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## Article I — Introduction and General Provisions

### Chapters:

- I.1 Introduction
- I.2 Title, Purpose, and Authority
- I.3 Lot of Record and Legal Lot Determination
- I.4 Non-Conforming Situations
- I.5 Code Interpretations
- I.6 Enforcement
- I.7 Burden of Proof

### Chapter I.1 — Introduction

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

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

**Article 2.** Article 2 contains the zoning regulations. Zones are designated by the City of Rivergrove Zoning Map, consistent with the City of Rivergrove Comprehensive Plan. The zoning regulations specify allowed land uses, and lot and development standards that are specific to particular land uses or zones. Before commencing a new use or development, changing an existing use or development, or applying for a building permit, the property owner should verify the City’s zoning requirements.

**Article 3.** Article 3 contains the City’s development design standards, including requirements for street access; pedestrian and vehicle circulation; parking; landscaping, screening, fences, and walls; outdoor lighting; adequate transportation, water, sanitary sewer, and storm drainage facilities; and utility requirements. Article 3 applies to all development, including land divisions and projects for which no land use application or review is required. Article 3 is supported by the more detailed engineering design standards found in the County having authority.

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

**Article 5.** Article 5 contains definitions and other exhibits that the City uses in interpreting and administering the Code.

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## Chapter 1.2 — Title, Purpose, and Authority

### Sections:

Section 1.2.010 Title

Section 1.2.020 Purpose

Section 1.2.030 Compliance and Scope

Section 1.2.040 Rules of Code Construction

Section 1.2.050 Development Code Consistency with Comprehensive Plan and Laws

Section 1.2.060 Development Code and Zoning Map Implementation

Section 1.2.070 Coordination of Building Permits

Section 1.2.080 Official Action

### **1.2.010 Title**

The official name of this land development ordinance is “The City of Rivergrove Development Code.” It may also be referred to as “Development Code” and “Code.”

### **1.2.020 Purpose**

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

- A. Full Utilization of Urban Services** (e.g., water, sewer, storm drainage, parks, and transportation facilities), which maximizes the return on public investments in infrastructure; and,
- B. Transportation Efficiency**, or development of an interconnected street system supporting multiple modes of transportation, which yields more direct routes (shorter distances) between local destinations, conserves energy, reduces emergency response times, and provides alternatives to the automobile for those who are unable or choose not to drive a car; and,
- C. Human-Scale Design**, or development in which people feel safe and comfortable walking from place to place because buildings, streetscapes, parking areas, landscaping, lighting, and other components of the built environment are designed foremost with pedestrians in mind; and,
- D. Environmental Health**, which requires adequate light and air circulation, management of surface water runoff, and treatment and disposal of waste; and
- E. Efficient Administration of Code Requirements**, consistent with the needs of the City of Rivergrove a small city with limited administrative capacity and resources; and,
- F. Protect the City’s Trees and Riverbanks**, as development occurs the wooded nature of the City and the scenic and riparian values of the Tualatin Riverbanks will be protected; and,
- G. Protect Property Rights**, to allow each property owner to understand their rights and to expect the same rights for all neighbors.

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### **I.2.030 Compliance and Scope**

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

### **I.2.040 Rules of Code Construction**

- A. Provisions of this Code Declared to be Minimum Requirements.** The provisions of this Code, in their interpretation and application, are minimum requirements (unless stated otherwise), adopted for the protection of the public health, safety, and general welfare.
- B. Highest standard or requirement applies.** Where the requirement of this Code varies from another provision of this Code or with other applicable regulations (eg. Federal, State or Metro requirements), the highest standard or regulation shall govern. The City Manager, as applicable, shall determine which Code provision sets the highest standard. Where the applicability of a Code provision is unclear, the City Manager may issue a formal interpretation pursuant to Chapter 1.5 Interpretation.
- C. Tenses.** Words used in the present tense include the future; the singular form includes the plural; and the plural includes the singular.
- D. Requirements versus Guidelines.** The use of the word "shall," "must," "required," or similar directive terms, means the Code provision is a requirement. The use of the word "should," "encouraged," "recommended," or similar terms, means the provision is a guideline, which may be imposed as a requirement but only where the applicable code criteria allow the applicable City decision-making body to exercise such discretion.
- E. Interpreting Illustrations.** This Code contains illustrations and photographs, code "graphics," which are intended to serve as examples of development design that either meet or do not meet particular Code standards. Except where a graphic contains a specific numerical standard or uses the word "shall," "must," "required," or "prohibited," strict adherence to the graphic is not required.
- F. Severability.** The provisions of this Code are severable. If any section, sentence, clause, or phrase is judged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the Code.

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## **I.2.050 Development Code Consistency with Comprehensive Plan and Laws**

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

## **I.2.060 Development Code and Zoning Map Implementation**

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

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publish supplemental zoning maps where it is impractical to illustrate all regulated features on one map. In addition, the City may require field verification and mapping (e.g., survey) of a regulated feature as part of a development application, where the feature is thought to exist on or adjacent to the subject property but its exact location is unknown.

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

### **1.2.070      Coordination of Building Permits**

- A. Land Use Approvals and Building Permits.** Land use development approvals are processed by two officials: The City Manager administers the Development Code, processes land use approvals, including floodplain regulations, and coordinates with the designated County Building Official on development and building projects to ensure compliance with the Development Code, and the designated County Building Official administers building codes, and issues building permits. Lake Oswego, Washington County and Clackamas County and other public/quasi-public organizations administer infrastructure.
- B. Zoning Compliance Required for Building Permits.** A building permit shall not be issued until the City Manager has confirmed that all applicable requirements and/or land use approvals of this Code are met, and all appropriate conditions of approval are in place or have been satisfied to ensure compliance.

### **1.2.080      Official Action**

- A. Official Action.** The City of Rivergrove City Manager, Planning Commission, and City Council are vested with authority to issue permits and grant approvals in conformance with this Code, pursuant to Article 4 Application Procedures, and Approval Criteria. City officials shall issue no permit and grant no approval for any development or use that violates or fails to comply with conditions or standards imposed to carry out this Code.
- B. Void Future Actions.** Any permit or approval issued or granted in conflict with the provisions of this Code shall be void, unless the City modifies it in conformance with the Code. The City Manager shall determine when an approval is void and, as applicable, he or she shall refer it back to the decision body for modification to ensure Code compliance (see Chapter 1.6 for enforcement provisions).
- C. Referral to Planning Commission.** In addition to those actions that require Planning Commission approval, the City Manager may refer any question or permit request to the Planning Commission, which then shall take action on the request pursuant to the applicable provisions of this Code. See also, Chapter 1.5 Code Interpretations and Article 4 Application Review Procedures, and Approval Criteria.
- D. Notices, Filing, and Validity of Actions.** The failure of any person to receive mailed notice or failure to post or file a notice, staff report, or form shall not invalidate any actions pursuant to this

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Code, provided a good faith effort was made to notify all parties entitled to such notice, staff report, or form. See Chapter 4.1 General Review Procedures.

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## Chapter 1.3 — Lot of Record and Legal Lot Determination

### Sections:

- I.3.010 Purpose and Intent
- I.3.020 Criteria
- I.3.030 Legal Lot Determination Procedure

### **I.3.010 Purpose and Intent**

The purpose of Chapter 1.3 is to establish criteria and a process for determining when a lot of record exists for the purpose of allowing a use or development on a non-conforming lot (e.g., substandard lot that does not meet lot area, setback, or coverage regulations). The owner of a lot of record shall not be denied development of one single-family dwelling per lot of record, provided land use approval, and provided applicable building codes are met.

### **I.3.020 Criteria**

A lot of record is a plot of land that meets one or more of the following criteria, pursuant to ORS 92.010 through 92.190:

- A.** The plot of land was created through a deed or land sales contract recorded with Washington or Clackamas County before the City, as applicable, adopted planning, zoning, subdivision or partition regulations.
- B.** The plot of land was created through a deed or land sales contract recorded with Washington or Clackamas County prior to January 1, 2007 and the subject plot of land would have complied with the applicable planning, zoning, subdivision, or partition regulations in effect at the time it was created.

### **I.3.030 Legal Lot Determination Procedure**

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



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## Chapter 1.4 — Non-Conforming Situations

### Sections:

- I.4.010 Purpose and Applicability
- I.4.020 Non-conforming Use
- I.4.030 Non-conforming Development
- I.4.040 Non-conforming Lot

### **I.4.010 Purpose and Applicability**

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

- A. Non-conforming uses** (e.g., industrial use in residential zone) are subject to Section 1.4.020.
- B. Non-conforming developments** (e.g., structure does not meet setback or height standards) are subject to Section 1.4.030.
- C. Non-conforming lots** (e.g., lot is smaller than minimum area standard) are subject to Section 1.4.040.

### **I.4.020 Non-conforming Use**

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

- A. Expansion of Non-conforming Use Limited.** Expansion of a non-conforming use shall not exceed 20 percent of the subject site or building.
- B. Location of Non-conforming Use.** A non-conforming use shall not be moved in whole or in part from one lot to another lot, except as to bring the use into conformance with this Code.
- C. Discontinuation or Abandonment of Non-conforming Use.** Except as provided by Section 1.4.020.E, a non-conforming use that is discontinued for any reason, other than fire or other catastrophe beyond the owner’s control, for a period of more than twelve months shall be deemed abandoned and shall no longer be an allowed use. For purposes of calculating the twelve-month period, a use is discontinued when:
  - 1. the use of land is physically vacated;
  - 2. the use ceases to be actively involved in the sale of merchandise or the provision of services; for

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example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;

3. any lease or contract under which the non-conforming use has occupied the land is terminated;
4. a request for final reading of water and power meters is made to the applicable utility districts;
5. the owner's utility bill or property tax bill account became delinquent; or,
6. an event occurs similar to those listed in subsections 1-5, above, as determined by the Planning Commission.

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

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

### **1.4.030 Non-conforming Development**

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

**A. Alterations.** A non-conforming development shall not be enlarged or altered in a way that increases its non-conformity by more than 20 percent. Approval of a variance is required to increase a development's non-conformity, and not more than one such variance shall be approved to expand the same development. A development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or moves in the direction of conformity.

**B. Destruction.** Should a non-conforming development or non-conforming portion of a development be destroyed by any means to an extent more than twenty percent of its current value as assessed by the applicable Washington or Clackamas County Assessor, it shall be reconstructed only in full conformity with this Code. This does not preclude the reestablishment of a non-conforming use after fire or other catastrophe as allowed under Section 1.4.020.

**C. Roadway Access.** The owner of a non-conforming driveway approach or access to a public street or highway, upon receiving land use or development approval, may be required as a condition of approval to bring the non-conforming access into conformance with the standards of the applicable roadway authority.

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**D. Relocation or Removal.** Once a non-conforming structure or a portion of a non-conforming structure or development is moved it shall thereafter conform to current Code standards.

**I.4.040 Non-conforming Lot**

A legal lot or lot of record, as provided by Chapter 1.3, with an area or dimensions that do not meet the standards of the zoning district in which the property is located, may be occupied by a use permitted in the zone, subject to other requirements of the zone. If there is a lot area deficiency, residential use shall be limited to a single-family dwelling. See Section 1.3.010.

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## Chapter 1.5 — Code Interpretations

### Sections:

1.5.010 Code Interpretations

### **1.5.010 Code Interpretations**

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

- A. Authorization of Similar Uses.** Where a proposed use is not specifically identified by this Code, or the Code is unclear as to whether the use is allowed in a particular zone, the City Manager may find the use is similar to another use that is permitted, allowed conditionally, or prohibited in the subject zone and apply the Code accordingly. However, uses and activities that this Code specifically prohibits in the subject zone, and uses and activities that the City Manager finds are similar to those that are prohibited, are not allowed. Similar use rulings that require discretion on the part of City officials shall be processed following the Type II procedure of Chapter 4.1.030. The City Manager may refer a request for a similar use determination to the Planning Commission for its review and decision.
- B. Code Interpretation Procedure.** Requests for code interpretations, including, but not limited to, similar use determinations, shall be made in writing to the City Manager and shall be processed as follows:
1. The City Manager, within fourteen days of the inquiry, shall advise the person making the inquiry in writing as to whether the City will make a formal interpretation.
  2. Where an interpretation does not involve the exercise of discretion, the City Manager shall advise the person making the inquiry of his or her decision within a reasonable timeframe and without public notice.
  3. Where an interpretation requires discretion, the City Manager shall inform the person making the request that an application for code interpretation is required and advise the applicant on how to make the request. At a minimum, an application for code interpretation shall include a letter citing the nature and reasons for the request, and, as required, a City fee. The City Manager then shall review relevant background information, including, but not limited to, other relevant Code sections and previous City land use decisions, and follow the Type II review and public hearing decision-making procedures in Section 4.1.030.
- C. Written Interpretation.** Following the close of the public comment period on an application for a code interpretation, the City Manager shall mail or deliver the City's decision in writing to the person requesting it, to any other person who specifically requested a copy of the decision, and to those who provided public testimony on the application. The decision shall become effective when the appeal period for the decision expires.
- D. Referral to City Council.** Where a code interpretation may have significant citywide policy implications, the City Manager may bypass the Type II procedure and refer the request directly to the City Council for its

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legislative review in a public hearing. Such public hearings shall be conducted following Type IV procedure of Chapter 4.1.050.

- E. Interpretations on File.** A record of code interpretations will be kept on file with the City and made available with the code. The record of any interpretation shall be included in a future Code amendment and shall be discarded after the amendment is adopted.

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## Chapter 1.6 — Enforcement

### Sections:

- I.6.010 Violations
- I.6.020 Other Remedies

### **I.6.010 Violations**

Except as provided under Subsection 1.6.020, any person violating or causing the violation of any of the provisions of this Code who fails to abate said violation has committed an infraction, which, upon conviction thereof, is punishable as prescribed in Oregon Revised Statute (ORS) Chapter 161. Such person is guilty of a separate violation for each and every day during any portion of which a violation of this Code is committed or continued, at the discretion of the City Council and/or the City Manager. A finding of a violation of this Code shall not relieve the responsible party of the duty to abate the violation.

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

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

### **B. Notice of Violation**

1. Type I - After receiving a report of an alleged Type I violation, the City Manager determines whether the violation requires that a citation be issued immediately or whether to provide notice of the violation prior to the issuance of a citation. Notice shall be in writing and shall be provided to the owner of record for tax purposes or to the person in charge of the property. Such a notice shall indicate:
  - a. the location and nature of the violation;
  - b. the provision or provisions of this Code or conditions of approval that allegedly have been violated; and
  - c. whether immediate enforcement will be sought or if a specified time period will be allowed to correct or remove the violation.
2. Type II - After receiving a report of an alleged Type II violation from the City Manager, the City Attorney shall, upon determining that probable cause exists, promptly give notice of the alleged violation by certified first-class mail, return receipt requested, or by personal service to the owner of record for tax purposes and to the person in charge of the property; however, a defect in the notice of violation with respect to this notice delivery provision shall not prevent enforcement of this code. Such a notice shall indicate:
  - a. the location and nature of the violation;

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- b. the provision or provisions of this Code or conditions of approval, which allegedly have been violated;
  - c. whether immediate enforcement shall be sought or if 15 days will be allowed to correct or remove the violation; and,
  - d. the date when the notice was personally served or, if the notice was sent by first-class mail, the date three days after mailing if the address to which it was mailed is within this state and seven days after mailing if the address to which it was mailed is outside this state.

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

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

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

1. **Criminal Penalties** - Unless specified otherwise, every violation of the terms of this Code is a Class A infraction, punishable by a fine. Each day such violation continues, it shall be considered a separate offense.
2. **Civil Penalties and Remedies** - In addition to, or in lieu of, criminal actions, a violation of this code or a permit issued hereunder may be the subject of a civil action in the nature of a debt or of any appropriate remedy issuing from a court of competent jurisdiction, including mandatory and prohibitory injunctions and orders of abatement.
3. The violator must pay all City Attorney fees.

### **1.6.020 Other Remedies**

The City, in addition to finding a Code violation is an infraction, may use any of the other remedies available to it, including, but not limited to, the following:

**A. Stop Work Order.** The City or County(s) may issue a stop work order.

**B. Public Nuisance.** The City may find a violation of this Code is a public nuisance and take enforcement action.

**C. Mediation.** The City and property owner may agree to engage in mediation.

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## Chapter 1.7 — Burden of Proof

### Sections:

1.7.010 Applicant's Responsibility

#### **1.7.010 Applicant's Responsibility**

The burden of proof is on the proponent. In all cases, the burden of proof shall be the preponderance or greater weight of the creditable evidence. The proposal must be supported by proof that it complies with the applicable elements of the plan and to applicable provisions of this Code, including the specific criteria and standards set forth for the particular type of proposal or action.



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## ARTICLE 2 – ZONING REGULATIONS

### Chapters:

- 2.1 Establishment of Zoning Districts
- 2.2 Zoning District Regulations
- 2.3 Special Use Standards
- 2.4 Water Quality and Flood Management Overlay Zones

### **Chapter 2.1 – Establishment of Zoning Districts**

#### Sections:

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

#### **2.1.010 Purpose**

Chapter 2.1 establishes zoning districts, consistent with the City of Rivergrove Comprehensive Plan. Every unit of land (parcel, lot, tract, and right-of-way) within the City of Rivergrove is designated with a zoning district or “zone,” and may also be designated with one or more overlay zones. The use of land is limited to the uses allowed by the applicable zone(s).

#### **2.1.020 Classification of Zoning Districts**

Zoning designations are as depicted on the City of Rivergrove Zoning Map. The City Manager maintains official copies of the Zoning Map and Comprehensive Plan. Where a conflict between documents arises, the Comprehensive Plan shall govern. The City of Rivergrove has one zoning district: Residential (R).

#### **Residential District (R)**

The purpose of the Residential Zoning District is to allow primarily residential uses, in different kinds of residential housing types, and to permit some nonresidential uses intended to support residential uses such as parks and religious uses. The regulations in this section are intended to create a cohesive community.

- I. Permitted uses are listed in table 2.2.030.

#### **2.1.030 Determination of Zoning District Boundaries**

Where due to any reason, there is uncertainty, contradiction, or conflict as to the intended location of a zoning district boundary, the City Manager, or, upon referral, the Planning Commission, shall determine the boundary as follows:

- A. Right-of-way.** Boundaries that approximately follow the centerlines of a street, highway, alley, bridge, railroad, or other right-of-way shall be construed to follow such centerlines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same zoning district designation that is applicable to lands abutting

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the vacated areas. In cases where the right-of-way formerly served as a zoning district boundary, the vacated lands within the former right-of-way shall be allocated proportionately to the abutting zoning districts or as determined by the County Surveyor.

- B. Parcel, lot, tract.** Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries.
- C. Jurisdiction boundary.** Boundaries indicated as approximately following a City or County boundary, or the Urban Growth Boundary, shall be construed as following said boundary.
- D. Natural feature.** Boundaries indicated as approximately following a river, stream, topographic contour, or similar feature not corresponding to any feature listed in subsection A-C, above, shall be construed as following such feature.

## Chapter 2.2 – Zoning District Regulations

### Sections:

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

### **2.2.010 Purpose**

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

### **2.2.020 Applicability**

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

### **2.2.030 Allowed Uses**

**A. Uses Allowed in Base Zones.** Allowed uses include those that are permitted, those that are permitted subject to special use standards, and those that are allowed subject to approval of a conditional use permit, as identified by Table 2.2.030. Where Table 2.2.030 does not list a specific use, and Article 5 Definitions does not identify the use or include it as an example of an allowed use, the City may find that use is allowed, or is not allowed, following the procedures of Section 1.5.010 Code Interpretations. Uses not listed in Table 2.2.030 and not found to be similar to an allowed use are prohibited.

**B. Permitted Uses and Uses Permitted Subject to Special Use Standards.** Uses listed as “Permitted (P)” are allowed provided they conform to Section 2.2.040 Lot and Development Standards. Uses listed as “Permitted Subject to Special Use Standards (S)” are allowed, provided they conform to the Chapter 2.3 Special Use Standards and Section 2.2.040 Lot and

Development Standards. Uses listed as “Not Allowed (S)” are prohibited. Uses not listed but similar to those allowed may be permitted pursuant to Section 1.5.010. Uses listed as allowed “by right” (any use shown below as P or S) require a Site Design Review as outlined in Chapter 4.2.

- C. Conditional Uses.** Uses listed as “Conditional Use Permit Required (CU)” are allowed subject to the requirements of Chapter 4.4 Conditional Use Permits.
- D. Uses Regulated by Overlay Zones.** Notwithstanding the provisions of Chapter 2.2, additional standards may apply to uses within overlay zones. In addition, an overlay zone may allow exceptions to some standards of the underlying zone. See Chapter 2.4.
- E. Accessory Uses.** Uses identified as “Permitted (P)” are permitted as primary uses and as accessory uses. For information on other uses that are customarily allowed as accessory, please refer to the description of the Use Categories in Article 5 Definitions.
- F. Outdoor Uses and Unenclosed Activities.** Notwithstanding the provisions of Table 2.2.030, any use, except for an allowed accessory use, that occurs primarily outside (i.e., not within a permitted building) requires a Conditional Use Permit under Chapter 4.4. Examples of outdoor uses and unenclosed activities that may or may not be considered accessory uses, depending on their location and size relative to other uses on the same property.
- G. Temporary Uses.** Temporary uses occur only once in a calendar year and for not longer than thirty days, cumulatively, in any calendar year. Typical temporary uses may include garage sales, Christmas tree farms and produce stands. Uses may be permitted on a temporary basis, subject to review and approval under Section 2.3.110 Temporary Uses.
- H. Disclaimer.** Property owners are responsible for verifying whether a specific use is allowed on a particular site.

