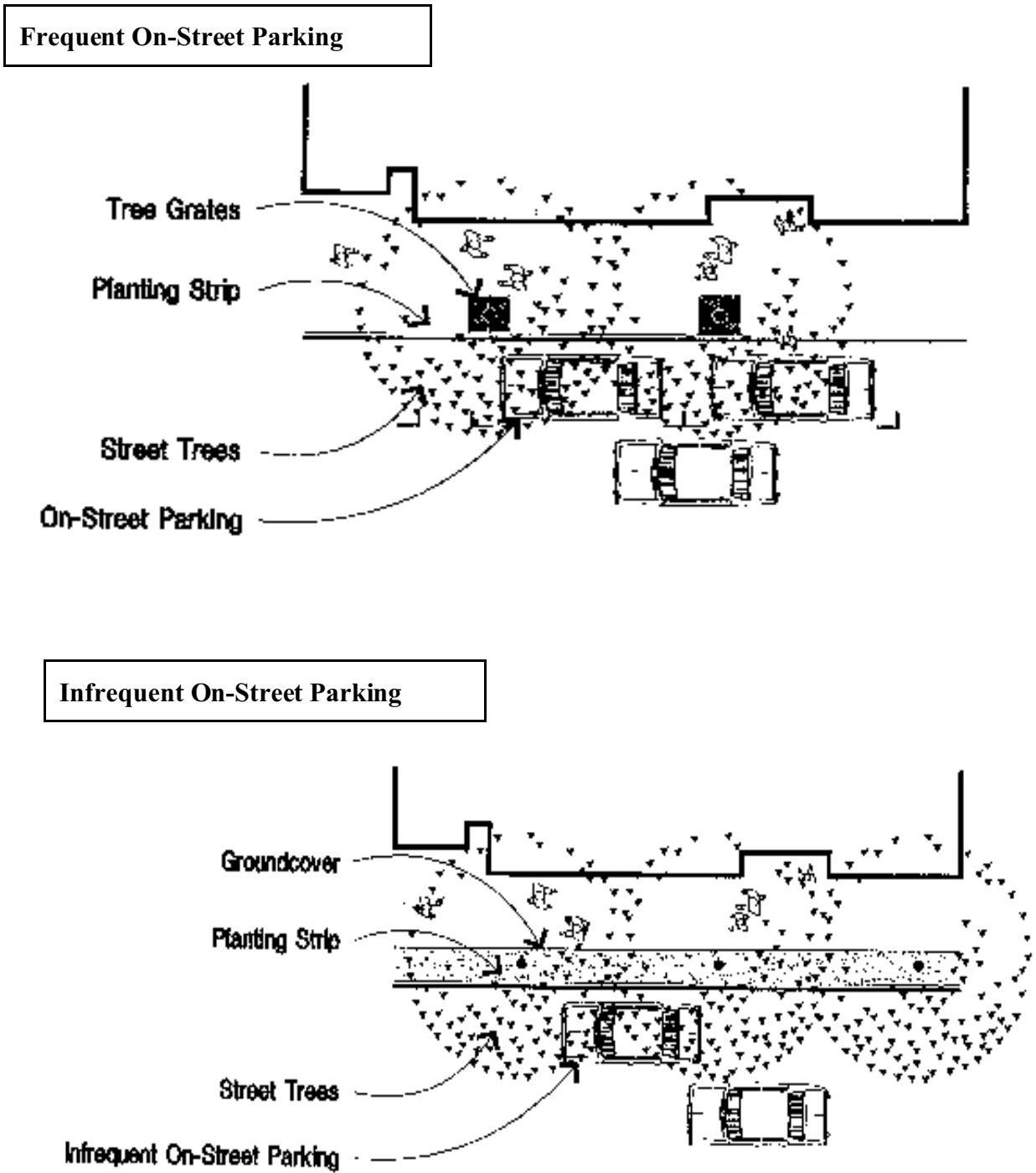


FIGURE XIX. TYPICAL PLANTING STRIP LAYOUTS.