<b>Table 2.2.030</b>		
<b>Uses</b>	<b>(R) Zone</b>	<b>Special Use Standards</b>
<b>A. Residential Uses<sup>1</sup></b>		
Single-Family Dwelling, Non-Attached	<b>S</b>	Sec 2.3.040
Single-Family Dwelling, Attached (duplex or triplex)	<b>S</b>	Sec 2.3.040; Sec 2.3.050
Accessory Dwelling	<b>S</b>	Sec 2.3.120
Boarding or Rooming House	<b>N</b>	

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

<b>Table 2.2.030</b>		
<b>Uses</b>	<b>(R) Zone</b>	<b>Special Use Standards</b>
Cottage Housing Development	<b>CU</b>	Sec 2.3.100
Duplex Dwelling	<b>S</b>	Sec 2.3.050
Manufactured Home	<b>S</b>	Sec 2.3.090
Manufactured Home Park	<b>N</b>	
Multifamily Dwelling	<b>N</b>	
Family Childcare Home	<b>S</b>	Sec 2.3.060
Residential Care Home	<b>S</b>	Sec 2.3.070
Residential Care Facility	<b>N</b>	
Home Occupation	<b>S</b>	Sec 2.3.080
Micro-Generation; wind, solar, or geothermal energy (household use)	<b>S</b>	Sec 2.3.140
Short term Rental (eg air-bnb)	<b>S</b>	Sec 2.3.150
Docks	<b>CU</b>	Sec 2.4.040
<b>B. Public and Institutional Uses</b>		
Airport, Public Use	<b>N</b>	
Automobile Parking, Public Off-street Parking	<b>N</b>	
Cemetery, including Crematorium	<b>N</b>	
Child Care Center	<b>P</b>	
Club Lodge, Fraternal Organization	<b>N</b>	
Community Service; includes Governmental Offices	<b>P</b>	
Community Garden	<b>P</b>	
Clinic, Outpatient Only	<b>N</b>	
Emergency Services; includes Police, Fire, Ambulance	<b>N</b>	
Non-Profit Member Organization Offices	<b>N</b>	
Parks and Open Space, including Playgrounds, Trails, Nature Preserves, Athletic Fields, Courts, Swim Pools, and similar uses	<b>CU</b>	

<b>Uses</b>	<b>R</b>	<b>Special Use Standards</b>
<b>B. Public and Institutional Uses<sup>2</sup> (continued)</b>		
Public Works Utilities Storage Yards; includes Vehicle and Equipment Storage, Maintenance, and Repair	<b>N</b>	
Religious Institutions and Houses of Worship	<b>CU</b>	
School, Preschool-Kindergarten	<b>CU</b>	
School, Secondary	<b>CU</b>	
Transportation Facilities: includes construction, operation, and maintenance of facilities located within right-of-way controlled by a public agency, consistent with <i>Transportation System Plan / Comprehensive Plan</i> .	<b>P</b>	
Utility Structures and Facilities, City Planned Projects; i.e., utilities identified by an adopted City master plan or development review approval	<b>P</b>	
Utility Structures and Facilities, Regional Projects; project is not part of an adopted City master plan or development review approval	<b>CU</b>	
Wireless Communication Facilities	<b>CU</b>	2.3.160
Wind Energy Conservation Systems	<b>CU</b>	2.3.140

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

**2.2.040 Lot and Development Standards**

- A. Development Standards.** Section 2.2.040 provides the general lot and development standards for the zone. The standards of Section 2.2.040 are organized in Table 2.2.040.D.
- B. Design Standards.** City standards for Access, Circulation, Site and Building Design, Parking, Landscaping, Fences and Screening, and Public Improvements, among others, are located in Article 3. Notwithstanding the provisions of Table 2.2.040 and Article 3, different standards may apply in specific locations, such as at street intersections, within overlay zones, adjacent to natural features, and other areas as may be regulated by this Code or subject to state or federal requirements. For requirements applicable to the City’s overlay zones, please refer to Chapter 2.4.
- C. Disclaimer.** Property owners are responsible for verifying whether a proposed development meets the applicable standards of this Code.
- D. Density.** The density for the zone is one home per lot or 4.356 units per acre, which is the minimum lot size stated in a per acre form (10,000 square foot lot divided by 43,560 square feet, which is one acre). Accessory Dwelling units do not count towards density. Only one primary and one accessory dwelling unit is permitted on one property. This density provision is intended to be used as a tool for subdividing property. To determine the lot yield of a property the total acreage would be divided by 10,000. The resulting number is the total number of lots that could potentially result if the property were partitioned or subdivided. If streets are required, the total square footage required for the street right of way is subtracted from the total lot size prior to calculating density. Avoidance of any natural hazard areas, like wetlands, does not need to be subtracted from the lot prior to calculation. Cottage Housing Development density varies, see 2.2.100 for detail.
- E. Lot and Development Standards for Residential Zone.** The development standards in Table 2.2.040.D apply to all new development as of the enactment of this code in Residential zone.

**Table 2.2.040.D**

<i>Development Standard</i>	<i>RL Zone</i>
<b>Residential Density<sup>1</sup></b>	
	One single family home, one duplex, or one triplex per lot (no more than 3 primary units per lot). -

<sup>1</sup> Exceptions exist, see Section 2.2.100



<b>Minimum Lot Area (square feet)<sup>2,3</sup></b>	
Single-Family :	10,000 sf
Duplex:	15,000 sf
Triplex:	15,000 sf
Single-Family, Duplex or Triplex within the Water Quality Resource Area (WQRA) (see overlay zones for more detail):	21,780 sf
Non-residential, non-park uses	10,000 sf
Increased Lot Size for Sloping Site (15% or greater for more than half of the property)	12,000 sf
<b>Minimum Lot Width</b>	
Single-Family:	60 ft
Duplex or Triplex:	70 ft
Non-Residential Uses:	60 ft
<b>Minimum Lot Depth<sup>4</sup></b>	
	1.5 times min. width or 100 feet, whichever is less
<b>Building or Structure Height<sup>5,6</sup></b>	
<u>Level Site (slopes less than 15%), maximum height</u>	25 ft (up to 30 through a CU)
<u>Sloping Site (15% or greater), maximum height</u>	level site +5 ft
<u>Fences and Non-Building Walls</u>	
Max. Height. – Front Yard	4 ft
Max. Height. – Rear and Interior Side (See also, Section 3.4.040.)	7 ft. Fences may be up to 8 feet tall when adjacent to a 2-family or 3-family residence.
Accessory Structure (including Accessory dwelling) maximum height	15 ft (up to 25 CU) unless the ADU is attached to the primary structure or placed over a garage, then the primary structure height is the maximum.

<sup>2</sup> For lots partially within a WQRA, at least 10,000 square feet of lot area must be outside the WQRA.

<sup>4</sup> Street frontage width may be less than minimum lot width where Flag Lots are allowed, per Chapter 4.3.050.

<sup>5</sup> See also, Sections 2.2.040 Setback Yard Exceptions, 3.3.020 Clear Vision, and 3.4.050 Fences and Walls. All height is measured to the midpoint of the roof.

<sup>6</sup> Height transition requirements also apply to all height requirements. See Section 3.2.050

<b>Lot Coverage (Maximum Lot Coverage-foundation plane area as % of site area, includes any hard packed surface or concrete area that cannot percolate rain water through)</b>	
Single-Family:	50%
Duplex or Triplex:	60%
Non-Residential:	60%
<b>Minimum Landscape Area (% lot area)</b>	
Non-Residential:	10%
<b>Setbacks<sup>7</sup></b>	
Front:	25 ft
Rear:	25 ft (rear or ordinary high watermark, whichever is greater)
Swing in Garage Front:	20 ft
Interior Side:	10 ft
Street Side:	15 ft
Common Walls or Zero Lot Line Developments:	0 ft one side; 5 ft other side
Accessory Structures	
Front:	30 ft
Rear:	3 ft for structures under 15 feet, 10 feet for any structure taller than 15 feet.
Side:	3 ft (corner lot 10)

<sup>7</sup> Tracts established for water quality, flood requirements, water quality basins or other any other purpose (accept access) may be included as setbacks.

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**E. Lot and Development Standards for Non-Residential Uses.** Any non-residential uses must comply with residential standards.

**2.2.050 Setback Yards Exceptions**

**A. Encroachments**

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

**B. Reverse Frontage Lots**

Buildings on reverse-frontage lots (through lots) are required to meet the build-to line standard on only one street. Reverse frontage lots are subject to the fence height and setback requirements of Section 2.2.040 and the design standards (e.g., materials and landscape buffer requirements) of Section 3.4.040.

**C. Flag Lots**

The City Manager shall designate the front yard of a flag lot to ensure compatibility with adjacent land uses, based on existing development patterns and location of adjacent driveways, utilities, and natural features, as either:

1. front yard parallel to the street providing automobile access; or
2. front yard parallel to the flagpole from which driveway access is received.

The City shall review proposals for flag lots pursuant to the standards in Section 4.3.050 and may impose reasonable conditions to ensure development is compatible with adjacent uses.

## **2.2.060 Residential Density Standards**

- A.** Partitions and construction of single-family homes on lots exceeding twenty thousand square feet shall be located and constructed so that future division of such lots can occur and planned public facilities can be extended based on the minimum lot size and other applicable City standards.
- B.** To ensure efficient use of buildable lands and to provide for a range of needed housing in conformance with the Comprehensive Plan, all new developments in the Residential Zone shall conform to the minimum and maximum densities prescribed in Table 2.2.040.D, except as provided below:
  - 1. Residential care homes and accessory dwellings are exempt from the minimum density standard.
  - 2. The density standards may be averaged over more than one development phase (i.e., as in a master planned development). Duplex/triplex lots shall be so designated on the final subdivision/partition plat.
  - 3. Areas reserved for flag lot access (flag poles) are not counted for the purpose of calculating density.

## **2.2.070 Lot Coverage**

- A. Lot Coverage Calculation.** The maximum allowable lot coverage, as provided in Table 2.2.040.D, is calculated as the percentage of a lot or parcel covered by buildings, impervious structures, and structures as defined by the foundation plan area.
- B. Lot Coverage Bonus.** Planning Commission, subject to review through a Type III procedure, may approve increases to the lot coverage standards in Table 2.2.040.D, as follows:
  - 1. Lot coverage may increase by up to one-half a square foot for everyone square foot of proposed parking area paving that uses a City-approved porous or permeable paving material (i.e., allowing stormwater infiltration).
  - 2. Lot coverage may increase by up to one-half a square foot for everyone square foot of City-approved water quality treatment area (e.g., vegetative swale or bio-filtration) to be provided on the subject site.
  - 3. In approving increases in lot coverage under subsections 1-2 of this section, the City may require additional landscape buffering or screening, above that which is required by other provisions of this code, and may impose reasonable conditions of approval to ensure the ongoing maintenance of parking areas and surface water management facilities.
  - 4. Notwithstanding the lot coverage increases authorized by this section, all other development standards of this chapter, and other applicable provisions of this Code, must be met.

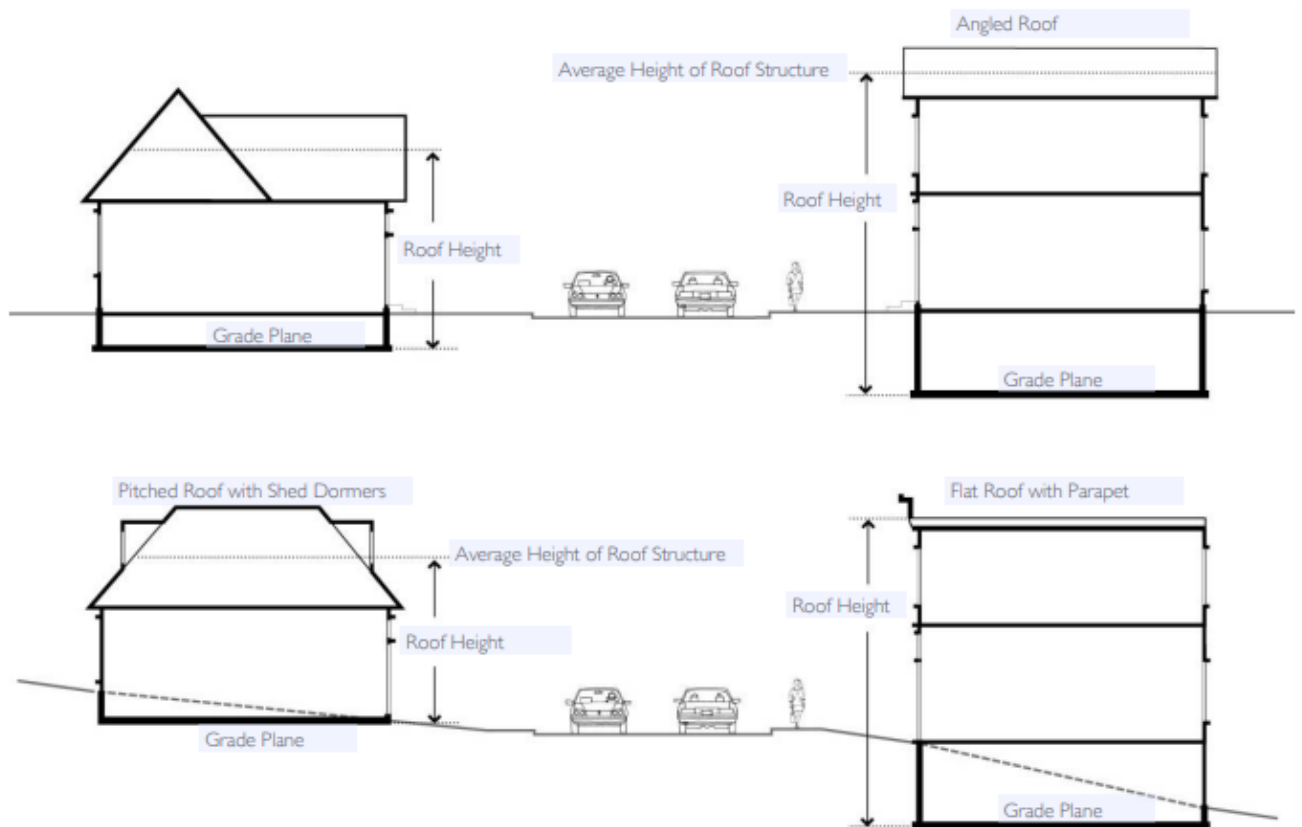
5. If a detached Accessory Dwelling Unit is existing or proposed, the lot coverage increases by 10%.

## 2.2.080 Height Measurement and Exceptions

**A. Building Height Measurement.** Building height is measured pursuant to the building code (see graphic below).

**B. Exception from Maximum Building Height Standards.** Chimneys, bell towers, steeples, roof equipment, flag poles, and similar features (architectural projections) not for human occupancy are exempt from the maximum building heights, provided that all applicable fire and building codes are met.

### 2.2.080.A Building Height Measurement



## **Chapter 2.3 – Special Use Standards**

### Sections:

- 2.3.010 Purpose
- 2.3.020 Applicability
- 2.3.030 Review Process
- 2.3.040 Single Family Dwellings
- 2.3.050 Duplex /Triplex Dwellings
- 2.3.060 Family Daycare
- 2.3.070 Residential Care Homes
- 2.3.080 Home Occupations
- 2.3.090 Manufactured Homes on Single Family Lots
- 2.3.100 Cottage Housing Development
- 2.3.110 Temporary Uses
- 2.3.120 Accessory Dwellings
- 2.3.130 Accessory Structures, Decks and Pools
- 2.3.140 Wind Energy Conservation Systems (WECS)
- 2.3.150 Short Term Rental
- 2.3.160 Wireless Communication Facilities

### **2.3.010 Purpose**

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

### **2.3.020 Applicability**

All uses designated as Special (“S”) Uses in Table 2.2.030, and uses the City determines to be similar to such uses, are subject to the standards of Chapter 2.3. The standards of this chapter supplement the other requirements of this Code. When a dimensional standard for a special use differs from that of the underlying district, the standard for the special use shall apply.

### **2.3.030 Review Process**

The City uses the procedures for Site Design Review, under Chapter 4.2, in reviewing proposed special uses, referenced in this section, for compliance with the requirements of Chapter 2.3.

### **2.3.040 Single Family Dwellings**

**A. Purpose.** The following provisions are intended to promote a higher standard for the development of

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single-family dwellings in the R zone.

**B. Applicability.** The following standards apply where a single-family home, or single-family home modification (expanding the footprint) is proposed. The standards are applied through a Type I review procedure, prior to submittal of building plans to the Building Official.

**C. Standards.** The standards are listed below, if an applicant would like to use an alternative, they can apply for a conditional use permit and the Planning Commission determines if the alternative achieves a similar practical effect, including, but not limited to, the possible impacts to the surrounding community. Where a single-family home is proposed, the structure shall meet all of the following standards:

1. The structure shall not exceed the height permitted by the zone.
2. At least two different building materials shall be used on structures under 2,500 square feet and three for structures larger than 2,500 square feet on the façade of the structure.
3. The structure shall have no blank wall oriented to a street. This standard can be met with any combination of windows, change in materials, or change in massing (changes in the wall plane) that breaks up the blank wall.
4. The dwelling shall have a pitched roof with a slope no less than three feet in pitch for each 12 feet in width (3:12).
5. The dwelling shall have an exterior thermal envelope meeting performance standards at or equivalent to those required of dwellings built under the state building code as defined in ORS 455.010;
6. The dwelling shall have a minimum two-car attached or detached garage built of the same materials as the main dwelling.
7. Rain protection- Front entry must have a rain protected area in the form of a porch or recessed entry of at least 50 square feet.
8. Architectural grade shingles (metal, tile, laminated, slate, copper or similar). Wood shingles are not permitted.
9. At least 15% of all street facing façades must be windows or doors. Windows in garage doors or garage walls do not count towards meeting this standard.

### **2.3.050 Duplex/Triplex Dwellings**

**A. Purpose.** The following provisions are intended to promote compatibility between duplex/triplex dwellings and single-family dwellings in the R zone.

**B. Applicability.** The following standards apply where a duplex or triplex is proposed. The standards are

applied through a Type I review procedure, prior to submittal of building plans to the Building Official.

**C. Standards.** The standards are listed below, if an applicant would like to use an alternative, they can apply for a conditional use permit and the Planning Commission determines that the alternative blends with the surrounding community. Where a duplex or triplex is proposed the structure shall meet all of the following standards:

1. The structure shall meet all requirements listed for a single-family home in section 2.3.040.
2. The structure, if located on a corner lot and containing two or more garages, shall have at least one garage entrance orient to a different street or alley, unless the County or street authority does not allow access to both streets.
3. Courtyard-style duplexes and triplexes are encouraged where there is only one access point (driveway) to the street.

The structure shall include four-sided architecture, meaning using the same material on all four sides of a structure so that, no matter what vantage point it is viewed from, the design is never interrupted and all the parts are perceived as part of a unified whole. This includes design details such as foam surrounds, shutters, and other such design details.

### **2.3.060 Family Childcare Home**

Family daycare uses are limited to on-site care for not more than 16 children and shall conform to the state licensing requirements and standards under ORS 657A.250 and ORS 657A.440(4). No permit is required from the City.

### **2.3.070 Residential Care Homes**

Residential Care Homes, where allowed, shall conform to all of the following standards and procedures.

- A. Licensing and State Requirements.** Residential Care Homes and shall be licensed by the State of Oregon and comply with state requirements, pursuant to ORS 197.660 through 197.670.
- B. Residential Care Homes.** Residential Care Homes, as outlined in ORS 443, may provide residential care alone, or in conjunction with treatment or training, for five or fewer individuals who need not be related. Staff required to meet state licensing requirements is not counted in the number of facility residents and need not be related to each other or the residents. The same Development Code standards that apply to single-family dwellings also apply to Residential Care Homes, except where state law supersedes City standards. Care 'facilities' (more than five individuals) are not permitted.
- C. Access.** The access and circulation standards of Chapter 3.3 shall be met.



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- D. Parking.** The parking standards of Chapter 3.5 shall be met.
  - E. Aesthetics.** All residential care homes shall maintain the appearance of a standard single-family home, similar to those surrounding the use.
  - F. Review Procedure.** There is no review required for Residential Care Homes providing care to 5 or fewer occupants. ORS 443 explains that these uses are permitted by right and cannot require anything beyond what would be required for a typical single-family home.

### **2.3.080 Home Occupations**

- A. Purpose.** The purpose of this section is to encourage those who are engaged in small commercial ventures that could not necessarily be sustained if it were necessary to lease commercial quarters, or which by the nature of the venture are appropriate in scale and impact to be operated within a residence.
- B. Applicability.** This section applies to Home Occupation uses in the Residential zone.
- C. Home Occupation in the Residential Zone.** Home Occupations of less than 1,000 square feet of lot area are permitted, provided all standards below are met. Home Occupations greater than 1,000 square feet of lot area are allowed, subject to approval of a Conditional Use Permit. For the purpose of this section, “lot area” includes building floor area, areas within accessory structures, any parking spaces needed for business vehicles, and all other portions of a lot.
- D. Home Occupation Standards.** Home Occupations shall conform to all of the standards below, except the City may approve adjustments to the standards through the Conditional Use Permit approval, provided all uses and structures on the subject property conform to applicable City regulations, including, but not limited to, building codes and nuisance regulations.
  - I. Appearance of Residence.**
    - a. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business. No aspect of the business shall be conducted outside the home with the exception of parking business vehicles and childcare play areas (which are not a home occupation, they are a residential use).
    - b. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification.
    - c. The home occupation shall not violate any conditions of development approval (i.e., prior land use development permit or approval).
    - d. No products or equipment produced or used by the home occupation, may be displayed to be

visible from outside any structure with the exception of one business vehicle.

## **2. Storage.**

- a. Outside storage visible from the public right-of-way or adjacent properties that exceeds what is customary for a single-family residence in the vicinity is prohibited.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible, or flammable material) beyond those normally incidental to residential use is prohibited.
- c. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be enclosed in a structure or otherwise screened from view from adjacent properties and public right-of-way.
- d. No more than one business vehicle shall be stored on the property.

## **3. Employees.**

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

## **4. Advertising and Signs.** A sign is permitted, see Chapter 3.7 for more detail.

## **5. Vehicles, Parking, and Traffic.**

- a. Not more than one vehicle associated with the home occupation is allowed at the home occupation site in the same 24-hour period. Vehicles shall be of a size that would not overhang into the public right-of-way when parked. Business related vehicles cannot use the public right of way for parking.
- b. There shall be no large-scale commercial vehicle deliveries between 9:00 p.m. and 7:00 a.m. Smaller parcel delivery services are exempt.
- c. No more than one vehicle used for business purposes exclusively shall visit the site. For example, only one car at a time may visit a home-based tax accountant at a time for business purposes.

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

**7. Prohibited Home Occupation Uses.**

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

**8. Enforcement.** With cause, the City’s designated Code Enforcement Officer may visit a home occupation site to inspect the site and enforce the provisions of this Code. See Chapter 1.6 for additional enforcement details.

**2.3.090 Manufactured Home on a Single-Family Lot**

Manufactured homes are permitted on individual lots, subject to all of the following design standards. Manufactured dwellings relocated into the City of Rivergrove shall conform to City standards. The standards are listed below, if an applicant would like to use an alternative, they can apply for a conditional use permit and the Planning Commission determines that the alternative blends with the surrounding community. The following standards do not apply to dwellings lawfully established and existing within the City prior to effective date of Code.