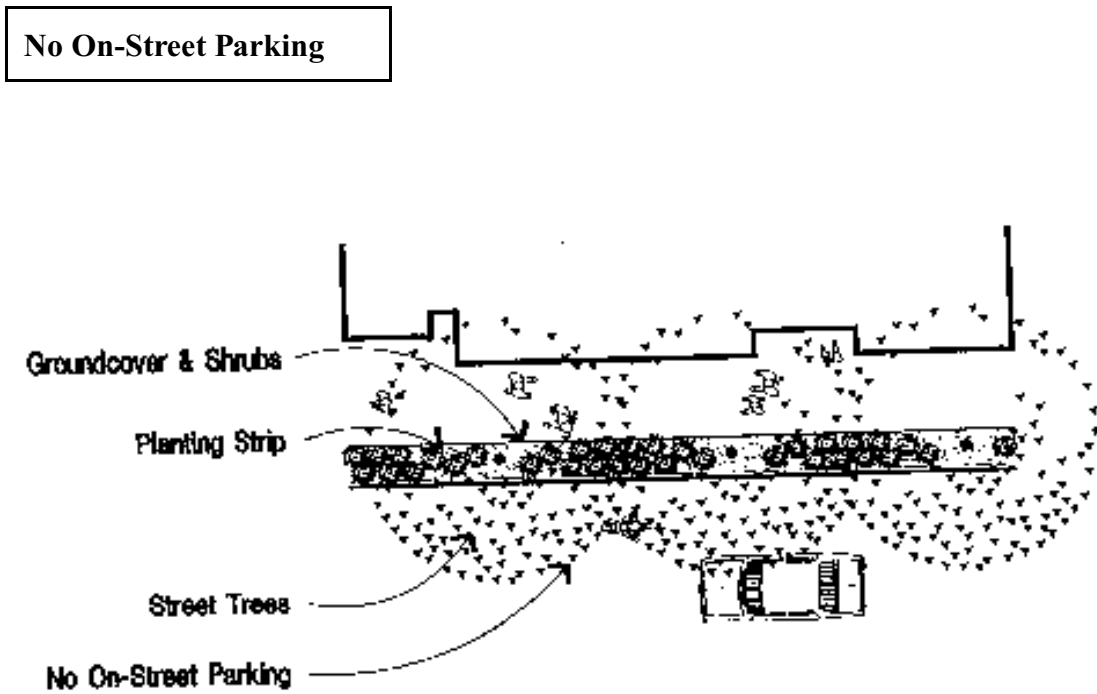


FIGURE XX. SPRINGBROOK OAKS CONCEPTUAL USE PLAN.

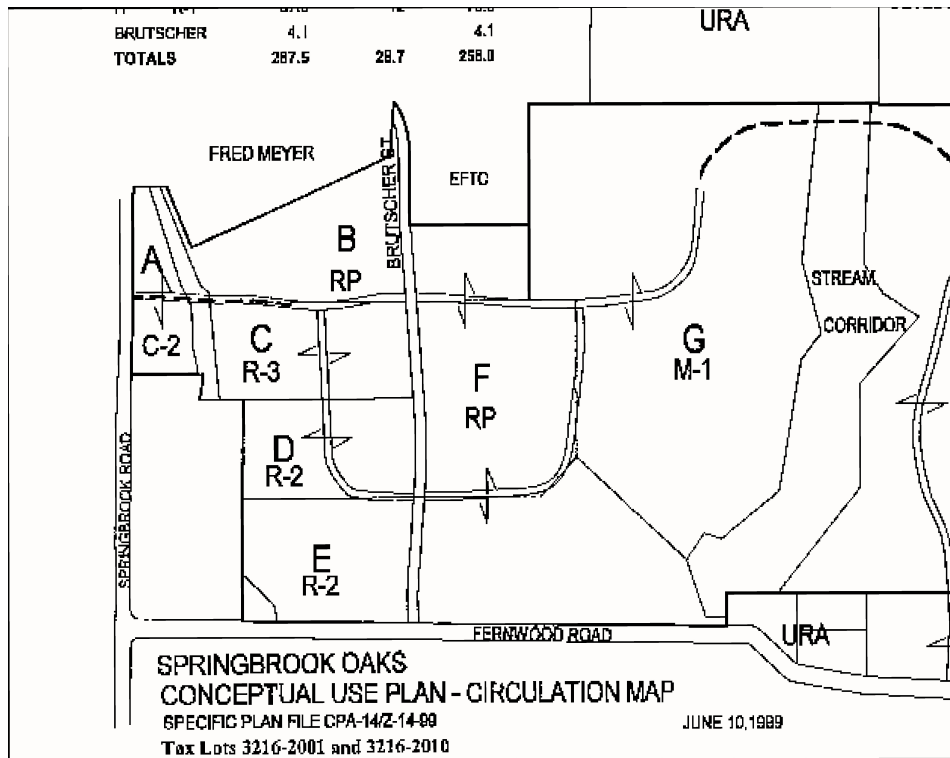
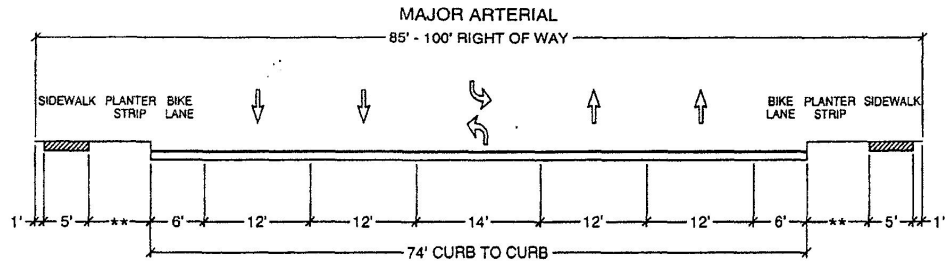
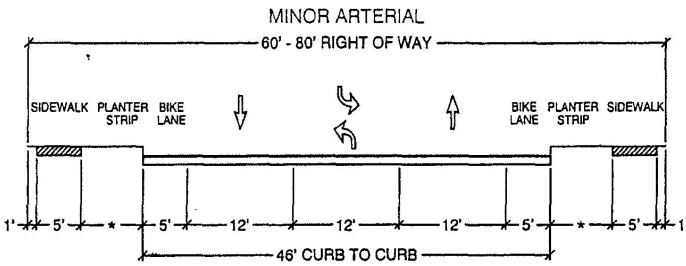


FIGURE XXI. ARTERIAL STREETS.

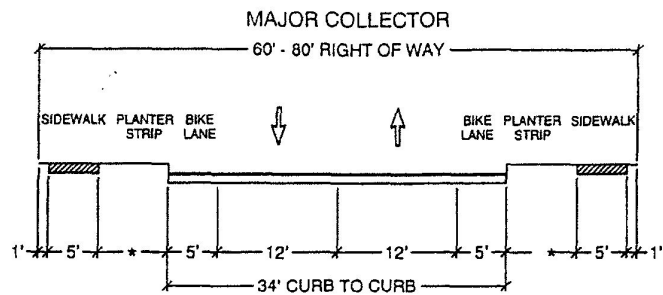


* SUBJECT TO ODOT STANDARDS. IN SECTIONS WITH A ONE-WAY COUPLET, SAME MINIMUM WIDTHS APPLY FOR TRAVEL LANES, BIKE LANES, PLANTER STRIP AND SIDEWALK.
 ** DEPENDING ON RIGHT-OF-WAY.

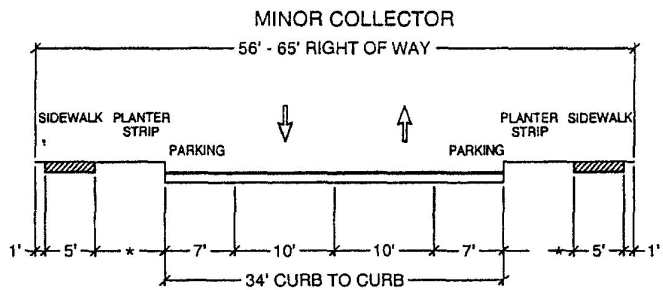


* DEPENDING ON RIGHT-OF-WAY.