- A. Floor Plan.** The manufactured home shall have an enclosed floor area of not less than 1000 square feet.
- B. Roof.** The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees).
- C. Residential Building Materials.** The manufactured home shall have exterior siding and roofing which in color, material, and appearance are similar to the exterior siding and roof material used on nearby residences; horizontal wood or horizontal wood-appearance siding and composite roofing is also permitted.
- D. Garages and Carports.** A two-car garage is required, the garage shall be constructed of materials like those used on the home. Carports are not permitted.
- E. Thermal Envelope.** The manufactured home shall be certified by the manufacturer to meet the thermal envelope requirements equivalent to those for a single-family dwelling constructed under the state Building Code. Evidence demonstrating that the manufactured home meets “Super Good Cents” energy efficiency standards, or an equivalent standard, is deemed to satisfy the exterior thermal envelope certification requirement.
- F. Placement.** The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than 16 inches above grade, and complies with the minimum set-up standards of the adopted state Administrative Rules for Manufactured Dwellings, OAR Chapter 918. Where the building site has a sloped grade, no more than 16 inches of the enclosing material shall be exposed on the uphill side of the home. Wheels shall be removed, and the foundation shall be skirted (venting is still required in flood plain areas).
- G. Floodplain.** Manufactured homes shall comply with the Flood Hazard Overlay and the following standards.
1. The stand shall be a minimum of 12 inches above Base Flood Elevation (BFE) unless the foundation wall is opened on one side or end so that floodwater cannot be trapped. Manufactured Dwelling Specialty Code, 4-3.1(5)
  2. The bottom of the longitudinal chassis frame beam in A zones, and the bottom of the lowest horizontal structural member supporting the dwelling in V zones shall be a minimum of 12 inches above BFE. See definition of Lowest Floor in Manufactured Dwelling Specialty Code.
  3. The manufactured dwelling shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA’s “Manufactured Home Installation in Flood Hazard Areas” guidebook for anchoring techniques). 44 Code of Federal Regulations 60.3(c)(6)
  4. Electrical crossover connections shall be a minimum of 12 inches above BFE. Manufactured Dwelling

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Specialty Code 6-4.2(1)

**H. Foundation Skirt.** The foundation area of the manufactured home shall be fully skirted with typical siding materials, or similar hard materials, pursuant to applicable building codes. If located in the flood plain skirting shall be compliant with flood requirements.

### **2.3.100 Cottage Housing Development**

#### **A. Applicability and Review Procedure.**

1. Where the regulations of this section are not specific, the standards of the zoning district prevail.
2. A Cottage Housing development (CHD) proposal is reviewed in accordance with the Type III Standards of Chapter 4.1.040. If the proposal includes a land division (to create clusters of cottages, not individual lots for each unit), applicable land division standards of Chapter 4.3 also apply. These permits may be requested simultaneously.
3. Review Criteria:
  - a. The density of the development can be 1.75 times the density of the underlying zone.
  - b. All units shall be located on a commonly owned piece of property (rental or condominium).
  - c. The development is designed to include: private and shared usable open space; off-street parking, access within the site and from the site. Other optional amenities such as a multipurpose room, workshop, garden, shall be shown on the site plan and approved as part of the project.
  - d. A landscape plan has been provided.
  - e. Common area maintenance is shared equally and assured by a recorded agreement of Codes, Covenants and Restrictions (C.C.&R.'s). This is not required if the entire site is under one ownership (cottages are for rent).
  - f. The development meets all standards listed in Section E

**C. Development Area.** Cottage housing developments shall contain a minimum of four and a maximum of twelve cottages arranged in a cluster.

**D. Existing Uses.** On a site to be used for a CHD, existing detached single-family dwellings, which may become nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased. The nonconforming dwelling units shall be included in the maximum permitted cottage density.

**E. Development Standards.**

1. At least 70 percent of the cottages shall be oriented around and have their main entrance facing a common open space.
2. Each cottage shall have a covered entry of at least 80 square feet with a minimum dimension of six feet on any side.
3. Pedestrian pathways must be included to provide for movement of residents and guests from parking areas to homes and other amenities. These pathways must be shown on the site plan and be part of the common areas/tracts.
4. Garages are not required. Should they be included, Individual garages cannot exceed 240 square feet of floor area and no more than 18 feet in height.
5. Accessory dwelling units shall not be permitted in cottage housing developments.
6. Accessory structures for common usage are allowed in the common open space areas. Other accessory structures (except garages) are prohibited.
7. There is no maximum lot coverage for cottage housing developments, rather the coverage is a function of the required open space.
8. The maximum footprint area per dwelling unit without an attached garage is 900 square feet. The minimum footprint shall be at least 700 square feet. Any second story must not exceed 300 square feet. A dwelling unit with an attached garage shall have a maximum footprint of 1,140 square feet including the garage.
9. Setbacks and Building Separation- The exterior boundary of the CHD development area is the edge of the development area for the purposes of calculating perimeter setbacks from surrounding properties.
  - a. Exterior Setbacks. All cottages within a CHD shall be set back 10 feet from the exterior boundary of the CHD. Garages shall be setback no more than 5 feet from the exterior boundary.

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- b. Interior Building Separation. There shall be a minimum separation of ten feet between all structures. On cottage sides with a main entrance, the minimum separation shall be 15 feet.
10. The height limit for all structures shall not exceed 18 feet.
  11. Individual garages, if included, shall be located on the sides or rear of a cottage, or on an alley, and shall not be located in a front yard (as it relates to the street frontage). No garage may face a public street. Detached garages shall have a pitched roof with a slope of at least 6:12. Carports are permitted within CHD and shall feature the same roofing material as the primary units.
  12. All walls and/or fences shall be shown on the site plan (though walls and fences are not required). All walls and/or fences on the interior of the development shall be no more than 48" in height. Walls and/or Fences along the exterior of the development may be up to 6 feet in height, except as restricted by intersection clear vision standards. Chain link fences shall not be allowed except where required by flood zones.

**F. Common Open Space Standards.** Common open space must be an amenity shared by all residents of the cottage housing development.

1. Provide a centrally located open space area for the cottage housing development and have cottages abutting at least two sides of the open space.
2. Contain a minimum of 200 square feet of shared, common open space per cottage.
3. Each cottage shall be connected to the common open space by a pedestrian pathway.
4. Areas such as utility vaults, exterior setbacks and common parking areas and driveways are not counted in the common open space requirements.
5. Common open space may contain a drainage swale area, provided the area is usable open space.
6. Common open space shall have a minimum average width of 20 feet.
7. The common open space areas shall be developed and landscaped prior to occupancy of the first cottage.

**G. Parking Standards.** Parking for CHDs shall be located on the CHD property and identified on the site plan. On-site parking shall meet the following standards:

1. Parking may be located within an enclosed garage, carport, or unenclosed parking space.
2. Parking may be located in common tracts if intended to be shared by the entire CHD in groups of not more than five adjoining spaces separated by at least four feet of landscaping. An enclosed garage or carport intended to be shared by the entire CHD shall not exceed 1,200 square feet in size. Each enclosed garage or carport shall be separated by at least 10 feet.
3. Parking shall not be located in the front exterior setback and must be screened from public streets and adjacent residential uses by a 5-foot landscape buffer containing landscaping and/or architectural screening.
4. Parking is allowed between or adjacent to structures only when it is located toward the rear of the cottage and is served by an alley or private driveway.
5. There shall be at least one off street parking space per dwelling unit (garage spaces can count towards this requirement).
6. All parking shall provide a minimum of 24 feet for maneuvering and backing movements from garages, carports and/or parking areas.

**H. Design Standards** or as approved by the Planning Commission:

1. Cottages fronting on a street shall avoid blank walls by including at least one of the following:
  - a. Changes in exterior siding material and paint color.
  - b. Windows which may include bay windows; and/or
  - c. Building modulation with a depth measuring at least two foot.
2. Structures shall include exterior trim elements consistent with traditional northwest cottage design and small home craftsmanship. Specifically at least 3 of the following design elements must be used:
  - a. Double Hung windows;
  - b. Tapered or square columns supporting the roof;
  - c. Low pitched roof lines with gabled or hipped roofs;
  - d. Eaves at least 12” deep;



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- e. Exposed Rafters or exposed corbels; and/or,
  - f. Stone or brick wainscoting on the façade.
3. Window and door trim shall be a minimum width of 3 1/2 inches.

**I. Public Utilities.** All lots/units shall be served by individual services from a private or public distribution main. Any deviations from City standards need to be approved by the City Engineer. All individual service lines that cross property shall be placed in an easement.

**J. Common Area Care.** The applicant must indicate in the application who will be responsible for common area maintenance.

### **2.3.110 Temporary Uses**

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

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

1. The use is permitted in the underlying zone and does not violate any conditions of approval for the property (e.g., prior development permit approval).
2. The use occurs only once in a calendar year and for not longer than 30 consecutive days.
3. The applicant, if different than the property owner, has proof of the owner's permission to place the use on the property.
4. Ingress and egress are adequate and do not raise safety concerns when the proposed use is combined with the other uses of the site, pursuant to Chapter 3.3 Access and Circulation.
5. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.4 Landscaping, Fences and Walls.
6. There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to the Chapter 3.5 Parking and Loading.

7. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.6 Public Facilities.
8. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.
9. The use is adequately served by sewer or septic system and water, as applicable. Restroom facilities must be provided and maintained, as applicable.
10. The applicant shall be responsible for maintaining all required licenses and permits.

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

**1. Temporary sales office.** The use of any real property within the City as a temporary sales office, office for the purpose of facilitating the sale of real property, shall meet all of the following criteria:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold.
- b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.
- c. Public health, safety, and welfare shall be protected through conditions imposed by the City, regarding temporary utility connections.

**2. Model house.** The use of any real property within the City for a model home, including a model home in any subdivision or on any tract of land within the City, shall meet all of the following criteria:

- a. Where the model house is located in a Residential zone, it shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated.
- b. A model house located in a Residential zone shall be designed as a permanent structure that meets all relevant requirements of this Code and other applicable codes and permit requirements.

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

- I. The use is permitted in the underlying zone and does not violate any conditions of approval for the

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property (e.g., prior development permit approval).

2. The applicant, if different than the property owner, has proof of the owner's permission to place the use on the property.
3. The lot development standards of Section 2.2.040 are met.
4. Ingress and egress are adequate and do not raise safety concerns when the proposed use is combined with the other uses of the site, pursuant to Chapter 3.3 Access and Circulation.
5. The use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.4 Landscaping, Fences and Walls.
6. There is sufficient parking to accommodate the temporary use and other uses existing on the site, pursuant to the Chapter 3.5 Parking and Loading.
7. The temporary use does not conflict (i.e., create a nonconformity) with the provisions of Chapter 3.6 Public Facilities.
8. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare, or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use.
9. The use is adequately served by sewer or septic system and water, as applicable. Restroom facilities must be provided and maintained, as applicable.
10. The structure complies with applicable building codes.
11. Except where specifically authorized by the City, the length of time that the temporary structure may remain on a site shall not exceed 3 months total, consecutive or nonconsecutive.
12. The applicant has obtained and will maintain all required licenses and permits.
13. Public health, safety, and welfare are protected through the installation of a water meter, if necessary, and other improvements, pursuant to Chapter 3.6 Public Facilities, as necessary.

### **2.3.120 Accessory Dwellings**

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

**A. One Unit.** A maximum of one Accessory Dwelling unit is allowed per legal lot. No accessory dwellings

are permitted on lots that have any non-residential accept churches (home occupations are considered a residential use). Duplexes, Triplexes or multifamily are not permitted to have accessory dwelling units.

**B. Floor Area.**

1. A detached Accessory Dwelling shall not exceed 800 square feet of floor area, or 50 percent of the primary dwelling's floor area, whichever is smaller.
2. An attached or interior Accessory Dwelling shall not exceed 900 square feet of floor area, or 50 percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than 900 square feet.

**C. Parking.** Additional parking is encouraged; however, no additional parking spaces are required for an accessory dwelling.

**D. Location.** No accessory dwelling shall be allowed in any required front yard setback but may be placed in front of the primary dwelling as long as the front setback is maintained.

**2.3.130 Accessory Structures, Decks and Pools**

**A. Standards.** For uses located within a residential zoning district, accessory uses, buildings, and structures shall comply with all requirements for principal uses, buildings, and structures except where specifically modified below; and shall also comply with the County building code. Where this Code and the Building Code conflict, the most stringent shall apply. Accessory structures are subject to review and approval through a Type I procedure, pursuant to Section 4.1.020, and shall conform to all of the following standards:

1. **Size.** Any accessory building shall have not more than 600 square feet of ground floor area and shall be no taller than 20 feet in height. Any accessory structure larger than 600 square feet or taller than 20 feet shall be processed as a conditional use permit pursuant to Chapter 4.4.
2. **Location.** No accessory building or structure over three feet in height shall be allowed in any required front yard. Accessory buildings may be allowed in required side and rear building setbacks as described below.
3. **Within Setbacks.** When a Building Permit is not required and the structure is less than 200 square of ground floor area feet and less than six feet tall, no rear or side yard setbacks are required and the structure may abut the rear or side property line. If the structure is over 6 feet tall it must be at least 3 feet from the rear and side property lines.
4. **Common Walls.** Any accessory building or structure attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.
5. **Use.** No accessory building or structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way, including but not limited to streets, alleys, and public and/or private easements.

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**6. Conditional Uses.** Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Chapter 4.4.

**B. Accessory Structure Exemptions**

The following are not considered accessory structures, for the purposes of this section:

1. Pergolas, arbors and trellises and other similar structures, if under twelve feet in height. Anything taller is considered an accessory structure.
2. Play structure and swing sets if under ten feet in height. Anything taller is considered an accessory structure.
3. Flag poles limited to 20 feet. Also see Section 3.7, Signs.
4. Above ground pools.
5. Accessory Dwelling, see Section 2.3.120.

**C. Decks**

1. Setbacks.
  - a) Uncovered decks that are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks are permitted in the required front or side yard setbacks as long as all decks are at least 10 feet from the right-of-way.
  - b) Uncovered decks 30 inches or more above grade, at any point, or are adjacent to wetland or open space tracts that are publicly dedicated or in public ownership, may project into the required rear or side yard, but shall not be closer than ten (10) feet from the rear or side property line. All other decks shall comply with the required setbacks for the underlying zoning district.

**D. In Ground Pools**

In-ground pools/spas less than three feet in height that are not temporary or seasonal may be sited five feet from the side and ten feet from the rear property lines. In-ground pools shall not be placed within the required front or street side setback.

**2.3.140 Wind Energy Conservation Systems (WECS)**

1. **Purpose.** To promote the effective and efficient use of wind energy conversion systems (WECS) by regulating and requiring a permit for the siting, design and installation of conversion systems to protect the public health, safety and welfare of present and future residents. In addition, this section provides a permitting process for wind energy systems to ensure compliance with the provisions of the requirements and standards established or referenced herein. The provisions of this section shall not guarantee wind rights or establish access to the wind.
2. **Single use residential production WECS.** A single WECS is permitted on an individual lot used to produce energy that is accessory, incidental and subordinate to an existing residence. The system shall produce energy primarily for the existing residential and accessory use(s) on the property where the system is located. The property owner may provide reserve excess energy for the electrical grid when done in accordance with County and State requirements as well as any local utility company requirements.

3. **Applicability.** It shall be unlawful to construct, erect, install, alter or locate any WECS without first obtaining a Wind Energy Conversion Systems (WECS) Permit as outlined in this section. No application for a WECS permit shall be granted without first submitting all required information and obtaining necessary permits, certifications, and documentation.

4. **WECS Permit Procedure.**

- A. A WECS shall be processed with a Conditional Use Permit - Type III process as required in Chapter 4.1.
- B. Application requirements for a WECS Permit shall be made on a land use permit application. And shall include the following:
  - a. A site plan showing where the WECS project will be located including, high water marks (if near a water body), property lines, natural features, utility lines, easements, setback lines and layout and size of all structures on the lot, location of the WECS pole or tower, guy lines and anchor base where required and their distance from all property lines, and structures.
  - b. A copy of the specifications of proposed tower and rotor.
  - c. A map or drawing showing collapse zone of the tower.
  - d. Certification from a professional engineer regarding the safety of the design, specifications, and compatibility of the tower structure with the rotors and other components of the conversion systems. The standard for certification shall be good engineering practices and compliance with this ordinance and adopted building and electrical codes.
  - e. Certification from a professional engineer for the footing design for the tower.
  - f. Written clearance from FCC and FAA.

5. **Standards**

- A. Rotor size. A WECS used for residential use shall not have a blade diameter in excess of twenty-five feet.
- B. Tower Height. All WECS towers, poles and rotors may exceed the height limitations of the zoning district in which located pending the tower meets the following requirements :
  - a. WECS on public property shall not exceed a combined tower/pole and rotor height of sixty-five feet.
  - b. WECS on public property on a parcel greater than three acres and up to seven acres shall not exceed a combined tower/pole and rotor height of eighty feet.
  - c. WECS on private property shall not exceed a combined blade and tower height of thirty feet.
- C. Blade Height. Lowest point of the blade (horizontal or vertical WECS) shall be a minimum of thirty feet above the ground.
- D. Setbacks. WECS shall be setback a minimum distance from the base of the structure to all property lines equal to 1.1 times the height of the tower and rotor as measured from the base to the highest reach of its blade, thus should the structure collapse or topple, it shall come to rest wholly within the property lines on which it is located.
- E. WECS excluding guyed wires and anchors shall not be located within a required principal structure setback in any zoning district.
- F. WECS shall not be located in the front setback of the residence.

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- G. In no case shall a WECS be located closer than 1.1 times the overall height to any public road right-of-way.
  - H. Roof mount. A WECS is prohibited upon the roof of any structure.
  - I. No advertising is permitted on any WECS tower or structure.

**6. Removal, Revocation, and Abandonment.**

- A. WECS shall be removed if not operated for a period of time greater than twelve (12) months or fails to be operable for twelve (12) consecutive months or if it is determined by the City Manager that a WECS is not in compliance with provisions of this Chapter and the WECS Permit.
- B. As a condition of approval for all WECS the owner and/or operator shall sign a “Consent to Removal” form. The “Consent to Removal” will state that the owner shall remove the WECS or allow the City to remove and assess the property for the cost to remove the WECS.
- C. Upon noncompliance the City shall send a notice to the property owner and/or WECS owner by certified mail identifying the options to correct the violations. If the corrective actions are not taken within 30 days of a certified mailing date a final notice will be sent to the owner in the same manner and be given fifteen (15) additional days to properly correct the violations. If the violations are not corrected, the WECS may be removed by City and the property owner assessed for the cost of removal and disposal.
- D. A WECS Permit may be revoked any time the WECS does not comply with the rules and regulations set forth in this Chapter or WECS Permit. The revocation of the WECS Permit requires the WECS to be physically removed within ninety (90) days.
- E. At such time that a WECS is abandoned or discontinued, the property owner and or WECS owner will notify the City by certified U.S. mail of the proposed date of abandonment or discontinuation of operations and remove the tower within ninety (90) days.
- F. Upon revocation, abandonment or discontinuation of WECS or failure to operate, maintain and keep in good working order, the tower owner and/or property owner shall physically remove the WECS according to the provisions of this Chapter, conditions added to the WECS Permit and/or the “Consent to Removal”. “Physically remove” shall include, but not be limited to: a. Removal of the WECS including the turbine, tower/pole and related above grade structures. b. Restoration of the location of the WECS to its natural condition, except that any landscaping, grading or below-grade foundation may remain.

**2.3.150 Short Term Rental**

- 1. **Purpose.** To permit homeowners to rent all or part of a dwelling or accessory dwelling as a short term rental.
- 2. **Short Term Rental (STR) Permit Procedure.** A Type I Home Occupation / Short Term Lodging Permit shall be required.
- 3. **Standards**
  - A. The dwelling unit to be used as a short-term rental must be owner-occupied. For the purposes of this Section, owner-occupied means the Operator (owner or lessee of the property) must reside in the dwelling for at least 270 days of the calendar year. Owners or lessees may not enter

into a short-term rental agreement for periods when they do not occupy the property unless an adult 18-years or older is present on the premises during the rental period, and that adult is responsible for ensuring compliance with the provisions of this Chapter.

- B. One guest room is permitted for every 400 square feet of gross floor living area, plus one unit for the Operator. Total number of guest rooms shall not exceed five. Common areas of the dwelling may be included, but no dwelling unit may be rented in its entirety (as a short-term rental). For calculation purposes, the outside dimension of each eligible structure may be used. Living area includes any structure on the lot lawfully used for residential purposes. Living area does not include: garages, garage conversion where the conversion has resulted in noncompliance with off-street parking requirements, utility shops, basements, storage sheds and other similar nonresidential structures.
- C. Length of stay for a single occupant may not exceed fifteen days in any thirty-day period.
- D. 0.5 off-street parking spaces for each guest room shall be required, in addition to the off-street parking required for the primary use. On-street parking along the property frontage may substitute for the additional parking requirements.
- E. All signage must conform to the standards in Chapter 3.7.
- F. Whole-house short-term rentals of any kind are prohibited unless the property owners live on site in an accessory dwelling unit; accessory dwelling units (ADUs) may be used exclusively as short-term lodging facilities.
- G. An accurate and up-to-date guest register recording the name, address and dates of stay for each short-term lodging guest must be maintained and available for review by the City.
- H. Operator may be required to provide evidence of compliance with the Building Code, Fire Code and standards of the state and local health departments as amended, including installation of smoke and carbon monoxide detectors.
- I. Operator shall prominently post rental rules and regulations in the interior of the dwelling unit where they can be seen by guests. Rules shall include reference to short-term rental regulations, excessive noise, and disturbance of neighbors.
- J. Operator agrees to allow city staff to inspect the dwelling unit prior to approval of the short-term rental application, and at any time after approval upon twenty-four-hours-notice to the applicant.
- K. Property shall have address number clearly marked and visible from the street at all hours.
- L. The approval of a Type I Home Occupation / Short Term Lodging Permit shall last no longer than two years. A new permit is required for each subsequent two-year period.
- M. Operator shall collect Transient Room Tax and remit to the City.

#### 4. **Enforcement.**

- A. The granting of a permit to operate a short-term rental shall be subject to payment of applicable fees, and to review by the City Manager. If City staff determines that a short-term rental is operating in violation of the conditions of approval of this Article, the Permit holder shall be subject to all applicable fines of \$250 per day and per room.

### 2.3.160 **Wireless Communication Facilities**

- 1. **Purpose.** Wireless communication facilities shall be permitted in the Residential Zone. All towers including antenna must be under thirty (30) feet in height.

#### 2. **Permit Procedure**



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A conditional use permit shall be required for all Wireless Communication facilities, including any antennae on towers, buildings, within buildings, or on existing public infrastructure. Franchise Fees are required, payable to the City.

## **Chapter 2.4 – Water Quality and Flood Management Overlay Zone**

### Sections:

- 2.4.010 Purpose
- 2.4.020 Applicability
- 2.4.030 Statutory Authority
- 2.4.040 Basis for establishing the Special Flood Hazard Areas
- 2.4.050 Administration
- 2.4.060 Designation of the Flood Plain Administrator
- 2.4.070 Duties of the Flood Plain Manager
- 2.4.080 Water Quality Resource Areas
- 2.4.090 Flood Management Areas
- 2.4.100 Standards for Subdivisions and Partitions within a Water Quality Resource Area

### **2.4.010 Purpose**

The purpose of the Water Quality and Flood Management Overlays is to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

1. To incorporate Metro Urban Growth Management Functional Plan Title 3: Water Quality and Flood Management requirements.
2. To protect and improve water quality, to support the designated beneficial water uses and to protect the functions and values of existing and newly established Water Quality Resource Areas, by:
  - a. Providing and improving the vegetated corridor separating Protected Water Features from development;
  - b. Maintaining or reducing stream temperatures;
  - c. Maintaining natural stream corridors;
  - d. Minimizing erosion, nutrient and pollutant loading into water;
  - e. Providing filtration, infiltration and natural water purification; and
  - f. Stabilizing slopes to prevent landslides contributing to the sedimentation of protected water features.
3. To protect and maintain Flood Management Areas, which provide for:
  - a. Protect human life and health;
  - b. Minimize expenditure of public money for costly flood control projects;
  - c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - d. Minimize prolonged business interruptions;
  - e. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in special flood hazard areas;
  - f. Help maintain a stable tax base by providing for the sound use and development of flood

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- hazard areas so as to minimize blight areas caused by flooding;
  - g. Notify potential buyers that the property is in a special flood hazard area
  - h. Notify those who occupy special flood hazard areas that they assume responsibility for their actions
  - i. Participate in and maintain eligibility for flood insurance and disaster relief.
4. To establish overlay zones, Water Quality Resource Areas and Flood Management Areas, which operate contemporaneously with base zones and implement the performance standards found herein.
  5. In order to accomplish its purposes, this Chapter includes methods and provisions for:
    - a. Restricting or prohibiting development which is dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
    - b. Requiring that development vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
    - c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
    - d. Controlling filling, grading, dredging, and other development which may increase flood damage;
    - e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas.

#### **2.4.020 Applicability**

1. Lands to which this Chapter applies- This Chapter shall apply to all special flood hazard areas within the jurisdiction of the City of Rivergrove.
2. This Chapter also applies to development in Water Quality Resource Areas and Flood Management Overlay Zones.
3. This Chapter does not apply to work necessary to protect, repair, maintain, or replace existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements in response to emergencies provided that after the emergency has passed, adverse impacts are mitigated in accordance with standards for restoring marginal existing vegetated corridors.
4. The two overlay zones referenced in this Chapter are intended to follow the boundaries of the resources they are intended to protect. As such, the locations and boundaries of the overlays will change overtime with the natural changing environment. The limits and boundaries of the overlays are not intended to be treated like traditional zoning in that no zone change is needed to modify or alter the limits of the overlays. The implementation outlined below will determine the limits of the overlay zones.

Note: Prior to doing any emergency work in a Water Quality Resource Area it is advisable to check

with other regulatory agencies, including but not limited to, the U S. Army Corp of Engineers, the National Marine Fishery Service, the Oregon Division of State Lands, Oregon Fish & Wildlife Department, the Oregon Department of Environmental Quality and Clackamas County.

#### **2.4.030 Statutory Authority**

- I. The State of Oregon has in ORS 197.175 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City does ordain as follows:
  - a. The flood hazard areas of Rivergrove are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  - b. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities, and when inadequately anchored, cause damage in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to flood loss.

#### **2.4.040 Basis for Establishing the Special Flood Hazard Areas**

The special flood hazard areas identified by the Federal Insurance Administrator in a scientific and engineering report entitled “The Flood Insurance Study (FIS) for Flood Insurance Study 41005CV001B, dated 01/18/2019, with accompanying Flood Insurance Rate Maps (FIRMs) 41005C0013D Effective 6/17/2008 are hereby adopted by reference and declared to be a part of this Chapter. The FIS and FIRM panels are on file at the City of Rivergrove.

Pursuant to the requirement established in ORS 455 that the City of Rivergrove administers and enforces the State of Oregon Specialty Codes, the City does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in special flood hazard areas. Therefore, this Chapter is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.

#### **2.4.050 Administration**

- I. The provisions of this Chapter shall be applied as follows:
  - a. The text provisions of this Chapter, including definitions found in Chapter 5, shall determine whether an application for development is subject to the requirements of this Chapter.
  - b. Existing map information on file with the City shall be used as a reference to identify areas within a Water Quality Resource Area or Flood Management Area.
  - c. Applications shall include a delineation of any Water Quality Resource Areas and Flood Management Areas on the subject property.
  - d. The map information provided shall be interpreted by the City to define and refine the exact

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location of the boundaries of Water Quality Resource Areas and Flood Management Areas and Zoning Overlay boundaries. As noted above, no Zone Change is required to alter the Overlay limits.

2. **A Floodplain Development Permit** (which includes either a Water Quality Resource development or development within a Flood Management area, or both) shall be obtained before development begins within any Water Quality Resource Area and/or Flood Management Area.
3. **The Flood Plain Manager** (City Manager or designee such as the City Planner and/or City Engineer) is hereby appointed to administer and implement this Chapter. Duties of the Flood Plain Manager shall include, but not be limited to:
  - a. Floodplain Development Permit review including:
    - i. A staff level review of all Floodplain Development Permit applications to determine that the criteria and standards of this Chapter have been satisfied;
    - ii. A staff level review of all Floodplain Development Permit applications to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required;
  - b. Review and maintenance of:
    - i. Information accepted through the review of Floodplain Development Permits including delineating Protected Water Features, Water Quality Resource Areas and Flood Management Areas;
    - ii. Information showing the actual elevation of the lowest floor of all new or substantially improved structures, and whether or not the structure contains a basement;
  - c. Interpretation of this Chapter.
4. **Penalties for noncompliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violations of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute an infraction and is punishable by fines established by the City Council. Nothing contained herein shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.
5. **Abrogation.** This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
6. **Severability.** This Chapter and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of the Chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Chapter.
7. **Interpretation.** In the interpretation and application of this Chapter, all provisions shall be:
  - a. Considered as minimum requirements;

- b. Liberally construed in favor of the governing body; and
  - c. Deemed neither to limit nor repeal any other powers granted under state statutes.
8. **Warning.** The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.
  9. **Disclaimer of Liability.** This Chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made hereunder.
  10. **Copies of the maps** on file which have been accepted by the city as delineating a Protected Water Feature or the Flood Management Area shall be submitted to Metro to update Metro's Water Quality Management Maps and may be used by the city as a reference.
  11. **Map Updates.** When the city makes a finding in the processing of a new application that adds, corrects or alters the location of a Protected Water Feature, Water Quality Resource Area and/or Flood Management Area it shall retain the map for future reference and submit a copy to Metro to update Metro's Water Quality Management Maps. Areas added to Wetlands, Water Quality Resource Areas and Flood Management Areas in mitigation of uses allowed herein shall be treated as an addition or alteration of the location of a Protected Water Feature, Water Quality Resource Area and/or Flood Management Area and shall be updated to Metro.

**2.4.060 Designation of the Flood Plain Administrator.**

The City Manager is hereby appointed to administer, implement, and enforce this Chapter by granting or denying development permits in accordance with its provisions. The Floodplain Administrator may delegate authority to implement these provisions.

**2.4.070 Duties of the Flood Plain Manager.**

Duties of the floodplain administrator, or their designee, shall include, but not be limited to:

- I. **Permit Review.** Review all development permits to determine that:
  - a. The permit requirements of this Chapter have been satisfied;
  - b. All other required local, state, and federal permits have been obtained and approved.
  - c. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions of this Chapter in section 2.4.050.5.d are met; and
  - d. Review all development permits to determine if the proposed development is located in an area where Base Flood Elevation (BFE) data is available either through the Flood Insurance Study (FIS) or from another authoritative source. If BFE data is not available then ensure compliance with the provisions of sections 2.4.050 and
  - e. Provide to building officials the Base Flood Elevation (BFE) applicable to any building requiring a development permit.

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- f. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined in section 2.4.020.
  - g. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in section 2.4.050.4.a.
  - h. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
2. **Community Boundary Alterations.** The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps (FHBM) and Flood Insurance Rate Maps (FIRM) accurately represent the community's boundaries. Include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.
3. **Watercourse Alterations.** Notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map Revision (LOMR) along with either:
- a. A proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or
  - b. Certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance.

The applicant shall be required to submit a Conditional Letter of Map Revision (CLOMR) when required under section 2.4.070. Ensure compliance with all applicable requirements in sections 2.4.070 and 2.4.050.4.

4. **Requirement to Submit New technical Data.** A community's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, a community shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Section 44 of the Code of Federal Regulations (CFR), Sub-Section 65.3. The community may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change (LOMC) process.
- a. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
    - i. Proposed floodway encroachments that increase the base flood elevation; and
    - ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

An applicant shall Notify FEMA within six (6) months of project completion when an applicant has

obtained a Conditional Letter of Map Revision (CLOMR) from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision (LOMR).

**5. Substantial Improvement and Substantial Damage Assessments and Determinations.**

Conduct Substantial Improvement (SI) (as defined in Chapter 5) reviews for all structural development proposal applications and maintain a record of SI calculations within permit files in accordance with section 2.4.070. Conduct Substantial Damage (SD) (as defined in Chapter 5) assessments when structures are damaged due to a natural hazard event or other causes. Make SD determinations whenever structures within the special flood hazard area (as established in section 2.4.040) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**2.4.080 Water Quality Resource Areas**

- I. **The Water Quality Resource Area** is the vegetated corridor and the Protected Water Feature. The width of the vegetated corridor is specified in the Table One. At least three slope measurements along the water feature, at no more than 100-foot increments, shall be made for each property for which development is proposed. Depending on the width of the property, the width of the vegetated corridor will vary.

Table I

Protected Water Feature Type (see definitions)	Slope Adjacent to Protected Water Feature	Starting Point for Measurements from Water Feature	Width of Vegetated Corridor
Primary Protected Water Features <sup>1</sup>	< 25%	· Top of bank or 2-year storm level; · Delineated edge of wetland	50 feet
Primary Protected Water Features <sup>1</sup>	>25% for 150 feet or more <sup>5</sup>	· Top of bank or 2-year storm level; · Delineated edge of wetland	200 feet
Primary Protected Water Features <sup>1</sup>	>25% for less than 150 feet <sup>5</sup>	· Top of bank or 2-year storm level; · Delineated edge of wetland	Distance from starting point of measurement to top of ravine (break in >25% slope) <sup>3</sup> , plus 50 feet. <sup>4</sup>
Secondary Protected Water Features <sup>2</sup>	< 25%	· Top of bank or 2-year storm level; · Delineated edge of wetland	15 feet
Secondary Protected	> 25%	· Top of bank or 2-	50 feet



Water Features <sup>2</sup>		year storm level; Delineated edge of wetland	
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1 Primary Protected Water Features. See definition of Protected Water Feature.

2 Secondary Protected Water Features. See definition of Protected Water Feature.

3 Where the *Protected Water Feature* is confined by a ravine or gully, the top of ravine is the break in the >25% slope.

4 A maximum reduction of 25 feet may be permitted in the width of *vegetated corridor* beyond the slope break if a geotechnical report demonstrates that slope is stable. To establish the width of the *vegetated corridor*, slope should be measured in 25-foot increments away from the water feature until slope is less than 25% (top of ravine). *Vegetated corridors* in excess of 50-feet for primary protected features, or in excess of 15-feet for secondary protected.

**2. Activities/uses not requiring a Floodplain Development Permit to comply with the WQRA Overlay.**

- a. Stream, wetland, riparian and upland enhancement or restoration projects; farming practices as defined in ORS 30.930 and farm uses, excluding buildings and structures, as defined in ORS 215.203.
- b. Placement of structures that do not require a grading or building permit.
- c. Fences that allow floodwaters to flow through or breakaway, though a Floodplain Development permit is required.
- d. Routine repair and maintenance of existing structures, roadways, driveways, utility.
- e. Repair, replacement or improvement of utility facilities where:
  - i. The disturbed portion of the Water Quality Resource Area is restored; and
  - ii. Non-native vegetation is removed from the disturbed portion of the Water Quality Resource Area and replaced with vegetation from the Rivergrove Native Plant List.
- f. Additions to and/or alterations, rehabilitation, or replacement of existing structures that do not increase the existing structural footprint in the Water Quality Resource Area where:
  - i. The disturbed portion of the Water Quality Resource Area is restored; and
  - ii. Non-native vegetation is removed from the disturbed portion of the Water Quality Resource Area and replaced with vegetation from the Rivergrove Native Plant List.
- g. Measures to remove or abate nuisances, or any other violation of State statute, administrative agency rule or city or county ordinance where:
  - i. The method selected to remove or abate the nuisance or other violation will avoid or minimize adverse impacts to the Water Quality Resource Area as compared to other alternatives;
  - ii. The disturbed portion of the Water Quality Resource Area is restored; and
  - iii. Non-native vegetation is removed from the disturbed portion of the Water Quality Resource Area and replaced with vegetation from the Rivergrove Native Plant List.
- h. New public utility facilities and stormwater pre-treatment facilities where:
  - i. No reasonable alternative to the requested development exists that will not disturb the Water Quality Resource Area;
  - ii. An explanation acceptable to the City of the rationale behind choosing the alternative selected, including how adverse impacts will be avoided and/or minimized

- is advanced;
- iii. To the extent reasonable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Quality Resource Area. Trees in the Water Quality Resource Area shall not be used as anchors for stabilizing construction equipment;
- iv. The disturbed portion of the Water Quality Resource Area is restored; and
- v. Non-native vegetation is removed from the disturbed portion of the Water Quality Resource Area and replaced with vegetation from the Rivergrove Native Plant List.
- i. The continued maintenance and replanting of established gardens and lawns and landscaping.

### **3. Activities/uses requiring a Floodplain Development Permit to comply with the WQRA Overlay.**

The following uses are allowed in the Water Quality Resource Area Overlay Zone subject to compliance with the Application Requirements and Development Standards of subsections 8 and 9:

- a. Any use allowed in the base zone, other than those listed in subsection 5 above.
- b. Roads and walkways to provide access to Protected Water Features or necessary ingress and egress across Water Quality Resource Areas.
- c. Private utility facilities.
- d. Walkways and bike paths.
- e. New private stormwater pre-treatment facilities.
- f. Widening an existing road adjacent to or running parallel to a Water Quality Resource Area.
- g. Additions to and/or alterations, rehabilitation or replacement of existing structures, roadways, accessory uses and development that increase the structural footprint within the Water Quality Resource Area consistent with Subsection 7.G.
- h. Docks

### **4. Prohibited Uses**

- a. Any new structures and/or development, construction activities, gardens, and lawns, other than those listed in Subsection 2 and 3; dumping of any materials of any kind except as need for continued landscape maintenance.
- b. Uncontained areas of hazardous materials as defined by the Department of Environmental Quality.
- c. Planting of any species from the Metro Prohibited Plant List or the Metro Nuisance Plant List.

### **5. Application Requirements**

Applications in the Water Quality Resource Area Overlay Zone must provide the following information in addition to the information required for the base zone:

- a. Plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing and proposed structures, fill, storage of materials, drainage facilities.
- b. A topographic map of the site at vertical contour intervals of one foot or less showing a delineation of the Water Quality Resource Area as described in Table I.
- c. The location of all existing natural features including, but not limit to, any trees of a caliper greater than six (6) inches diameter at a height of four feet, the natural drainage on the site, and any springs or seeps therein.
- d. Location of wetlands.
- e. An inventory and location of existing debris and noxious materials as defined by the Department of Environmental Quality (if applicable).

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- f. An assessment of the existing condition of the Water Quality Resource Area.
  - g. An inventory of vegetation, including percentage ground and canopy coverage.
  - h. Alternatives analysis. The analysis shall demonstrate that:
    - i. No practicable alternatives to the requested development exist that will not disturb the Water Quality Resource Area; and
    - ii. Development in the Water Quality Resource Area has been limited to the area necessary to allow for the proposed use; and
    - iii. The Water Quality Resource Area can be restored to an equal or better condition in accordance with the mitigation plan; and
    - iv. It will be consistent with any Water Quality Resource Area Mitigation Plan already in place; and
    - v. An explanation of the rationale behind choosing the alternative selected, including how adverse impacts to resource areas will be avoided and/or minimized; and
    - vi. For applications seeking an addition to and/or alteration, rehabilitation or replacement of existing structures, roadways, accessory uses and development that will increase the structural footprint within the Water Quality Resource Area:
      - 1. Demonstrate that no reasonably practicable alternative design or method of development exists that would have a lesser impact on the Water Quality Resource Area than the one proposed; and
      - 2. If no such reasonably practicable alternative design or method of development exists, the project should be conditioned to limit its disturbance and impact on the Water Quality Resource Area to the minimum extent necessary to achieve the proposed addition, alteration, restoration, replacement or rehabilitation; and
      - 3. Provide mitigation to ensure that impacts to the functions and values of the Water Quality Resource Area will be mitigated or restored to the extent practicable.
  - i. A Water Quality Resource Area Mitigation Plan. The plan shall be created by a registered professional engineer, landscape architect, or biologist or other person trained or certified in riparian or wetland delineation describing the condition of the vegetated corridor and shall contain the following information:
    - i. A description of adverse impacts that will be caused as a result of development.
    - ii. An explanation of how adverse impacts to resource areas will be avoided, minimized, and/or mitigated in accordance with, the mitigation plan.
    - iii. A map showing where the specific mitigation activities will occur.
    - iv. An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. All in- stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream timing schedule.
  - j. Other items deemed necessary and requested by the City Manager.

**6. Level of Review** While all Floodplain Development Permit Review is a Staff level review, Staff or the applicant may elect to have any Floodplain Development Permit elevated to a Planning Commission Review.

## **7. Development Standards**

Applications for Floodplain Development Permits in the Water Quality Resource Area Overlay Zone shall satisfy the following standards:

- a. The Water Quality Resource Area shall be restored and maintained in accordance with the mitigation plan.
- b. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to the Water Quality Resource Area. Trees in the Water Quality Resource Area shall not be used as anchors for stabilizing construction equipment.
- c. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in the Rivergrove Native Plant List, may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance vegetation shall be replaced with native vegetation by the next growing season.
- d. Prior to construction, the Water Quality Resource Area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as allowed in the mitigation plan. Such markings shall be maintained until construction is complete.
- e. Public walkways, boardwalks and bike paths:
  - i. A walkway or bike path shall be unpaved and not be constructed closer than 10 feet from the boundary of the Protected Water Feature. Walkways and bike paths shall be constructed so as to minimize disturbance to existing vegetation. Where practicable, a maximum of 10 percent of the trail may be within 30 feet of the Protected Water Feature.
  - ii. A walkway or bike path shall not exceed 10 feet in width.
  - iii. A raised boardwalk may cross a Protected Water Feature if it serves the interest of the public.
- f. Stormwater pre-treatment facilities:
  - i. The stormwater pre-treatment facility may only encroach a maximum of 25 feet into the outside boundary of the Water Quality Resource Area of a primary water feature; and
  - ii. The area of encroachment must be replaced by adding an equal area to the Water Quality Resource Area on the subject property.
- g. Additions to and/or alterations, rehabilitation and replacement of lawful structures that increase the structural footprint:
  - i. For existing structures, roadways, driveways, accessory uses and development which are nonconforming, this Chapter shall apply in addition to the nonconforming use regulations of the city zoning ordinance.
  - ii. Additions, alterations, rehabilitation or replacement of existing structures, roadways, driveways, accessory uses and development shall not encroach closer to the Protected Water Feature than the existing structures, roadways, driveways, accessory uses and development.
- h. Off-site Mitigation:
  - i. Where the alternatives analysis demonstrates that there are no practicable alternatives for mitigation on site, off-site mitigation shall be located as follows:
    1. As close to the development as is practicable above the confluence of the next downstream tributary, or if this is not practicable;
    2. Within the watershed where the development will take place or as otherwise specified by the city or county in an approved Wetland Mitigation

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Bank.

- ii. In order to ensure that the mitigation area will be protected in perpetuity, proof of placement of a conservation easement or other means preserving the restriction on the property where the mitigation is to occur is required.
- i. Docks.
    - i. All docks must be floating docks; docks are not allowed to be placed on piers.
    - ii. The ramp to the dock shall be hinged to allow for rise in floodwater.
    - iii. The dock shall not exceed 12 feet in width and 20 feet in length. Width is the distance perpendicular to the riverbank (generally south). Length is the distance parallel to the river (generally east west).
    - iv. The dock, including the ramp, stairs, or access shall not extend more than 20 feet into the river.
    - v. The dock must be colored white or a neutral earth tone as allowed by the City.
    - vi. Stairs or access to the dock should be sized and placed to have minimal effect on the WQRA.
    - vii. Dock materials shall be environmentally benign and composed of no toxic chemicals.

#### **2.4.090 Flood Management Areas**

The standards set forth herein apply to the Flood Management Areas in addition to other local, state or federal restrictions governing floodplains or flood hazard areas.

1. **Flood Management Areas** include land contained within the 100-year floodplain and floodway as shown on the Federal Emergency Management Agency Flood Insurance maps.

#### **2. Floodplain Development Permit**

- a. Floodplain Development Permit Required.

A Floodplain Development Permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 2.4.040. The development permit shall be required for all structures, including manufactured dwellings, fences, docks, and for all other development, as defined in Chapter 5 including fill and other development activities. The following activities are permitted without the need to obtain a permit:

  1. Landscaping activities consistent with Section 2.4.040. Any excavation or fill shall be limited to 5 cubic yards. Any amount beyond this must obtain a Floodplain Development Permit.
  2. Restoration or enhancement of floodplains, riparian areas, wetlands, uplands, and streams that meet federal and state standards.
  3. Underground utilities provided that finished construction will be flush with the ground.
  4. Mailboxes, light poles and similar activities.
- b. Application for Development Permit.