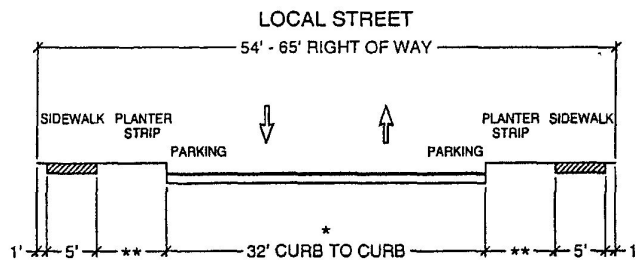
FIGURE XXII. COLLECTOR STREETS.



*DEPENDING ON RIGHT-OF-WAY.



*DEPENDING ON RIGHT-OF-WAY.



* LOCAL RESIDENTIAL STREETS SHALL HAVE 32' CURB-TO-CURB SECTION. LOCAL COMMERCIAL STREETS SHALL HAVE 34' CURB-TO-CURB SECTION.

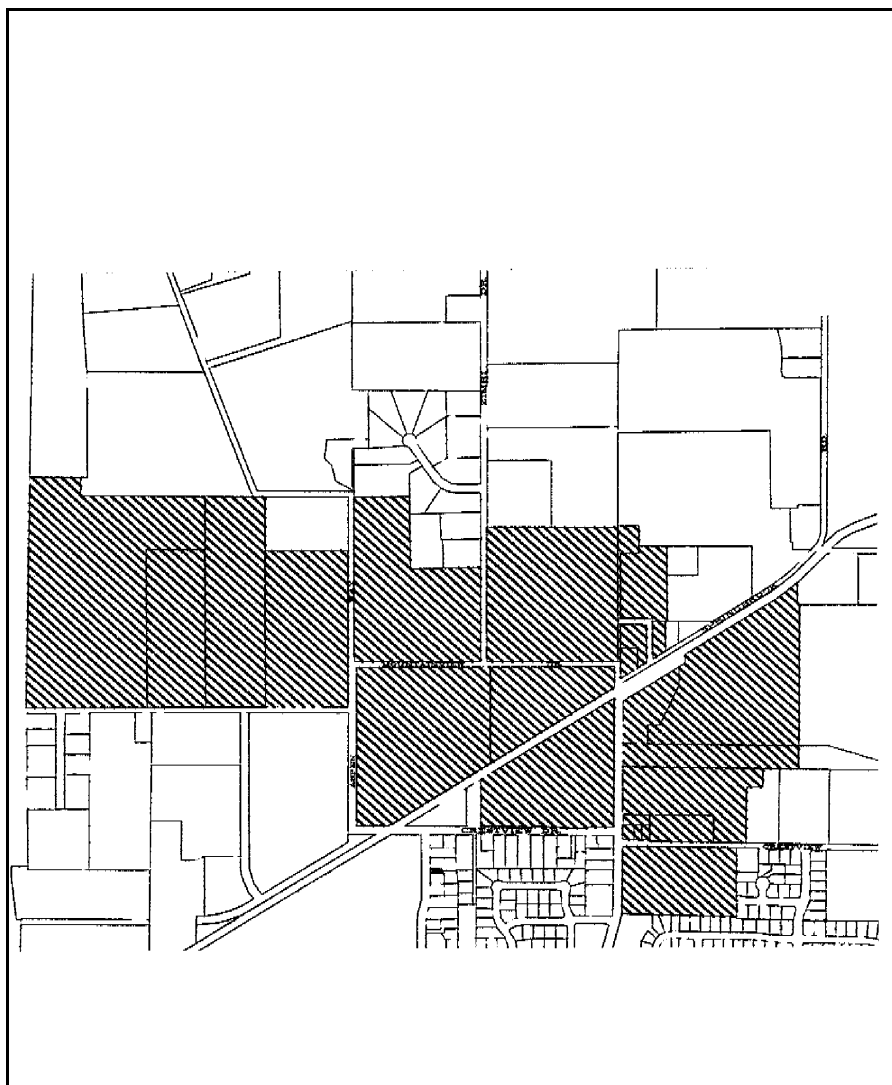
**DEPENDING ON RIGHT-OF-WAY.