Application for a floodplain development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

Specifically, the following information is required:

1. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of section 2.4.040.
2. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed.
3. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any nonresidential structure meet the floodproofing criteria for nonresidential structures in section 2.4.050.5.
4. Description of the extent to which any watercourse will be altered or relocated.
5. Base Flood Elevation data for subdivision proposals or other development when required per sections 2.4.070.1 and 2.4.060.
6. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure.
7. The amount and location of any fill or excavation activities proposed.

c. Floodplain Variances.

The issuance of a variance is for floodplain management purposes only. Flood insurance premium rates are determined by federal statute according to actuarial risk and will not be modified by the granting of a variance.

1. Conditions for a Floodplain Variance

- a. Generally, Floodplain Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the provisions of this section. As the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
  - b. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - c. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
  - d. Variances shall only be issued upon:
  - e. A showing of good and sufficient cause;
  - f. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - g. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
  - h. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria of this section are met, and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
2. Variance Notification. Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance and that such construction below the base flood elevation increases risks to life and property. Such

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notification and a record of all variance actions, including justification for their issuance shall be maintained in accordance with section 2.4.050.

- 3. Level of Review** While all Floodplain Development Permit Review is a Staff level review, Staff or the applicant may elect to have any Floodplain Development Permit elevated to the Planning Commission for an action.

**4. Application Requirements**

Applications for a Floodplain Development Permit within any Flood Management Area Overlay Zone shall include, in addition to the items specified base zone:

- a. Plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing and proposed structures, fill, storage of materials, drainage facilities;
- b. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- c. Elevation in relation to mean sea level to which any structure has been floodproofed;
- d. Demonstration that the plans meet the floodproofing criteria herein; and
- e. Demonstration of how the development will impact flood storage capacities, watercourses and their velocities.
- f. Other items deemed necessary and requested by the City Manager.

**5. Development Standards:**

In all special flood hazard areas and for all Floodplain Development Permits, the following standards shall be adhered to:

- a. Alteration of Watercourses. Require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained. Require that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Require compliance with sections 2.4.050 and 2.4.070.4.
- b. Anchoring.
  1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  2. All manufactured dwellings shall be anchored per section 2.4.050.
- c. Construction Materials and Methods
  1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- d. Water Supply, Sanitary Sewer, and on-site Wastewater Disposal Systems
  1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
  3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with the Oregon Department of Environmental Quality.

- e. **Electrical, Mechanical, Plumbing, and Other Equipment.** Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall:
  - 1. If replaced as part of a substantial improvement shall meet all the requirements of this section.
- f. **Tanks**
  - 1. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood.
  - 2. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.
- g. **Uses of Other Base Flood Data.** When Base Flood Elevation data has not been provided in accordance with section 2.4.040 the local floodplain administrator shall obtain, review, and reasonably utilize any Base Flood Elevation data available from a federal, state, or other source, in order to administer section 2.4.090.5. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of section 2.4.100.

Base Flood Elevations shall be determined for development proposals that are 5 acres or more in size or are 50 lots or more, whichever is lesser in any A zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided Base Level Engineering data, and photographs of past flooding. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

- h. **Structures Located in Multiple or Partial Flood Zones.** In coordination with the State of Oregon Specialty Codes:
    - 1. When a structure is located in multiple flood zones on the community's Flood Insurance Rate Maps (FIRM) the provisions for the more restrictive flood zone shall apply.
    - 2. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
6. **Specific Standards for Riverine Flood Zones,** meaning flood zones related to or situated to a riverbank, specifically Flood Zones A, AO, AH, AI-30, AE, A99 or AR. These specific standards shall apply to all new construction and substantial improvements in addition to the General Standards contained in section 2.4.090.5 of this Chapter.
- a. **Flood Openings.** All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the following requirements.

Enclosed areas below the Base Flood Elevation, including crawl spaces shall:



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1. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exist of floodwaters;
  2. Be used solely for parking, storage, or building access;
  3. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
  4. A minimum of two openings,
  5. The total net area of non-engineered openings shall be not less than one (1) square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,
  6. The bottom of all openings shall be no higher than one foot above grade.
  7. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area.
  8. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.
- b. Garages
1. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
    - a. If located within a floodway the proposed garage must comply with the requirements of section 2.4.090.5.b.
    - b. The floors are at or above grade on not less than one side;
    - c. The garage is used solely for parking, building access, and/or storage;
    - d. The garage is constructed with flood openings in compliance with section 2.4.090.5.b to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
    - e. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
    - f. The garage is constructed in compliance with the standards in section 2.4.090.5; and
    - g. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
  2. Detached garages must be constructed in compliance with the standards for Accessory structures in section 2.4.090.6.c.VI or nonresidential structures in section 2.4.090.6.c.III depending on the square footage of the garage.
- c. For Riverine Special Flood Hazard Areas with Base Flood Elevations. In addition to the general standards listed in section 2.4.090.5 the following specific standards shall apply in Riverine special flood hazard areas with Base Flood Elevations (BFE): Zones AI-A30, AH and AE.
1. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones AI-30 and AE on the community's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and

anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

2. Residential Construction.

- a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at or above the Base Flood Elevation (BFE).
- b. Enclosed areas below the lowest floor shall comply with the flood opening requirements in section 2.4.090.6.a.

3. Non-Residential Construction.

- a. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall:
  1. Have the lowest floor, including basement elevated at or above the Base Flood Elevation (BFE)
  2. Or, together with attendant utility and sanitary facilities,
    - a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth section 2.4.070.
- b. Non-residential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in section 2.4.090.6.a.
- c. Applicants floodproofing non-residential buildings shall be notified that flood insurance premiums will be based on rates that are one (1) foot below the floodproofed level (e.g. a building floodproofed to the base flood level will be rated as one (1) foot below.

4. Manufactured Dwellings.

- a. New or substantially improved manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with section 2.4.090.6.a;
- b. The bottom of the longitudinal chassis frame beam shall be at or above Base Flood Elevation;
- c. New or substantially improved manufactured dwellings shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
- d. Electrical crossover connections shall be a minimum of twelve (12) inches above Base Flood Elevation (BFE).

5. Recreational Vehicles. Recreational vehicles placed on sites are required to:

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- a. Be on the site for fewer than 180 consecutive days,
  - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
  - c. Meet the requirements of section 2.4.090.6.c.IV including the anchoring and elevation requirements for manufactured dwellings.
6. Accessory Structures. Relief from elevation or floodproofing requirements for Residential and Non-Residential structures in Riverine (Non-Coastal) flood zones may be granted for Accessory structures that meet the following requirements:
- a. Accessory structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in section 2.4.090.6.d.
  - b. Accessory structures must only be used for parking, access, and/or storage and shall not be used for human habitation;
  - c. In compliance with State of Oregon Specialty Codes, accessory structures on properties that are zoned residential are limited to one-story structures less than 200 square feet, or 400 square feet if the property is greater than two (2) acres in area and the proposed accessory structure will be located a minimum of 20 feet from all property lines. Accessory structures on properties that are zoned as non-residential are limited in size to 120 square feet.
  - d. The portions of the accessory structure located below the Base Flood Elevation must be built using flood resistant materials;
  - e. The accessory structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.
  - f. The accessory structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in section 2.4.090.6.a.
  - g. Accessory structures shall be located and constructed to have low damage potential;
  - h. Accessory structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with section 2.4.090.5.f.
  - i. Accessory structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- d. Floodways. Located within the special flood hazard areas established in section 2.4.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- l. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:

- a. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge;

Or,

- b. A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision (CLOMR) is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, section 65.12 are fulfilled.

2. If the requirements of section 2.4.090.6.d are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of section 2.4.090.5.

- e. Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO zones with depth designations or as AH zones with Base Flood Elevations. For AO zones the base flood depths range from one (1) to three (3) feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow.

For both AO and AH zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.

1. Standards for AH Zones. Development within AH Zones must comply with the standards in sections 2.4.090.5, 2.4.090.6, and 2.4.090.6.e.

2. Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirement in section 2.4.090.6.e:

- a. New construction and substantial improvement of residential structures and manufactured dwellings within AO zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the building, at minimum to or 2 feet. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.
- b. New construction and substantial improvements of non-residential structures within AO zones shall either:
  1. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above 2 feet, or
  2. Together with attendant utility and sanitary facilities, be completely floodproofed to or above (2) feet above the highest adjacent grade, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in section 2.4.090.6.c.III.
  3. Recreational vehicles placed on sites within AO Zones on the

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community's Flood Insurance Rate Maps (FIRM) shall either:

- a. Be on the site for fewer than 180 consecutive days, and
- b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- c. Meet the requirements of (insert citation) above, including the elevation and anchoring requirements for manufactured dwellings.
- d. In AO zones, new and substantially improved appurtenant structures must comply with the standards in section 2.4.090.6.c.VI.
- e. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in section 2.4.090.6.a.

#### **2.4.100 Standards for Subdivisions and Partitions within a Water Quality Resource Area**

1. The standards for land divisions in Water Quality Resource Areas Overlay Zone shall apply in addition to the requirements of Chapter 2.4.090. Any property that is located partially within the Water Quality Resource Area shall have the standards listed below apply to only that section which is within the WQRA.
2. All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals, Base Flood Elevation data.
3. All new subdivision proposals and other proposed new developments (including proposals for manufactured home parks and subdivisions) shall:
  - a. Be consistent with the need to minimize flood damage.
  - b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
  - c. Have adequate drainage provided to reduce exposure to flood hazards.
4. Prior to preliminary plat approval, the Water Quality Resource Area shall be shown as a separate tract, an easement, or some other similar method, to the satisfaction of the City Manager which shall not be a part of any parcel used for construction of a dwelling unit.
5. Where the identified Water Quality Resource Area of the subdivision or partition is dedicated to the city or other governmental unit, any development shall be subject to a minimum 3-foot setback from the Water Quality Resource Area. The setback building envelope shall be shown on the final plat.
6. The density of development that would otherwise be permitted on an area of land contained within a Water Quality Resource Area tract that is set aside for dedication to the City or other public entity (including a home owners association) may be transferred to adjacent lots. Once density is transferred from a lot within the Water Quality Resource Area, the increase allocated to the

transfer lot may not be transferred to any other lot. Density transfers shall be noted on the final partition or subdivision map. Any density transfer may alter the minimum lot size requirements if permitted by the Planning Commission during the review of the proposed subdivision or partition. The criteria for such a density transfer would be that the smaller lots sizes do not impact the character of the existing neighboring community.

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## Article 3 - Community Design Standards

### Chapters:

- 3.1 Design Standards Administration
- 3.2 Building Orientation and Design
- 3.3 Access and Circulation
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- 3.5 Parking and Loading
- 3.6 Public Facilities
- 3.7 Signs

### **Chapter 3.1 - Design Standards Administration**

#### Sections:

- 3.1.010 Purpose
- 3.1.020 Applicability

#### **3.1.010 Purpose**

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

#### **3.1.020 Applicability**

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

<b>Table 3.1.020 Applicability of Design Standards to Approvals and Permits</b>						
<b>Approvals*</b>	<b>3.2 Building Design</b>	<b>3.3 Access Circulation</b>	<b>3.4 Landscapes &amp; Screening</b>	<b>3.5 Parking &amp; Loading</b>	<b>3.6 Public Facilities</b>	<b>3.7 Signs</b>
Access or Approach Permit	N	Y	N	Y	Y	N
Adjustment	Individual chapters may apply, depending on the adjustment request.					
Annexation	N	Y	N	N	Y	N
Building Permit	Building permits are administered by the County and are required to be fully consistent with any City issued land use permits.					
Code Interpretation	Standards are subject to City interpretation under Chapter 1.5.					
Code Text Amendment	Chapters apply where amendment affects design standards.					

**Table 3.1.020  
Applicability of Design Standards to Approvals and Permits**

<b>Approvals*</b>	<b>3.2 Building Design</b>	<b>3.3 Access Circulation</b>	<b>3.4 Landscapes &amp; Screening</b>	<b>3.5 Parking &amp; Loading</b>	<b>3.6 Public Facilities</b>	<b>3.7 Signs</b>
Comprehensive Plan Map Amendment	N	Y	N	N	Y	N
Conditional Use Permit	Y	Y	Y	Y	Y	Y
Home Occupation	Y	N	Y	Y	N	Y
Legal Lot Determination	N	Y	N	N	Y	N
Modification to Approval or Condition of Approval	Individual chapters may apply, depending on the modification request.					
Non-Conforming Use or Structure, Expansion of	Y	Y	Y	Y	Y	Y
Partition or Re-plat of 2-3 lots (See also, Chapter 4.3)	Y (if bldg exists)	Y	Y (for flag lot)	Y (if use exists)	Y	N
Property Line Adjustments, including Lot Consolidations (See also, Chapter 4.3)	Y (if bldg exists)	Y	Y (for flag lot)	Y (if use exists)	Y	N
Site Design Review (See also, Chapter 4.2)	Y	Y	Y	Y	Y	Y
Subdivision or Replat of >3 lots (See also, Chapter 4.3)	Y (if bldg exists)	Y	Y (for flag lot)	Y (if use exists)	Y	N
Adjustments	Individual chapters may apply, depending on the variance request.					
Zoning District Map Change	N	Y	N	N	Y	N

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

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## Chapter 3.2 – Building Orientation and Design

### Sections:

- 3.2.010 Purpose
- 3.2.020 Applicability
- 3.2.030 Residential Buildings
- 3.2.040 Non-Residential Buildings
- 3.2.050 Height Transitions

### **3.2.010 Purpose**

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

- A.** is conducive to walking and bicycling while providing convenient access to public transit;
- B.** provides natural surveillance of public spaces, or “eyes on the street,” for crime prevention and security;
- C.** reduces dependency on the automobile for short trips, thereby conserving energy and reducing unwanted congestion;
- D.** encourages the use of water-conserving landscaping;
- E.** allows for the integration of surface water management facilities within parking lots and landscape areas; and
- F.** supports small-scale energy generation, through the use of solar, wind, and renewable sources.

### **3.2.020 Applicability**

Chapter 3.2 applies to all new buildings, and exterior alterations to existing buildings (where the footprint is changing). The City decision-making body (City Manager or Planning Commission, see 4.1.010.B), through a Type II procedure, may grant adjustments to Chapter 3.2, pursuant to the criteria of Chapter 4.7 Adjustments and Variances.

### **3.2.030 Residential Buildings**

- A. Building Orientation.** Residential buildings that are subject to the provisions of this chapter, pursuant to Section 3.2.020, shall conform to all of the following standards:
  - I. Building Orientation to Street.** Except as provided below, dwelling units shall orient toward a street, have a primary entrance opening toward the street, and be connected to the right-of-way

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with an approved walkway or residential front yard.

- a. A dwelling may have its primary entrance oriented to a yard other than the front or street yard where the only permitted access to the property is from a shared driveway or flag lot drive and orienting the dwelling entrance to the street is not practical due to the layout of the lot and driveway.
- b. Where there is no adjacent street to which a dwelling may be oriented, or it is not practical to orient a dwelling to an adjacent street due to lot layout, topographic, or other characteristics of the site, the dwelling may orient to a walkway, courtyard, open space, common area, lobby, or breezeway (i.e., for multiple family buildings).
- c. Where a flag lot is permitted, building orientation shall conform to the provisions for flag lots under Chapter 4.3.

**B. Garages.** The following standards apply to all types of vehicle and boat storage. The standards are intended to balance residents' desire for a convenient, safe, and private vehicle access to their homes with the public interest in maintaining safe and aesthetically pleasing streetscapes. The standards therefore promote pedestrian safety and visibility of public ways, while addressing aesthetic concerns associated with street-facing garages.

- 1. Alleys and Shared Drives.** Where a dwelling abuts a rear or side alley, or a shared driveway, including flag lot drives, the garage for that dwelling shall orient to the alley or shared drive, as applicable, and not a street.
- 2. Setback for Garage Opening Facing Street.** No garage shall be placed closer than 25 feet to a street right-of-way, except where the City approves a reduced setback and parking in front of garages is restricted (for example, as part of an approval for a hillside development or development adjacent to a natural feature). A side-loaded (swing in) garage may use a 15 ft. setback, but must include at least one window on a the street-facing wall. If a home is on a corner lot and choses to have the garage font a street that is not the street a home fronts, the side of the garage may use a 15 foot setback, but must include at least one window on a the street-facing wall.
- 3. Width of Garage Openings Facing Street.** Where one or more garage openings face a street, the total width of all garage openings on that building elevation shall not exceed 50 percent of the width of that elevation, except this standard does not apply where the garage opening is recessed behind the front elevation of the dwelling by not less than three feet for its entire width, or where all garage openings are placed behind the primary entrance to the dwelling. An arbor, portico, or similar architectural feature extending the entire width of the garage may be used as the basis of measuring the garage recess. A garage opening is considered to be facing a street where the opening is parallel to, or within 45 degrees of, the street right-of-way line.
- 4. Three-Car Garages.** Where three garage parking bays are proposed facing the same street, the garage opening closest to a side property line shall be recessed at least two feet behind the adjacent

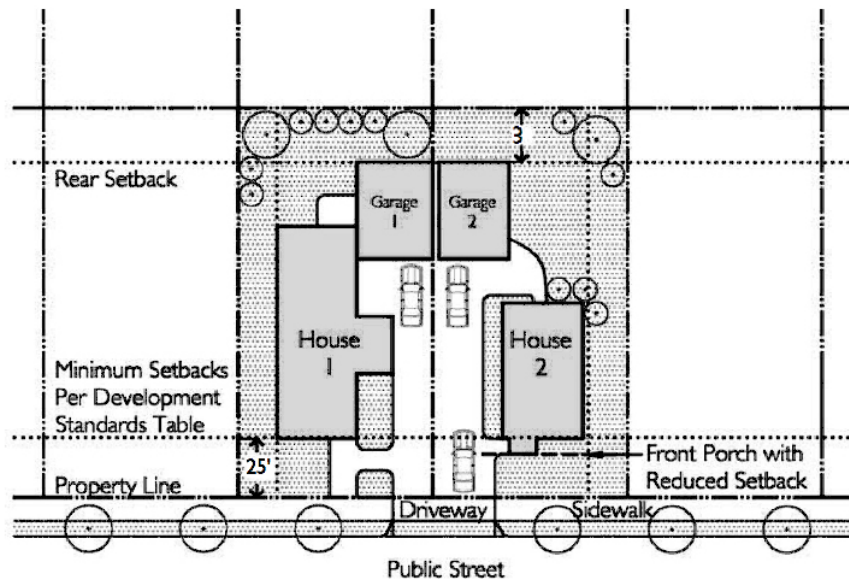
opening(s) to break up the street-facing elevation and diminish the appearance of the garage from the street. Side-loaded garages, i.e., where the garage openings are turned away from the street, are exempt from this requirement. Garages larger than 3 cars are not permitted to face the street. Additional garages are allowed as long as they do not face any street.

3.2.030.C.3 Width of Garage Openings Facing Street



- 5. **Garages for Duplex Dwellings.** Duplex design shall conform to Section 2.3.050.
- 6. **Garages placed to the rear of the lot.** Garages located to the rear of the lot may use a reduced structure setback of 3 feet to the rear of the lot and/or the side of the lot.

3.2.030.C Garages



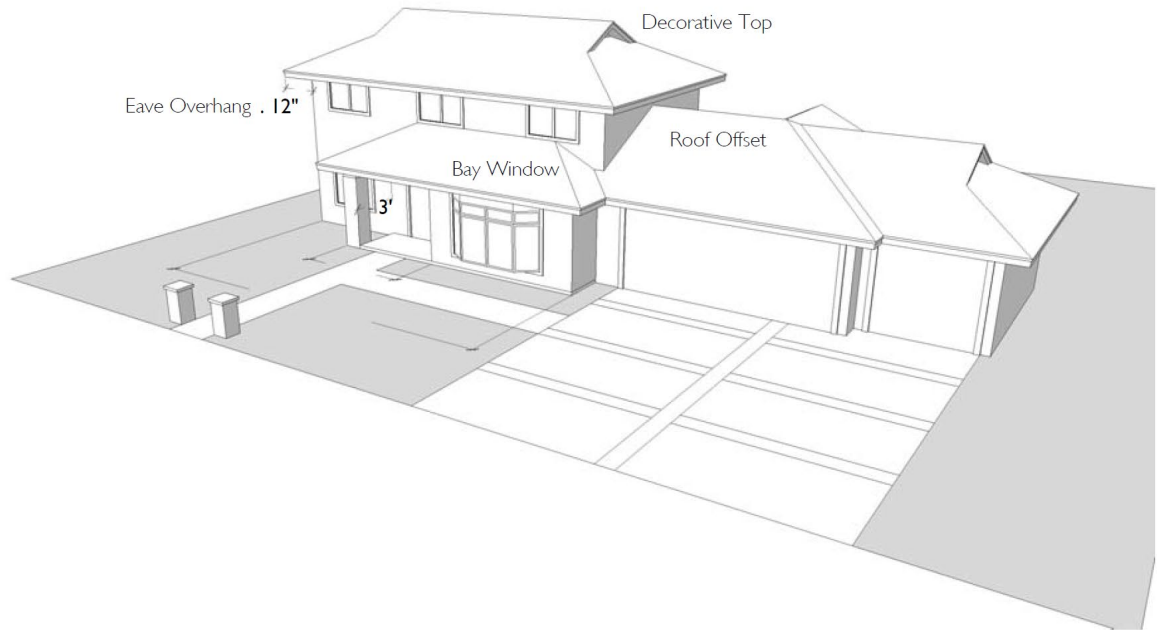
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**D. Architecture.** The following standards require variation in architectural plans to avoid monotony in new developments. The standards support the creation of architecturally varied neighborhoods, whether a neighborhood develops all at once or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

**I. Detailed Design.** Dwelling designs shall incorporate not fewer than five architectural features per dwelling unit from a-k below. Applicants are encouraged to use those elements that best suit the proposed building style and design. All homes must include the following features with a (\*).

- a. Covered front porch: not less than six feet in depth
- b. Dormers: minimum of two required for each single-family dwelling
- c. Recessed entrance: not less than three feet deep.
- d. Windows: not less than 15 percent of surface area of all street-facing elevation(s).\*
- e. Window trim: minimum four-inch width (all elevations). \*
- f. Eaves: overhang of not less than 12 inches. \*
- g. Offset: offset in facade or roof (see subsection 2, "Articulation").
- h. Bay window
- i. Balcony: one per dwelling unit facing street.
- j. Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-i, as approved by the City Manager through a Type I procedure.

3.2.030.D.I Single-Family Detailed Design



- 2. Articulation.** Plans for residential buildings shall incorporate design features such as varying rooflines, offsets, balconies, projections (e.g., overhangs, porches, or similar features), recessed or covered entrances, window reveals, or similar elements that break up otherwise long, uninterrupted elevations. Such elements shall occur at a minimum interval of 30 feet, and each floor shall contain at least two elements from the following options:
- Recess (e.g., porch, courtyard, entrance balcony, or similar feature) that has a minimum depth of four feet;
  - Extension (e.g., floor area, porch, entrance, balcony, overhang, or similar feature) that projects a minimum of two feet and runs horizontally for a minimum length of four feet; or
  - Offsets or breaks in roof elevation of two feet or greater in height.

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**3.2.040 Non-Residential Buildings**

**A. Purpose and Applicability.** The only zone in the City is Residential, therefore there are not many structures permitted that are non-residential. The following requirements apply to the few non-residential development structures that could be permitted, including individual buildings and developments with multiple buildings such as government buildings, religious institutions, and pre-schools. The standards are intended to create and maintain a built environment that is conducive to pedestrian accessibility, reducing dependency on the automobile for short trips, while providing civic space for employees, supporting natural surveillance of public spaces, and creating human-scale design. The standards require buildings placed close to

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streets, with storefront windows (where applicable), with large building walls divided into smaller planes, and with architectural detailing.

**B. Building Orientation.** The following standards apply to new non-residential buildings.

1. All buildings shall have at least one primary entrance (i.e., tenant entrance, lobby entrance, breezeway entrance, or courtyard entrance) facing an abutting street (i.e., within 45 degrees of the street property line); or if the building entrance must be turned more than 45 degrees from the street (i.e., front door is on a side or rear elevation) due to the configuration of the site or similar constraints, a pedestrian walkway must connect the primary entrance to the sidewalk in conformance with Section 3.3.040.
2. Off-street parking, trash storage facilities, and ground-level utilities (e.g., utility vaults), and similar obstructions shall not be placed between building entrances and the street(s) to which they are oriented. To the extent practicable, such facilities shall be oriented internally to the block and accessed by alleys or driveways.
3. Off-street parking shall be oriented internally to the site to the extent practicable, and shall meet the Access and Circulation requirements of Chapter 3.3, the Landscape and Screening requirements of Chapter 3.4, and the Parking and Loading requirements of Chapter 3.5.
4. Where a development contains multiple buildings and there is insufficient street frontage to meet the above building orientation standards for all buildings on the subject site, a building's primary entrance may orient to plaza, courtyard, or similar pedestrian space containing pedestrian amenities, subject to Site Design Review approval. When oriented this way, the primary entrance(s), plaza, or courtyard shall be connected to the street by a pedestrian walkway conforming to Section 3.3.040.

**C. Primary Entrances and Windows.** The following standards apply to new buildings and building additions.

1. **All Elevations of Building.** Architectural designs shall address all elevations of a building. Building forms, detailing, materials, textures, and color shall contribute to a unified design with architectural integrity. Materials used on the front façade must turn the building corners and include at least a portion of the side elevations, consistent with the building's overall composition and design integrity.
2. **Pedestrian Entrances.** Ground level entrances oriented to a street shall be at least partly transparent for natural surveillance and to encourage an inviting and successful environment. This standard may be met by providing a door with a window(s), a transom window above the door, or sidelights beside the door.
3. **Corner Entrances.** Buildings on corner lots are encouraged to have corner entrances. Where a corner entrance is not provided, the building plan shall provide an architectural element or detailing (e.g., tower, beveled corner, art, special trim, etc.) that accentuates the corner location.
4. **Street Level Entrances.** All primary building entrances shall open to the sidewalk and shall conform to Americans with Disabilities Act (ADA) requirements, as applicable. Primary entrances above or below grade may be allowed where ADA accessibility is provided.



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5. **Windows – General.** Except as approved for parking structures or accessory structures, the front/street-facing elevations of buildings shall provide display windows, windowed doors, and where applicable, transom windows to express a storefront character.
  6. **Defined Upper Story(ies).** Building elevations shall contain detailing that visually defines street level building spaces (storefronts) from upper stories. The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials, or fenestration. Upper floors may have less window area than ground floors, but shall follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices.
  7. **Buildings Not Adjacent to a Street.** Buildings that are not adjacent to a street, such as those that are setback behind another (e.g., internal plaza or court), shall meet the 60 percent transparency standard on all elevations abutting civic spaces(s) and on elevations containing a primary entrance.
  8. **Window Trim.** At a minimum, windows shall contain trim, reveals, recesses, or similar detailing of not less than four inches in width or depth as applicable. The use of decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features) is encouraged.

**D. Articulation and Detailing.** The following standards apply to new buildings and building additions.

1. **Articulation.** All building elevations that orient to a street or civic space must have breaks in the wall plane (articulation) of not less than one break for every 30 feet of building length or width, as applicable, as follows:
  - a. A “break” for the purposes of this subsection is a change in wall plane of not less than 24 inches in depth. Breaks may include but are not limited to an offset, recess, window reveal, pilaster, frieze, pediment, cornice, parapet, gable, dormer, eave, coursing, canopy, awning, column, building base, balcony, permanent awning or canopy, marquee, or similar architectural feature.
  - b. Changes in paint color and features that are not designed as permanent architectural elements, such as display cabinets, window boxes, retractable and similar mounted awnings or canopies, and other similar features, do not meet the 24-inch break-in-wall-plane standard.
  - c. Building elevations that do not orient to a street or civic space need not comply with the 24-inch break-in-wall-plane standard but should complement the overall building design.
2. **Change in Materials.** Elevations must incorporate changes in material that define a building’s base, middle, and top, as applicable, and create visual interest and relief. Side and rear elevations that do not face a street, public parking area, pedestrian access way, or plaza may utilize changes in texture and/or color of materials, provided that the design is consistent with the overall composition of the building.

**E. Pedestrian Shelters.** The following standards apply to new buildings and building additions that are subject to Site Design Review.

1. **Minimum Pedestrian Shelter Coverage.** Permanent awnings, canopies, recesses, or similar

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pedestrian shelters shall be provided along at least 75 percent of the ground floor elevation(s) of a building where the building abuts a sidewalk, civic space, or pedestrian access way.

- 2. Pedestrian Shelter Design.** Pedestrian shelters shall comply with applicable building codes, and shall be designed to be visually compatible with the architecture of a building. If mezzanine or transom windows exist, the shelter shall be below such windows where practical.

## **F. Mechanical Equipment**

- 1. Building Walls.** Where mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, is permitted on a building wall that abuts a public right-of-way or civic space, it shall be screened pursuant to Chapter 3.4. Standpipes, meters, vaults, and similar equipment need not be screened but shall not be placed on a front elevation when other practical alternatives exist; such equipment shall be placed on a side or rear elevation where practical. Equipment for micro-generation or small-scale renewable energy (e.g., mini-wind turbines, solar panels, and similar features) are subject to the Special Use requirements of Section 2.3.140.
- 2. Rooftops.** Rooftop mechanical units shall be setback or screened behind a parapet wall so that they are not visible from any public right-of-way or civic space. Where such placement and screening is not practicable, the Planning Commission may approve painting of mechanical units in lieu of screening that acts to blend the units so they are less apparent.
- 3. Ground-Mounted Mechanical Equipment.** Ground-mounted equipment, such as generators, air compressors, trash compactors, and similar equipment, shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. Hedges, trellises, and similar plantings may also be used as screens where there is adequate air circulation and sunlight, and irrigation is provided. The City may require additional setbacks and noise attenuating equipment for compatibility with adjacent uses.

### **3.2.050 Height Transitions**

For every one foot of height of a proposed building above 25 feet, one foot of horizontal distance, in addition to the required setback, between the building to the abutting residential property line (rear or side) is required. Measurement of the height transition area shall be made between the foundation of the proposed building and the property line. When the proposed structure is designed such that different sections will have different heights, the height transition area shall be measured for each vertical surface as if it were free-standing. The building then must be located on the site so that no section is closer to the abutting residential property line than it would be if the section was free-standing.

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## Chapter 3.3 - Access and Circulation

### Sections:

- 3.3.010 Purpose
- 3.3.020 Applicability
- 3.3.030 Vehicular Access and Circulation
- 3.3.040 Pedestrian Access and Circulation
- 3.3.050 Gates or Other Barriers

### **3.3.010 Purpose**

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

### **3.3.020 Applicability**

Chapter 3.3 applies to new development and changes in land use necessitating a new or modified street connection. Except where the standards of a roadway authority other than the City supersede City standards, Chapter 3.3 applies to all connections to a street, and to driveways and walkways. The Planning Commission, through a Type III procedure, may grant adjustments to Chapter 3.2, pursuant to the criteria of Chapter 4.7 Adjustments and Variances. For street improvement requirements, refer to Section 3.6.020.

### **3.3.030 Vehicular Access and Circulation**

- A. Purpose and Intent.** It is intended to promote safe vehicle access and egress to properties, while maintaining traffic operations in conformance with adopted standards. “Safety,” for the purposes of this chapter, extends to all modes of transportation.
- B. Permit Required.** Vehicular access to a public street (e.g., a new or modified driveway connection to a street or highway) requires an approach permit approved by the applicable roadway authority, either Clackamas or Washington County.
- C. Traffic Study Requirements.** The City, in reviewing a development proposal or other action requiring an approach permit, may require a traffic impact analysis, pursuant to Section 3.6.020, to determine compliance with this code.
- D. Approach and Driveway Development Standards.** Approaches and driveways shall conform to all of the following development standards:
  - 1. The number of approaches on higher classification streets (e.g., collector and arterial streets) shall be minimized; where practicable, access shall be taken first from a lower classification street.
  - 2. Approaches shall conform to the spacing standards of subsections E and F, below, and shall conform

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to minimum sight distance and channelization standards of the roadway authority.

3. Driveways shall be paved and meet applicable construction standards. Where permeable paving surfaces are allowed or required, such surfaces shall conform to applicable Engineering Design Standards.
4. The Planning Commission or City Manager may limit the number or location of connections to a street, or limit directional travel at an approach to one-way, right-turn only, or other restrictions, where the roadway authority requires mitigation to alleviate safety or traffic operations concerns.
5. Where the spacing standards of the roadway authority limit the number or location of connections to a street, the Planning Commission or City Manager may require a driveway extend to one or more edges of a parcel and be designed to allow for future extension and inter-parcel circulation as adjacent properties develop. The Planning Commission or City Manager may also require the owner(s) of the subject site to record an access easement for future joint use of the approach and driveway as the adjacent properties develop.
6. Where applicable codes require emergency vehicle access, approaches and driveways shall be designed and constructed to accommodate emergency vehicle apparatus and shall conform to applicable fire protection requirements. The Planning Commission or City Manager may restrict parking, require signage, or require other public safety improvements pursuant to the recommendations of an emergency service provider.
7. As applicable, approaches and driveways shall be designed and constructed to accommodate truck/trailer-turning movements.
8. Except where the Planning Commission or City Manager, and roadway authority, as applicable, permit an open access with perpendicular or angled parking (See Section 3.3.030.). Driveways shall accommodate all projected vehicular traffic on-site without vehicles stacking or backing up onto a street.
9. Approaches and driveways shall not be wider than necessary to safely accommodate projected peak hour trips and turning movements, and shall be designed to minimize crossing distances for pedestrians.
10. As it deems necessary for pedestrian safety, the Planning Commission or City Manager in consultation with the roadway authority, as applicable, may require that traffic-calming features, such as speed tables, textured driveway surfaces (e.g., pavers or similar devices), curb extensions, signage or traffic control devices, or other features, be installed on or in the vicinity of a site as a condition of development approval.
11. Construction of approaches along acceleration or deceleration lanes, and along tapered (reduced width) portions of a roadway, shall be avoided; except where no reasonable alternative exists and the approach does not create safety or traffic operations concern.
13. Approaches and driveways shall be located and designed to allow for safe maneuvering in and around loading areas, while avoiding conflicts with pedestrians, parking, landscaping, and buildings.
14. Where sidewalks or walkways occur adjacent to a roadway, driveway aprons constructed of concrete shall be installed between the driveway and roadway edge. The roadway authority may

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require the driveway apron be installed outside the required sidewalk or walkway surface, consistent with Americans with Disabilities Act (ADA) requirements, and to manage surface water runoff and protect the roadway surface.

15. Where an accessible route is required pursuant to ADA, approaches and driveways shall meet accessibility requirements where they coincide with an accessible route.
16. The Planning Commission or City Manager may require changes to the proposed configuration and design of an approach, including the number of drive aisles or lanes, surfacing, traffic-calming features, allowable turning movements, and other changes or mitigation, to ensure traffic safety and operations.
17. Where an approach or driveway crosses a drainage ditch, canal, railroad, or other feature that is under the jurisdiction of another agency, the applicant is responsible for obtaining all required approvals and permits from that agency prior to commencing development.
18. Where a proposed driveway crosses a culvert or drainage ditch, the Planning Commission or City Manager may require the developer to install a culvert extending under and beyond the edges of the driveway on both sides of it, pursuant to applicable public works design standards.
19. Except as otherwise required by the applicable roadway authority or waived by the City Engineer, temporary driveways providing access to a construction site or staging area shall be paved or graveled to prevent tracking of mud onto adjacent paved streets.
20. Development that increases impervious surface area shall conform to the storm drainage and surface water management requirements of Section 3.6.050.

**E. Approach Separation from Street Intersections.** Except as provided by Section 3.3.030.H, or as directed by the appropriate Clackamas or Washington County, the following minimum distances shall be maintained between approaches and street intersections, where distance is measured from the edge of an approach surface to the edge of the roadway at its ultimate designated width:

1. On an arterial street: 100 feet, except as required by ODOT, pursuant to Oregon Administrative Rule (OAR) 734-051, for state highways
2. On a collector street: 50 feet
3. On a local street: 20 feet

**F. Approach Spacing.** Except as provided by Section 3.3.030.H or as required to maintain street operations and safety, the following minimum distances shall be maintained between approaches, where distance is measured from the edge of one approach to the edge of another:

1. On an arterial street: 150 feet based on speed limit or posted speed, as applicable, except as otherwise required by ODOT for a state highway, pursuant to Oregon Administrative Rules (OAR) 734-051

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2. On a collector street: 50 feet
  3. On a local street: 20 feet, or the City Manager may approve closer spacing where necessary to provide for on-street parking (e.g., between paired approaches)

**G. Vision Clearance.** No visual obstruction (e.g., sign, structure, solid fence, or shrub vegetation) between three feet and eight feet in height shall be placed in “vision clearance areas” at street intersections. Placement of light poles, utility poles, and tree trunks should be avoided within vision clearance areas.

**H. Exceptions and Adjustments.** The Planning Commission may approve adjustments to the spacing standards of subsections E and F, above, where an existing connection to a City street does not meet the standards of the roadway authority and the proposed development moves in the direction of code compliance. The Planning Commission through a Type III procedure may also approve a deviation to the spacing standards on City streets where it finds that mitigation measures, such as consolidated access (removal of one access), joint use driveways (more than one property uses same access), directional limitations (e.g., one-way), turning restrictions (e.g., right-in/right-out only), or other mitigation alleviate all traffic operations and safety concerns.

**I. Joint Use Access Easement and Maintenance Agreement.** Where the City approves a joint use driveway, the property owners shall record an easement with the deed allowing joint use of and cross access between adjacent properties. The owners of the properties agreeing to joint use of the driveway shall record a joint maintenance agreement with the deed, defining maintenance responsibilities of property owners. The applicant shall provide a fully executed copy of the agreement to the City for its records, but the City is not responsible for maintaining the driveway or resolving any dispute between property owners.

### **3.3.040 Pedestrian Access and Circulation**

**A. Purpose and Intent.** Section 3.3.040 is intended to provide for safe, reasonably direct, and convenient pedestrian access and circulation.

**B. Standards.** Developments shall conform to all of the following standards for pedestrian access and circulation:

1. **Continuous Walkway System.** A pedestrian walkway system shall extend throughout the development site and connect to adjacent sidewalks, if any, and to all future phases of the development, as applicable.
2. **Safe, Direct, and Convenient.** Walkways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent parking areas, recreational areas, playgrounds, and public rights-of-way conforming to the following standards:

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- a. The walkway is reasonably direct. A walkway is reasonably direct when it follows a route that does not deviate unnecessarily from a straight line or it does not involve a significant amount of out-of-direction travel.
  - b. The walkway is designed primarily for pedestrian safety and convenience, meaning it is reasonably free from hazards and provides a reasonably smooth and consistent surface and direct route of travel between destinations. The City decision-making body may require landscape buffering between walkways and adjacent parking lots or driveways to mitigate safety concerns.
  - c. The walkway network connects to all primary building entrances, consistent with the building design standards of Chapter 3.2 and, where required, Americans with Disabilities Act (ADA) requirements.
- 3. Vehicle/Walkway Separation.** Except as required for crosswalks, per subsection 4, below, where a walkway abuts a driveway or street it shall be raised six inches and curbed along the edge of the driveway or street. Alternatively, the City decision-making body may approve a walkway abutting a driveway at the same grade as the driveway if the walkway is physically separated from all vehicle-maneuvering areas. An example of such separation is a row of bollards (designed for use in parking areas) with adequate minimum spacing between them to prevent vehicles from entering the walkway.
  - 4. Crosswalks.** Where a walkway crosses a parking area or driveway (“crosswalk”), it shall be clearly marked with contrasting paving materials (e.g., pavers, light-color concrete inlay between asphalt, or similar contrasting material). The crosswalk may be part of a speed table to improve driver-visibility of pedestrians. Painted or thermo-plastic striping and similar types of non-permanent applications are discouraged, but may be approved for lesser used crosswalks not exceeding 24 feet in length.
  - 5. Walkway Width and Surface.** Walkways, including access ways required for subdivisions pursuant to Chapter 4.3, shall be constructed of concrete, asphalt, brick or masonry pavers, or other durable surface, as approved by the City Engineer, and not less than five feet wide. Multi-use paths (i.e., designed for shared use by bicyclists and pedestrians) shall be concrete or asphalt and shall conform to the transportation standards of Section 3.6.020.
  - 6. Walkway Construction.** Walkway surfaces may be concrete, asphalt, brick or masonry pavers, or other City-approved durable surface meeting ADA requirements.

### **3.3.050 Gates or Other Barriers**

Public and private streets and driveways providing access to residential developments from any public or private street shall not be gated, except as specifically required or allowed by the City Council to address an operational or safety issue. For the purpose of this Section, residential development means a residential partition or subdivision or 2 or more dwelling units on a single lot or parcel or 2 or more residential lots or parcels.

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

### Sections:

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

### 3.4.010 Purpose

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

### 3.4.020 Applicability

The following shall apply to all non-residential development landscaping. This section does not apply to single-family homes.

- A.** Section 3.4.030 establishes design standards for landscaping and screening. Projects requiring Site Design Review or Land Division approval shall meet the landscape standards of the applicable zone, including the standards in Table 2.2.040.D and any Special Use requirements under Chapter 2.3 and the requirements of Section 3.4.030. Property owners are required to maintain landscaping and screening pursuant to subsection 3.4.030.G.
- B.** Section 3.4.040 establishes design standards for when a fence or a wall not attached to a building is to be erected, extended, or otherwise altered. It also applies to situations where this code requires screening or buffering (e.g., outdoor or unenclosed storage uses). The standards of Section 3.4.040 supplement the development standards in Table 2.2.040.D and any applicable Special Use requirements under Chapter 2.3.
- C.** Section 3.4.050, Outdoor Lighting, applies to all new outdoor lighting, i.e., lighting that is installed after **(effective date)**.
- D.** The City decision-making body may grant adjustments to Chapter 3.4, pursuant to the criteria of Chapter 4.7 Adjustments and Variances.

### 3.4.030 Landscaping and Screening

- A. General Landscape Standard.** All portions of developed lots with buildings, accessory structures, vehicle maneuvering areas, or parking shall be landscaped.
- B. Minimum Landscape Area.** All lots shall conform to the minimum landscape area standards of the



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applicable zoning district, as contained in Table 2.2.040.D. The City decision-making body, consistent with the purposes in Section 3.4.010, may allow credit toward the minimum landscape area for existing vegetation that is retained in the development.

- C. Plant Selection.** A combination of deciduous and evergreen trees, shrubs, and ground covers shall be used for all planted areas, the selection of which shall be based on local climate, exposure, water availability, and drainage conditions, among other factors. When new vegetation is planted, soils shall be amended and irrigation shall be provided, as necessary, to allow for healthy plant growth. The selection of plants shall be based on all of the following standards and guidelines:
1. Use plants that are appropriate to the local climate, exposure, and water availability. The presence of utilities and drainage conditions shall also be considered.
  2. Plant species that do not require irrigation once established (naturalized) are preferred over species that require irrigation.
  3. Trees shall be not less than two-inch caliper for street trees and 1.5-inch caliper for other trees at the time of planting. Trees to be planted under or near power lines shall be selected so as to not conflict with power lines at maturity.
  4. Shrubs shall be planted from five-gallon containers, minimum, where they are for required screens or buffers, and two-gallon containers minimum elsewhere.
  5. Shrubs shall be spaced in order to provide the intended screen or canopy cover within two years of planting.
  6. All landscape areas, whether required or not, that are not planted with trees and shrubs or covered with allowable non-plant material, shall have ground cover plants that are sized and spaced to achieve plant coverage of not less than 50 percent at maturity.
  7. Bark dust, chips, aggregate, or other non-plant ground covers may be used, but shall cover not more than 50 percent of any landscape area. Non-plant ground covers cannot be a substitute for required ground cover plants.
  8. Where storm water retention or detention, or water quality treatment facilities are proposed, they shall be planted with water-tolerant species.
  9. Existing mature trees that can thrive in a developed area and that do not conflict with other provisions of this Code shall be retained where specimens are in good health, have desirable aesthetic characteristics, and do not present a hazard.
  10. Landscape plans shall avoid conflicts between plants and buildings, streets, walkways, utilities, and other features of the built environment.
  11. Evergreen plants shall be used where a sight-obscuring landscape screen is required.
  12. Deciduous trees should be used where summer shade and winter sunlight is desirable.
  13. Landscape plans should provide focal points within a development, for example, by preserving large or unique trees or groves or by using flowering plants or trees with fall color.

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14. Where plants are used to screen outdoor storage or mechanical equipment, the selected plants shall have growth characteristics that are compatible with such features.
  15. Landscape plans shall provide for both temporary and permanent erosion control measures, which shall include plantings where cuts or fills, including berms, swales, storm water detention facilities, and similar grading, is proposed.
  16. When new vegetation is planted, soils shall be amended and irrigation provided, as necessary, until the plants are naturalized and able to grow on their own.