APPENDIX B: MAPS

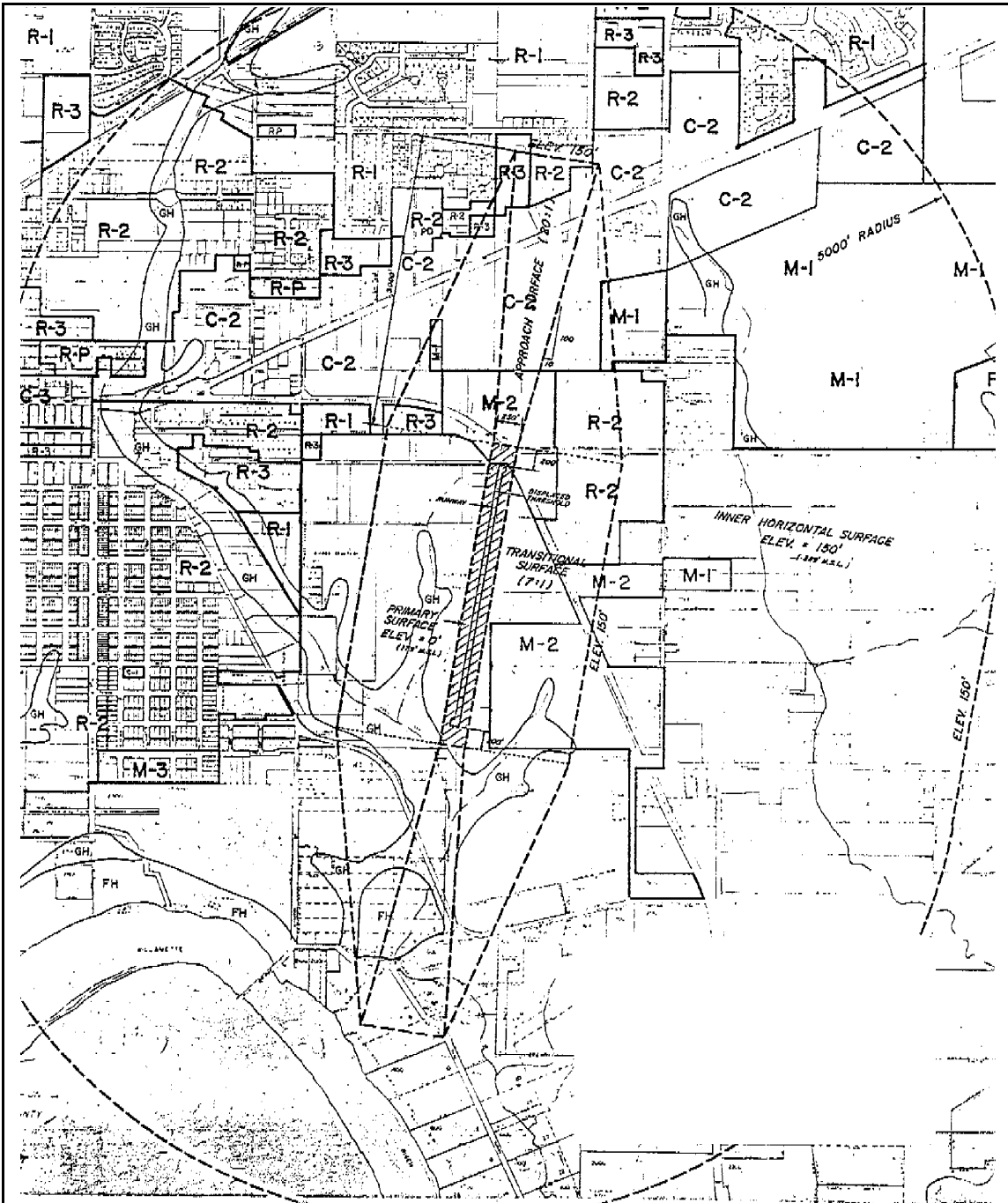
Maps

- I. Springbrook District
- II. Airport Overlay Zone
- III. Displaced threshold approach surface
- IV. Runway centerline profile
- V. Newberg Riverfront Master Plan - Proposed Newberg Zoning
- VI. East Newberg Interchange
- VII. Oregon 219 Interchange

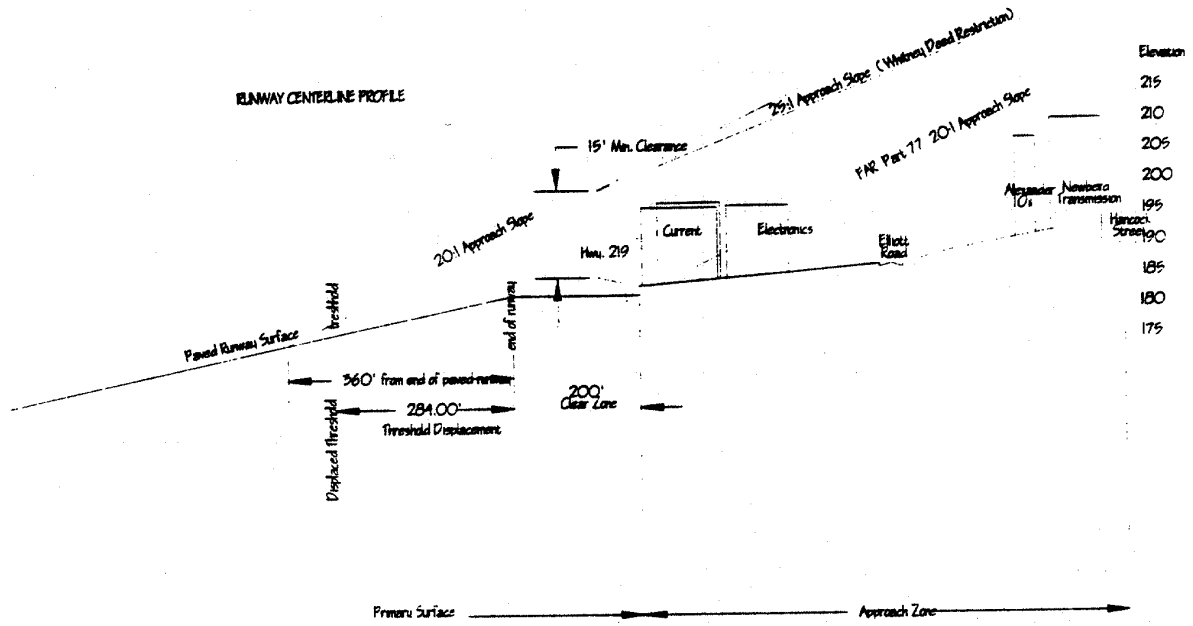
MAP I. SPRINGBROOK DISTRICT.