**D. Parking Lot Landscaping.** All of the following standards shall be met for parking lots. If a development contains multiple parking lots, then the standards shall be evaluated separately for each parking lot. See Figure 3.4.030.E.

1. A minimum of 10 percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of shade trees distributed throughout the parking area. A combination of deciduous and evergreen trees, shrubs, and ground cover plants is required. The trees shall be planned so that they provide 50 percent canopy cover over the parking lot within 15 years. At a minimum, one tree per 12 parking spaces on average shall be planted over and around the parking area. The applicant shall provide evidence of conformance in the form of plans.
2. All parking areas with more than 20 spaces shall provide landscape islands with trees that break up the parking area into rows of not more than 12 contiguous parking spaces. Landscape islands and planters shall have dimensions of not less than 48 square feet of area and no dimension of less than five feet, to ensure adequate soil, water, and space for healthy plant growth.
3. All required parking lot landscape areas not otherwise planted with trees must contain a combination of shrubs and groundcover plants so that, within two years of planting, not less than 50 percent of that area is covered with living plants.
4. Wheel stops, curbs, bollards, or other physical barriers are required along the edges of all vehicle-maneuvering areas to protect landscaping from being damaged by vehicles. Trees shall be planted not less than two feet from any such barrier.
5. Trees planted in tree wells within sidewalks or other paved areas shall be installed with root barriers, consistent with applicable nursery standards.

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

1. **Outdoor Storage and Unenclosed Uses.** All areas of a site containing or proposed to contain outdoor storage of goods, materials, equipment, and vehicles (other than required parking lots and service and delivery areas, per Site Design Review), and areas containing junk, salvage materials, or similar contents, shall be screened from view from adjacent rights-of-way and residential uses by a

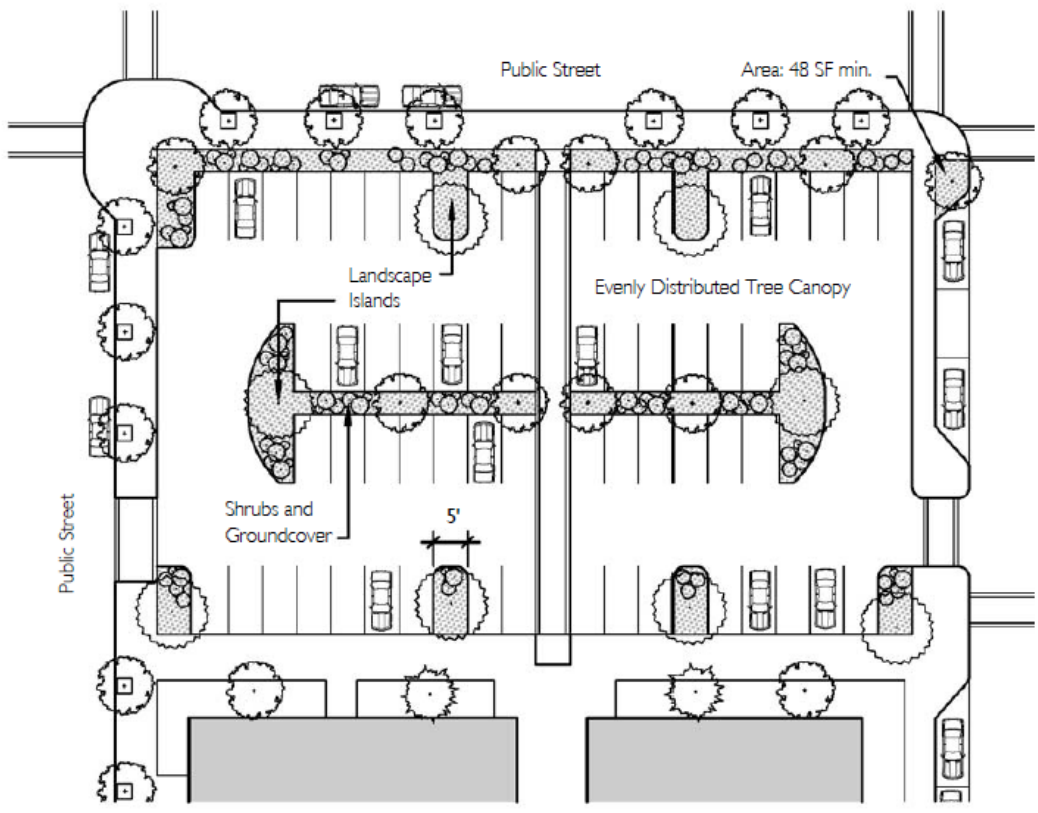
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sight-obscuring fence, wall, landscape screen, or combination of screening methods. See also Section 3.4.040 for related fence and wall standards.

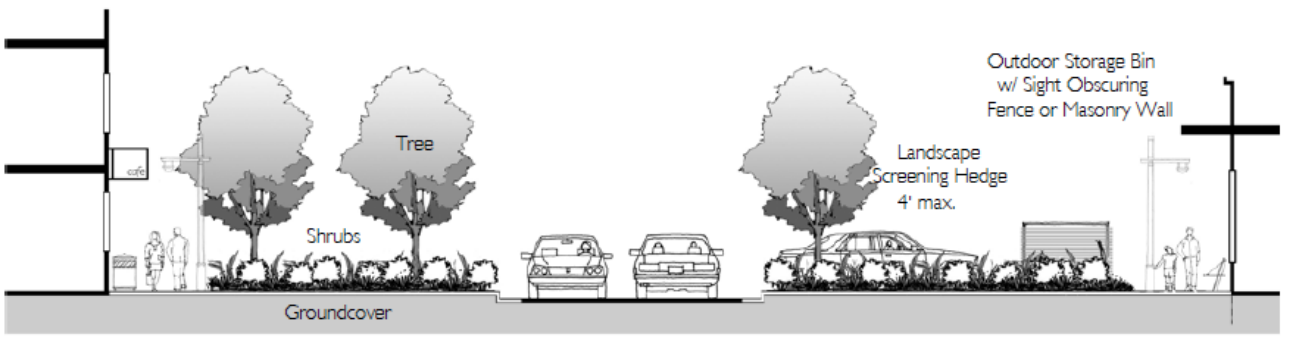
- 2. Parking Lots.** The edges of parking lots shall be screened to minimize vehicle headlights shining into adjacent rights-of-way and residential yards. Parking lots abutting a sidewalk or walkway shall be screened using a low-growing hedge or low garden wall to a height of between three feet and four feet. See figure 3.4.030E.
- 3. Other Uses Requiring Screening.** The City decision-making body may require screening in other situations as authorized by this Code, including, but not limited to, air conditioner, mechanical equipment, outdoor storage areas, blank walls, Special Uses pursuant to Chapter 2.3, flag lots, and as mitigation where an applicant has requested an adjustment pursuant to Chapter 4.7.

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

3.4.030.E Parking Lot Landscaping



3.4.030.F Screening Requirements



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### 3.4.040 Fences and Walls

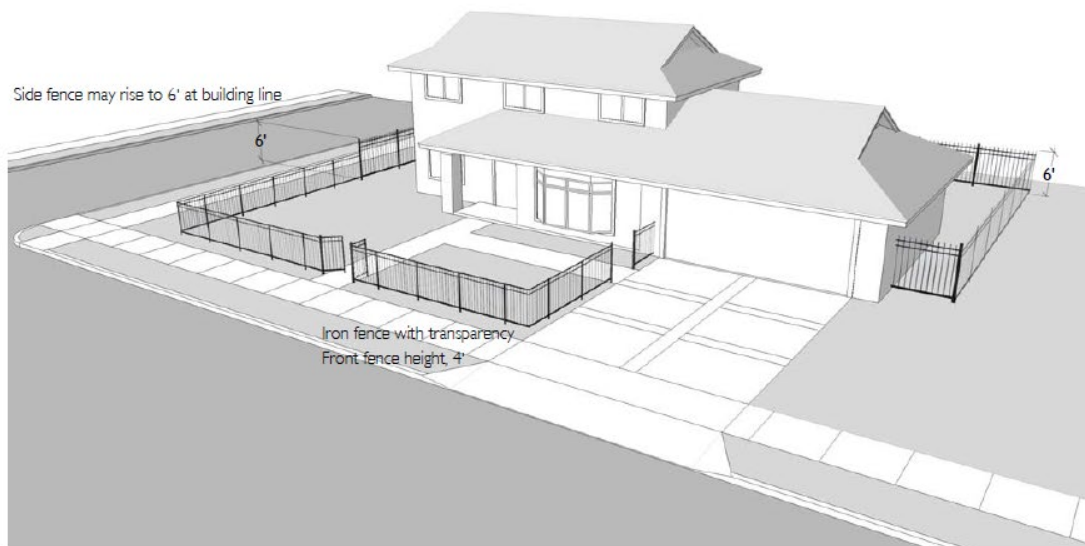
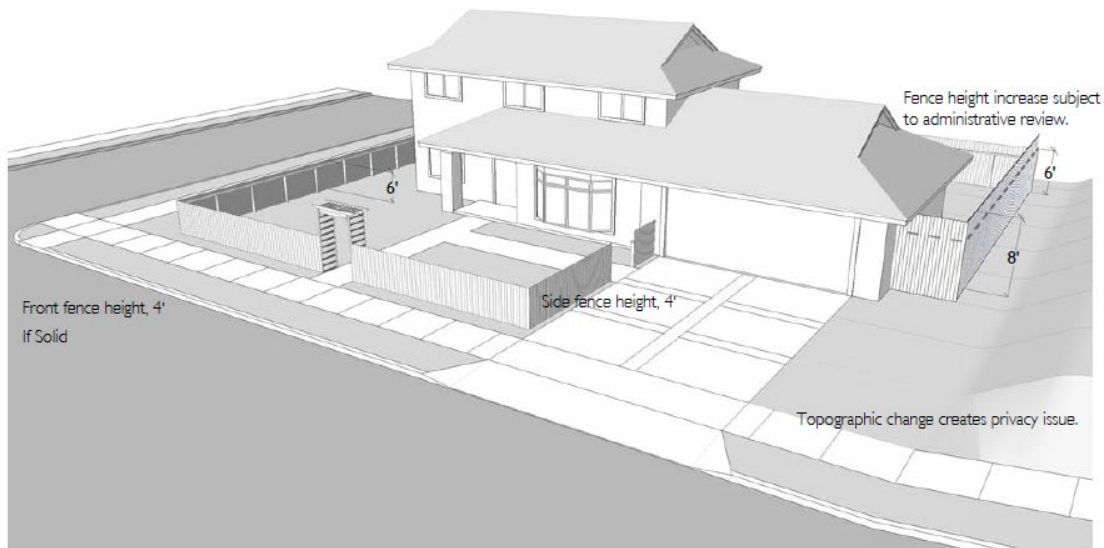
- A. Purpose.** This section provides general development standards for fences, and walls that are not part of a building, such as screening walls and retaining walls.
- B. Applicability.** Section 3.4.040 applies to all fences, and walls that are not part of a building, including modifications to existing fences and walls. This section supplements the development standards of Table 2.2.040.D.
- C. Height.** See figure 3.4.040.C.
- 1. Residential Zones.** Fences and freestanding walls (i.e., exclusive of building walls) for residential uses shall not exceed the following heights above grade, where grade is measured from the base of the subject fence or wall:
- a. Within Front or Street-Side Yard Setback: four feet; except the following additional height is allowed:
    - (1) A fence may be constructed to a maximum height of six feet where it is located on a street-side yard and is setback not less than three feet from the street-side property line behind a landscaped area.
    - (2) A fence may be constructed to a maximum height of six feet where the fence is of open chain link or other “see-through” composition that allows 90 percent light transmission.
    - (3) Where topographic issues create privacy concerns, a side and rear fence may be up to eight feet tall, subject to a Type I review.
    - (4) This may differ in flood areas, see Chapter 2.4.
  - b. Within an Interior Side or Rear Yard Setback: six feet; except the fence or wall height, as applicable, shall not exceed the distance from the fence or wall line to the nearest primary structure on an adjacent property.
- D. Materials.** See figure 3.4.040.D.
1. Permitted fence and wall materials include weather-treated wood; untreated cedar and redwood; metal (e.g., chain link, wrought iron, and similar fences); bricks, stone, masonry block, formed-in-place concrete, or similar masonry; vinyl and composite (e.g., recycled) materials designed for use as fencing; and similar materials as determined by the City Manager. In addition, evergreen hedges are considered screening walls for the purpose of this chapter.
  2. Prohibited fence and wall materials include straw bales, tarps, barbed or razor; scrap lumber, untreated wood (except cedar or redwood), corrugated metal, sheet metal, scrap materials; dead, diseased, or dying plants; and materials similar to those listed herein.
- E. Permitting.** A land use permit is not required to install a fence, though all standards stated above apply. This may differ in flood areas, see Chapter 2.4. The City decision-making body may require installation of walls or fences as a condition of approval for development, as provided by other Code sections. A

building permit may be required for some fences and walls, pursuant to applicable building codes.

**F. Maintenance.** Fences and walls shall be maintained in good condition, or otherwise replaced by the property owner.

3.4.040.C Height, Single-Family Residential

3.4.040.D Materials



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### 3.4.050 Outdoor Lighting

**A. Purpose.** This section contains regulations requiring adequate levels of outdoor lighting while minimizing negative impacts of light pollution.

**B. Applicability.** All outdoor lighting shall comply with the standards of this section. No permit is required but any Site Design Review, Conditional Use Permit or other Land Use action must demonstrate compliance.

**C. Standards.**

1. Light poles, except as required by a roadway authority or public safety agency, shall not exceed a height of 20 feet; except that pedestal- or bollard-style lighting is the preferred method for illuminating walkways. This limitation does not apply to flag poles, utility poles, and streetlights.
2. Where a light standard is placed over a sidewalk or walkway, a minimum vertical clearance of eight feet shall be maintained.
3. As a guideline, lighting levels shall be no greater than necessary to provide for pedestrian safety, property or business identification, and crime prevention. See also, the Chapter 3.7 Signs.
4. Except as provided for up-lighting of flags and permitted building-mounted signs, all outdoor light fixtures shall be directed downward, and have full cutoff and full shielding to preserve views of the night sky and to minimize excessive light spillover onto adjacent properties.
5. Lighting shall be installed where it will not obstruct public ways, driveways, or walkways.
6. Walkway lighting shall have a minimum average illumination of not less than 0.2 foot-candles.
7. Active building entrances shall have a minimum average illumination of not less than 2.0 foot-candles.
8. Surfaces of signs shall have an illumination level of not more than 2.0 foot-candles.
9. Parking lots and outdoor services areas, including quick vehicle service areas, shall have a minimum illumination of not less than 0.2 foot-candles, average illumination of approximately 0.8 foot-candles, and a uniformity ratio (maximum-to-minimum ratio) of not more than 20:1.
10. Where illumination grid lighting plans cannot be reviewed or if fixtures do not provide photometrics and bulbs are under 2,000 lumens, use the following guidelines:
  - (a) Poles should be no greater in height than four times the distance to the property line.
  - (b) Maximum lumen levels should be based on fixture height.
11. Where a light standard is placed within a walkway, an unobstructed pedestrian through zone not less than 36 inches wide shall be maintained.
12. Lighting subject to this section shall consist of materials approved for outdoor use and shall be installed according to the manufacturer's specifications.

**D. Maintenance.** For public health and safety, outdoor lighting shall be maintained in good condition, or otherwise replaced by the property owner.

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## Chapter 3.5 - Parking and Loading

### Sections:

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

### **3.5.010 Purpose**

Chapter 3.5 contains requirements for automobile and bicycle parking. It provides standards for the location, size, and design of parking areas to ensure such areas can be accessed safely and efficiently. The code also encourages non-motorized transportation by requiring bicycle parking for some uses.

### **3.5.020 Applicability and General Regulations**

- A. Where the Regulations Apply.** The regulations of this chapter apply to all parking areas, at all times, whether parking is required by this Code or put in for the convenience of property owners or users.
- B. Occupancy.** All required parking areas must be developed in accordance with the requirements of this code prior to occupancy of any structure on the subject site. Where landscaping, screening, or other improvements are required pursuant to this Code, all such improvements must be installed and approved by the City Manager prior to occupancy.
- C. Calculations of Amounts of Required and Allowed Parking.**
  - 1. When computing parking spaces based on floor area, parking structures and non-leasable floor spaces, such as storage closets, mechanical equipment rooms, and similar spaces, are not counted.
  - 2. The number of parking spaces is computed based on the primary uses on the site except as stated in subsection 3, below. When there are two or more separate primary uses on a site, the minimum and maximum parking for the site is the sum of the required or allowed parking for the individual primary uses. For shared parking, see Section 3.5.030.D below.
- D. Use of Required Parking Spaces.** Except as otherwise provided by this section, required parking spaces must be available for residents, customers, or employees of the use. Fees may be charged for the use of required parking spaces. Required parking spaces may not be assigned in any way to a use on another site, except for shared parking pursuant to Section 3.5.030.D.
- E. Proximity of Parking to Use.** Required parking spaces for residential uses must be located on the site of the use or on a parcel or tract owned in common by all the owners of the properties that will use the parking area. Required parking spaces for nonresidential uses must be located on the site of the use or in a parking area that has its closest pedestrian access point within 800 feet of the site.
- F. Improvement of Parking Areas.** Motorized vehicle parking is allowed only on streets with an



shoulder of sufficient width; within garages, and other approved structures; and on driveways or parking lots that have been developed in conformance with this Code. For applicable design standards, see Chapter 3.2 Building Orientation and Design, Chapter 3.3 Access and Circulation, Chapter 3.4 Landscaping and Screening, and Chapter 3.6 Public Facilities.

### 3.5.030 Automobile Parking

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

1. The standards in Table 3.5.030.A;
2. A standard from Table 3.5.030.A for a use that the City Manager determines is similar to the proposed use; or
3. Subsection 3.5.030.B Exceptions, which includes a Parking Demand Analysis option.

<b>Table 3.5.030.A – Automobile Parking Spaces by Use</b>	
<b>Use Categories</b> (Chapter 5 contains examples of uses and definitions.)	<b>Minimum Off-Street Parking per Land Use</b> (Fractions are rounded down to the closest whole number.)
<b>Residential Categories</b>	
<b>Household Living</b>	
Single-Family Dwelling, including manufactured homes on lots	two spaces per dwelling
Duplex	two spaces per duplex (one space per dwelling unit)

<b>Table 3.5.030.A – Automobile Parking Spaces by Use</b>	
<b>Use Categories</b> (Chapter 5 contains examples of uses and definitions.)	<b>Minimum Parking per Land Use</b> (Fractions are rounded down to the closest whole number.)
<b>Institutional Categories</b>	
Basic Utilities	Parking based on applicant’s projected parking demand, subject to City approval
Community Service, including Government Offices and Services	Parking based on applicant’s projected parking demand, subject to City approval, except as specifically required elsewhere in this table for individual uses (See public assembly, office, retail, housing, etc.)
Parks and Open Space	Parking based on projected parking demand for planned uses
Public Assembly	one space per 100 sq. ft. of public assembly area; or as required by Conditional Use Permit (Chapter 4.4)
Religious Institutions and Houses of Worship	one space per 100 sq. ft. of main assembly area; or as required by Conditional Use Permit (Chapter 4.4)
Schools	Pre-School through Middle-School: one space per classroom
	High Schools: seven spaces per classroom
	Colleges: Provide a parking plan.
<b>Other Categories</b>	
Accessory Uses	Parking standards for accessory uses are the same as for primary uses, but are pro rated based on the percentage of estimated overall parking demand, subject to City review and approval.
Agriculture	None, except as required for accessory uses
Temporary Uses	Parking standards for temporary uses are the same as for primary uses, except that the City decision-making body may reduce or waive certain development and designs standards for temporary uses.

**B. Exceptions and Reductions to Off-Street Parking.**

- I. The applicant may propose a parking standard that is different than the standard under subsections 3.5.030.A(1) and (2), above, for review and action by the Planning Commission through a Type III procedure. The applicant’s proposal shall consist of a written request and a parking analysis prepared by a qualified professional. The parking analysis, at a minimum, shall assess the average parking demand and available supply for existing and proposed uses on the subject site; opportunities for shared parking with other uses in the vicinity; existing public parking in the vicinity; transportation options existing or planned near the site, such as frequent bus service, carpools, or private shuttles; and other relevant factors. The Planning Commission body through a Type III procedure may reduce the off-street parking standards of Table 3.5.030.A for sites with one or more of the following features:

- a. Site has a bus stop with transit service located adjacent to it, consistent with the standards of the applicable transit service provider: Allow up to a 20 percent reduction to the standard number of automobile parking spaces;
  - b. Site has dedicated parking spaces for carpool or vanpool vehicles: Allow up to a 10 percent reduction to the standard number of automobile parking spaces;
  - c. Site has dedicated parking spaces for motorcycles, scooters, or electric carts: Allow reductions to the standard dimensions for parking spaces;
  - d. Site has more than the minimum number of required bicycle parking spaces: Allow up to a 5 percent reduction to the number of automobile parking spaces.
2. The number of required off-street parking spaces may be reduced through the provision of shared parking, pursuant to Section 3.5.030.D. This may include a reduction based on available on-street parking located adjacent to the site.

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

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

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

\*See also, Chapter 3.2 Building Orientation and Design for parking location requirements for some types of

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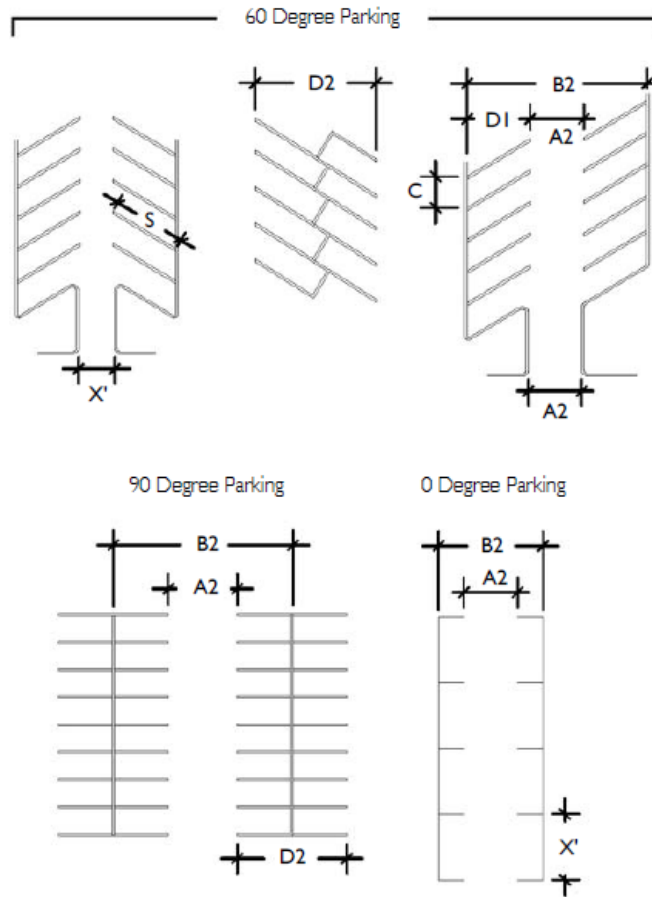
development; Chapter 3.3 Access and Circulation for driveway standards; and Chapter 3.4 for requirements related to Landscaping, Screening, Fences, Walls, and Outdoor Lighting.