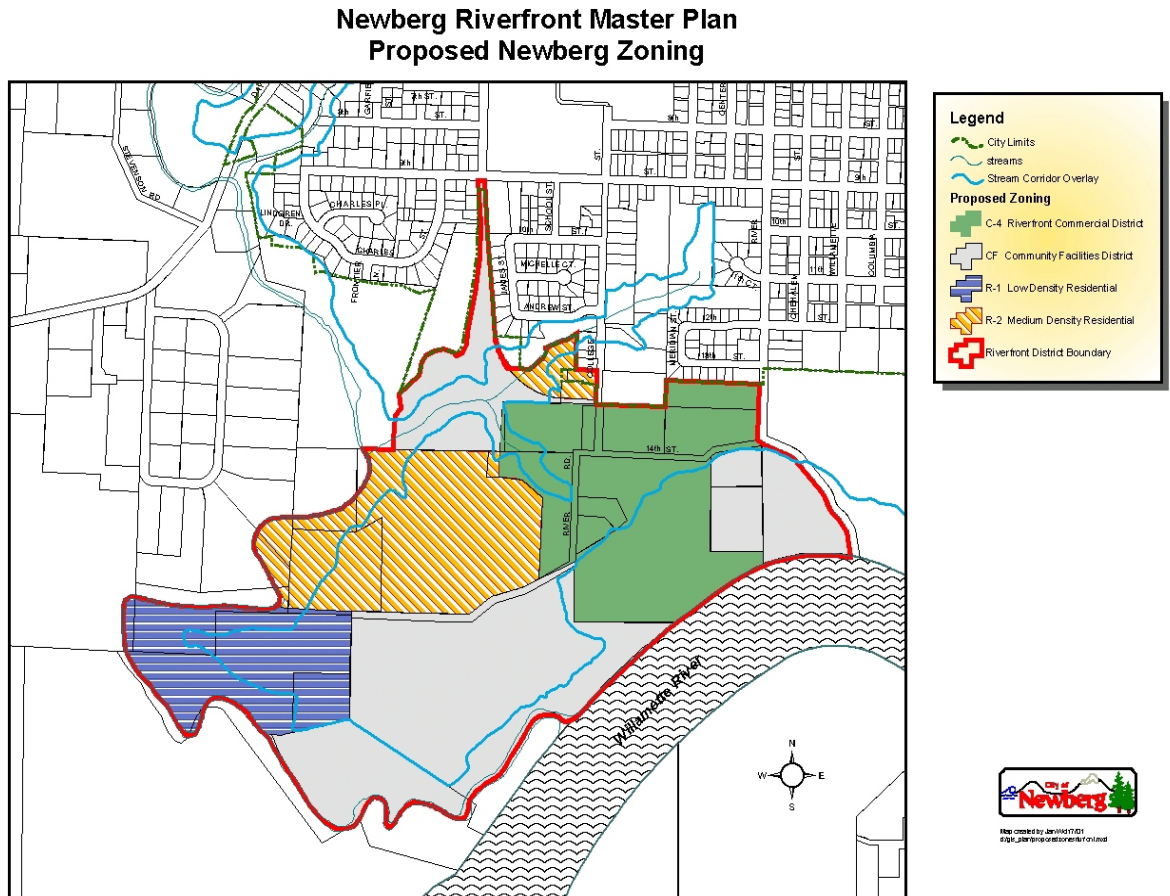
MAP II. AIRPORT OVERLAY ZONE.



MAP IV. RUNWAY CENTERLINE PROFILE.

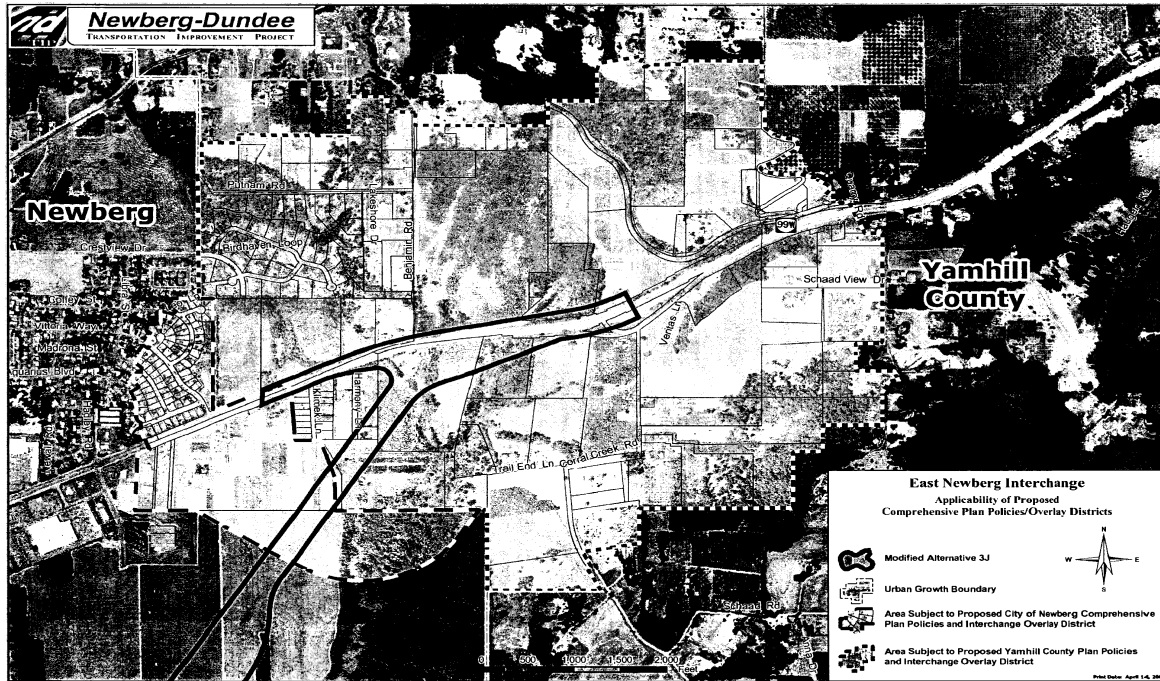


MAP V. NEWBERG RIVERFRONT MASTER PLAN - PROPOSED NEWBERG ZONING.



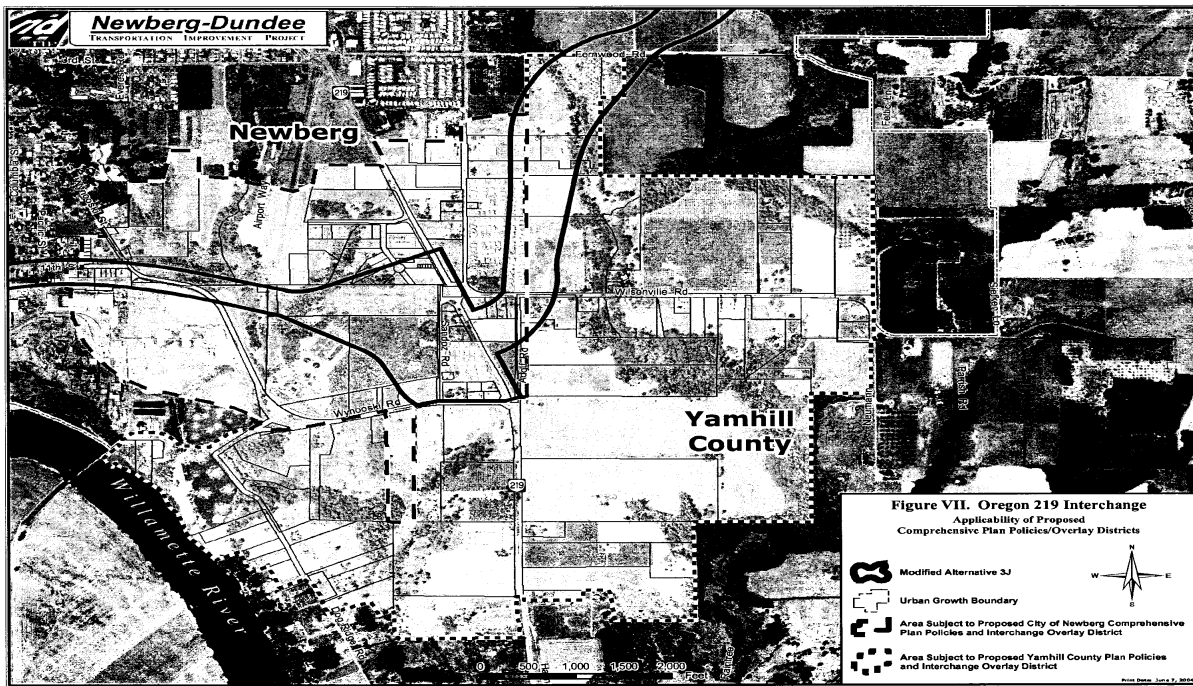
(Ord. 2002-2564, passed 4-15-02)

MAP VI. EAST NEWBERG INTERCHANGE.



(Ord. 2004-2602, passed 9-20-04)

MAP VII. OREGON 219 INTERCHANGE.



(Ord. 2004-2602, passed 9-20-04)