**F. Adjustments to Parking Area Dimensions.** The dimensions in subsection 3.5.030.E are minimum standards. The City decision-making body, through a Type II procedure, may adjust the dimensions based on evidence that a particular use will require more or less maneuvering area. For example, the City decision-making body may approve an adjustment where an attendant will be present to move vehicles, as with valet parking. In such cases, a form of guarantee must be filed with the City ensuring that an attendant will always be present when the lot is in operation.

**G. Americans with Disabilities Act (ADA).** Parking shall be provided consistent with ADA requirements, including, but not limited to, the minimum number of spaces for automobiles, van-accessible spaces, location of spaces relative to building entrances, accessible routes between parking areas and building entrances, identification signs, lighting, and other design and construction requirements.

**H. Electric Charging Stations.** Charging stations for electric vehicles are allowed as an accessory use to parking areas developed in conformance with this Code, provided the charging station complies with applicable building codes and any applicable state or federal requirements. Charging stations are considered accessory to a permitted use and are not considered a quick vehicle service use where such parking comprises less than 10% of all on-site parking.

3.5.030.E Parking Stall Design and Minimum Dimensions



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### 3.5.040 Bicycle Parking

**A. Standards.** Bicycle parking spaces shall be provided with new development and, where a change of use occurs, at a minimum, shall follow the standards in Table 3.5.040.A. Where an application is subject to Conditional Use Permit approval or the applicant has requested a reduction to an automobile-parking standard, pursuant to subsection 3.5.030.B, the City decision-making body may require bicycle parking spaces in addition to those in Table 3.5.040.A.

Table 3.5.040.A Minimum Required Bicycle Parking Spaces	
Use	Minimum Number of Spaces
<b>Parks</b> (active recreation areas only)	4 bike spaces
<b>Schools</b> (all types)	2 bike spaces per classroom
<b>Institutional Uses and Places of Worship</b>	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater
<b>Other Uses*</b>	2 bike spaces per primary use or 1 per 10 vehicle spaces, whichever is greater

\* Discluding single family and duplexes

**B. Design.** Bicycle parking shall consist of staple-design steel racks or other City-approved racks, lockers, or storage lids providing a safe and secure means of storing a bicycle.

**C. Exemptions.** This section does not apply to single-family and duplex housing, home occupations, or agricultural uses. The City decision-making body may exempt other uses upon finding that, due to the nature of the use or its location, it is unlikely to have any patrons or employees arriving by bicycle.

**D. Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians or vehicles, and shall be located so as to not conflict with the vision clearance standards of Section 3.3.030.D.

### 3.5.050 Loading Areas

**A. Purpose.** The purpose of Section 3.5.050 is to provide adequate loading areas for non residential uses that do not interfere with the operation of adjacent streets.

**B. Applicability.** Section 3.5.050 applies to uses that are expected to have service or delivery truck visits. It applies only to uses visited by trucks with a 40-foot or longer wheelbase, at a frequency of one or more vehicles per week. The City decision-making body shall determine through a land use permit the number, size, and location of required loading areas, if any.

**C. Standard.** Where an off-street loading space is required, it shall be large enough to accommodate the

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largest vehicle that is expected to serve the use without obstructing vehicles or pedestrian traffic on adjacent streets and driveways. The City decision-making body may restrict the use of other public rights-of-way, so applicants are advised to provide complete and accurate information about the potential need for loading spaces.

**D. Placement, Setbacks, and Landscaping.** Loading areas shall conform to the Building Orientation and Design standards of Chapter 3.2, the Access and Circulation standards of Chapter 3.3, and the Landscaping and Screening standards of Chapter 3.4. Where parking areas are prohibited between a building and the street, loading areas are also prohibited.

**E. Exceptions and Adjustments.** The City decision-making body, through a land use permit, may approve a loading area adjacent to or within a street right-of-way where it finds that loading and unloading operations are short in duration (i.e., less than one hour), infrequent, do not obstruct traffic during peak traffic hours, do not interfere with emergency response services, and are acceptable to the applicable roadway authority.

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## Chapter 3.6 - Public Facilities

### Sections:

- 3.6.010 Purpose and Applicability
- 3.6.020 Transportation Standards
- 3.6.030 Public Use Areas
- 3.6.040 Sanitary Sewer and Water Service Improvements
- 3.6.050 Storm Drainage and Surface Water Management Facilities
- 3.6.060 Utilities
- 3.6.070 Easements
- 3.6.080 Construction Plan Approval
- 3.6.090 Facility Installation
- 3.6.100 Performance Guarantee and Warranty

### **3.6.010 Purpose and Applicability**

- A. Purpose.** The standards of Chapter 3.6 implement the public facility policies of the City of Rivergrove Comprehensive Plan and other adopted City plans.
- B. Applicability.** Chapter 3.6 applies to all new development, including projects subject to Land Division (Subdivision or Partition) approval and developments subject to land use permit where public facility improvements are required. All public facility improvements within the city shall occur in accordance with the standards and procedures of this chapter. When a question arises as to the intent or application of any standard, the City decision-making body shall interpret the Code pursuant to Chapter 1.5.
- C. Public Works / Engineering Design Standards.** All public facility improvements, including, but not limited to, sanitary sewer, water, and transportation, surface water and storm drainage, and parks projects, whether required as a condition of development or provided voluntarily, shall conform to the appropriate county's (Washington or Clackamas) Engineering Design Standards Manual ("Design Manual") or appropriate agency. Where a conflict occurs between this Code and the Design Manual, the provisions of this Code shall govern.
- D. Public Improvement Requirement.** No building permit may be issued until all required public facility improvements are in place and approved by the City Engineer, or otherwise bonded, in conformance with the provisions of this Code and the Design Manual. Improvements required as a condition of development approval, when not voluntarily provided by the applicant, shall be roughly proportional to the impact of the development on public facilities. Findings in the development approval shall indicate how the required improvements directly relate to and are roughly proportional to the impact of development.



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### **3.6.020 Transportation Standards**

#### **A. General Requirements.**

1. Except as provided by subsection 5, below, existing substandard streets and planned streets within or abutting a proposed development shall be improved in accordance with the standards of Chapter 3.6 as a condition of development approval.
2. All street improvements, including the extension or widening of existing streets and public access ways, shall conform to Section 3.6.020, and shall be constructed consistent with the appropriate County's Design Manual.
3. All new streets shall be contained within a public right-of-way. Public access ways (e.g., pedestrian ways) may be contained within a right-of-way or a public access easement, subject to review and approval of the City decision-making body.
4. The purpose of this subsection is to coordinate the review of land use applications with roadway authorities and to implement Section 660-012-0045(2)(e) of the state Transportation Planning Rule, which requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a Traffic Impact Analysis; and who is qualified to prepare the analysis.
  - a. When a Traffic Impact Analysis is Required. The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:
    - (1) A change in zoning or a plan amendment designation;
    - (2) Operational or safety concerns documented in writing by a road authority;
    - (3) An increase in site traffic volume generation by 300 Average Daily Trips (ADT) or more;
    - (4) An increase in the use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day;
    - (5) Existing or proposed approaches or access connections that do not meet minimum spacing or sight distance requirements or are located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;
    - (6) A change in internal traffic patterns that may cause safety concerns; or
    - (7) A TIA required by ODOT pursuant to OAR 734-051.
  - b. Traffic Impact Analysis Preparation. A professional engineer registered by the State of Oregon, in accordance with the requirements of the road authority, shall prepare the Traffic Impact Analysis.

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5. The City Engineer may waive or allow deferral of standard street improvements, including sidewalk, roadway, bicycle lane, undergrounding of utilities, and landscaping, as applicable, where one or more of the following conditions in (a) through (d) is met. Where the City Engineer or City Manager agrees to defer a street improvement, it shall do so only where the property owner agrees not to remonstrate against the formation of a local improvement district in the future.
    - a. The standard improvement conflicts with an adopted capital improvement plan.
    - b. The standard improvement would create a safety hazard.
    - c. It is unlikely due to the developed condition of adjacent property that the subject improvement would be extended in the foreseeable future, and the improvement under consideration does not by itself significantly improve transportation operations or safety.
    - d. The improvement under consideration is part of an approved partition in the R Zone and the proposed partition does not create any new street.

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

1. All new streets, to the extent practicable, shall connect to the existing street network and allow for the continuation of an interconnected street network, consistent with appropriate County's (Washington or Clackamas) adopted public facility plans and pursuant to subsection 3.6.020.D Transportation Connectivity and Future Street Plans.
2. Specific street locations and alignments shall be determined in relation to existing and planned streets, topographic conditions, public convenience and safety, and in appropriate relation to the proposed use of the land to be served by such streets.
3. Grades of streets shall conform as closely as practicable to the original (pre-development) topography to minimize grading.
4. New streets and street extensions exceeding a grade of 15 percent over a distance more than 200 feet, to the extent practicable, shall be avoided. Where such grades are unavoidable, the City decision-making body may approve an exception to the 200-foot standard and require mitigation, such as a secondary access for the subdivision, installation of fire protection sprinkler systems in dwellings, or other mitigation to protect public health and safety.
5. Where the locations of planned streets are shown on a local or County street network plan, the development shall implement the street(s) shown on the plan.
6. Where required local or County street connections are not shown on an adopted City or County street plan, or the adopted street plan does not designate future streets with sufficient specificity, the development shall provide for the reasonable continuation and connection of existing streets to adjacent developable properties, conforming to the standards of this Code.
7. Existing street-ends that abut a proposed development site shall be extended with the development, unless prevented by environmental or topographical constraints, existing development patterns, or compliance with other standards in this Code. In such situations, the applicant must provide evidence that the environmental or topographic constraint precludes reasonable street connection.
8. Proposed streets and any street extensions required pursuant to this section shall be located,

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designed, and constructed to allow continuity in street alignments and to facilitate future development of vacant or redevelopable lands.

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

1. **Intersections.** Streets shall be located and designed to intersect as nearly as possible to a right angle. Street intersections shall have a minimum intersection angle of 75 degrees. All legs of an intersection shall meet the above standard for at least 100 feet back from the point of intersection. No more than two streets shall intersect, i.e., creating a four-legged intersection, at any one point. Street jogs and intersection offsets of less than 125 feet are not permitted. Intersections shall be designed to facilitate storm water runoff into City-approved storm water facilities.
2. **Access Ways.** The City decision-making body, in approving a land use application with conditions, shall require a developer to provide an access way where the creation of a cul-de-sac or dead-end street is unavoidable and the access way connects the end of the street to another street, a park, or a public access way. Where an access way is required, it shall be not less than 10 feet wide and shall contain a minimum six-foot-wide paved surface or other all-weather surface approved by the City Engineer. Access ways shall be contained within a public right-of-way or public access easement, as required by the City.
3. **Connectivity to Abutting Lands.** The street system of a proposed subdivision shall be designed to connect to existing, proposed, and planned streets adjacent to the subdivision. Wherever a proposed development abuts unplatted land or a future development phase of an existing development, street stubs shall be provided to allow access to future abutting subdivisions and to logically extend the street system into the surrounding area. Street ends shall contain turnarounds constructed to Uniform Fire Code standards, as the City deems applicable, and shall be designed to facilitate future extension in terms of grading, width, and temporary barricades.
4. **Street Connectivity and Formation of Blocks.** In order to promote efficient vehicular and pedestrian circulation throughout the city, subdivisions and site developments shall be served by an interconnected street network, pursuant to the standards in subsection a below. Distances are measured from the edge of street rights-of-way. Where a street connection cannot be made due to physical site constraints, approach spacing requirements, access management requirements, or similar restrictions; where practicable, a pedestrian access way connection shall be provided pursuant to Chapter 3.3.
  - a. Minimum of 200-foot block length and maximum of 600-foot length; maximum 1,400-foot block perimeter.
5. **Future Street Plan.** Where a subdivision is proposed adjacent to other developable land, a future street plan shall be filed by the applicant in conjunction with an application for a subdivision in order to facilitate orderly development of the street system. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other divisible parcels within 600 feet surrounding and adjacent to the proposed subdivision. The street plan is not binding but is intended to show potential future street extensions with future development. The plan must demonstrate, pursuant to City standards, that the proposed

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development does not preclude future street connections to adjacent development land.

- E. Engineering Design Standards.** Street design shall conform to the standards of the applicable roadway authority Design Standards Manual. Where a conflict occurs between this Code and the Manual, the provisions of this Code shall govern.
- F. Fire Code Standards.** Where Fire Code standards conflict with City standards, the City shall consult with the Fire Marshal in determining appropriate requirements. The City shall have the final determination regarding applicable standards.
- G. Substandard Existing Right-of-Way.** Where an existing right-of-way adjacent to a proposed development is less than the standard width, the City Manager may require the dedication of additional rights-of-way at the time of Subdivision, Partition, or Site Design Review, pursuant to the standards of the road authority.
- H. Traffic Calming.** The City may require the installation of traffic calming features such as traffic circles, curb extensions, reduced street width (parking on one side), medians with pedestrian crossing refuges, speed tables, speed humps, or special paving to slow traffic in neighborhoods or commercial areas with high pedestrian traffic.
- I. Sidewalks, Planter Strips, and Bicycle Lanes.** Except where the City decision-making body grants a deferral of public improvements, pursuant to Chapter 4.2 or Chapter 4.3, sidewalks, planter strips, and bicycle lanes shall be installed concurrent with development or widening of new streets, pursuant to the requirements of this chapter. Maintenance of sidewalks and planter strips in the right-of-way is the continuing obligation of the adjacent property owner. A waiver of remonstrance may be substituted where the City Manager deems it is appropriate.
- J. Streets Adjacent to Railroad Right-of-Way.** When a transportation improvement is proposed within 300 feet of a railroad crossing, or a modification is proposed to an existing railroad crossing, the Oregon Department of Transportation and the rail service provider shall be notified and given an opportunity to comment, in conformance with the provisions of Article 4. Private crossing improvements are subject to review and licensing by the rail service provider.
- K. Street Names.** No new street name shall be used which will duplicate or be confused with the names of existing streets in the City of Rivergrove or vicinity. The City Council has the final authority regarding street names.
- L. Survey Monuments.** Upon completion of a street improvement and prior to acceptance by the appropriate street authority, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the City that all boundary and interior monuments have been reestablished and protected.
- M. Street Signs.** The city, county, or state with jurisdiction shall install all signs for traffic control and street names. The cost of signs required for new development shall be the responsibility of the

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developer. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.

- N. Streetlight Standards.** Streetlights shall be relocated or new lights installed, as applicable, with street improvement projects. Streetlights shall conform to City standards, or the requirements of the roadway authority, if different than the City.
- O. Mail Boxes.** Mailboxes shall conform to the requirements of the United States Postal Service and the State of Oregon Structural Specialty Code.
- P. Street Cross-Sections.** The final lift of pavement shall be placed on all new constructed public roadways prior to final City acceptance of the roadway unless otherwise approved by the City decision-making body.

### **3.6.030 Public Use Areas**

#### **A. Dedication of Public Use Areas.**

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

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

### **3.6.040 Sanitary Sewer and Water Service Improvements**

- A. Sewers and Water Mains Required.** All new development is required to connect to water and sanitary sewer systems. Sanitary sewer and water system improvements shall be installed to serve each new development and to connect developments to existing mains in accordance with adopted master plans, or as delegated by the appropriate authority. Where streets are required to be stubbed to the edge of the subdivision, sewer and water system improvements and other utilities shall also be stubbed with the streets, except as may be waived by the City decision-making body where alternate alignment(s) are provided.

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- B. Sewer and Water Plan Approval.** Development permits for sewer and water improvements shall not be issued until the City Engineer has approved all sanitary sewer and water plans in conformance with appropriate standards.
  - C. Over-Sizing.** The City may require as a condition of development approval that sewer and water lines serving new development be sized to accommodate future development within the area as projected by the applicable facility master plans, and the City may authorize other cost-recovery or cost-sharing methods as provided under state law.
  - D. Inadequate Facilities.** Development permits may be restricted or rationed by the Planning Commission where a deficiency exists in the existing water or sewer system that cannot be rectified by the development and which, if not rectified, will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. The City decision-making body may require water booster pumps, sanitary sewer lift stations, and other critical facilities be installed with backup power.

### **3.6.050 Storm Drainage and Surface Water Management Facilities**

- A. General Provisions.** The City shall issue a development permit only where adequate provisions for storm water runoff have been made in conformance with the City or appropriate County's (Washington or Clackamas) Storm Water Master Plan. For Washington County, the Storm Water Master Plan is the Clean Water Services Stormwater Management Plan. For Clackamas County the Stormwater Master Plan is the Surface Water Management Plan.
- B. Accommodation of Upstream Drainage.** Culverts and other drainage facilities shall be large enough to accommodate existing and potential future runoff from the entire upstream drainage area, whether inside or outside the development. Such facilities shall be subject to review and approval by the City Engineer.
- C. Effect on Downstream Drainage.** Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the City shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with City standards.
- D. Over-Sizing.** The City may require as a condition of development approval that sewer, water, or storm drainage systems serving new development be sized to accommodate future development within the area as projected by the County, Rivergrove Water Agency, or Lake Oswego's applicable facility master plan.
- E. Existing Watercourse.** Where a proposed development is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance to protect the public health and safety.

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### **3.6.060 Utilities**

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

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

**B. Underground Utilities.**

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

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

- a. The developer shall make all necessary arrangements with the serving utility to provide the underground services. No above ground equipment may obstruct vision clearance areas for vehicular traffic, per Chapter 3.3 Access and Circulation.
- b. The City decision-making body reserves the right to approve the location of all surface-mounted facilities.
- c. All underground utilities installed in streets must be constructed and approved by the applicable utility provider prior to the surfacing of the streets.
- d. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

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

### **3.6.070 Easements**

**A. Provision.** The developer shall make arrangements with the City and applicable utility providers for each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development.

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**B. Standard.** Utility easements shall conform to the requirements of the utility service provider.

**C. Recordation.** All easements for sewers, storm drainage and water quality facilities, water mains, electric lines, or other utilities shall be recorded and referenced on a survey or final plat, as applicable. See Chapter 4.2 Site Design Review, and Chapter 4.3, Land Divisions and Property Line Adjustments.

### **3.6.080 Construction Plan Approval**

No development, including sanitary sewers, water, streets, parking areas, buildings, or other development, shall be undertaken without plans having been approved by the City of Rivergrove, permit fees paid, and permits issued unless such plans are proposed and approved by the County. Permit fees are required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. Permit fees are as set by City Council resolution.

### **3.6.090 Facility Installation**

**A. Conformance Required.** Improvements installed by the developer, either as a requirement of these regulations or at the developer's option, shall conform to the requirements of this chapter, approved construction plans, and to improvement standards and specifications adopted by the City.

**B. Adopted Installation Standards.** Design Standards for public improvements and private utility installation within the public right-of-way shall be as determined by the City Engineer.

**C. Commencement.** Work in a public right-of-way shall not begin until all applicable agency permits have been approved and issued.

**D. Resumption.** If work is discontinued for more than six months, it shall not be resumed until the City Engineer is notified in writing and grants approval of an extension.

**E. City Inspection.** Improvements shall be constructed under the inspection of the City Engineer. The City Engineer may approve minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest, except that substantive changes to the approved design shall be subject to review under Chapter 4.5, Modifications to Approved Plans and Conditions of Approval. Any survey monuments that are disturbed before all improvements are completed by the developer or subdivider shall be replaced prior to final acceptance of the improvements.

**F. Engineer's Certification and As-Built Plans.** A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accordance with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City or appropriate County's



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(Washington or Clackamas) acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide two sets of "as-built" plans for permanent filing with the City or appropriate County. If required by the City or appropriate County (Washington or Clackamas), the developer or subdivider shall provide a warranty bond pursuant to Section 3.6.100.

### **3.6.100 Performance Guarantee and Warranty**

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

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## Chapter 3.7 Signs

### Sections:

- 3.7.005 Purpose
- 3.7.010 Definitions
- 3.7.020 General Requirements
- 3.7.030 Exempt Signs
- 3.7.040 Allowed Signs
- 3.7.050 Temporary Signs
- 3.7.060 Nonconforming signs
- 3.7.080 Construction and Maintenance Standards
- 3.7.090 Removal of Signs
- 3.7.100 Enforcement of Rivergrove Sign Chapter by City Manager
- 3.7.110 Penalties

### **3.7.005 Purpose**

The purpose of this section is to protect the health, safety, property, and welfare of the public, to provide a neat, clean, orderly and attractive appearance of the community, to improve the effectiveness of signs, to provide for safe construction, location, erection and maintenance of signs, to prevent proliferation of signs and sign clutter, to minimize adverse visual safety factors to travelers on public streets and on private areas open to public travel, and to achieve this purpose consistent with state and federal constitutional limits on the regulation of speech. To achieve this purpose it is necessary to regulate the design, quality of materials, construction, location, electrification, illumination, and maintenance of signs that are visible from public property, public rights-of-way and private areas open to public travel.

### **3.7.010 Definitions**

All definitions regarding the implementation of signage can be found in Chapter 5.

### **3.7.020 General Requirements**

- A.** Except as provided in Chapter 3.7, no person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, use or maintain any sign, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Chapter.
- B.** No owner shall erect or construct a sign on a site that contains unlawful signs.
- C.** Chapter 3.7 is not intended to, and does not restrict speech on the basis of its content, viewpoint or message. Any classification of signs in this Chapter that permits speech by reason of the type of sign,

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identity of the sign user or otherwise, shall permit any type of speech on the sign. No part of this Chapter shall be construed to favor commercial speech over noncommercial speech. To the extent any provision of this Chapter is ambiguous, the term shall be interpreted to not regulate on the basis of speech content, and the interpretation resulting in the least restriction on the content of the sign message shall prevail.

### **3.7.030 Exempt Signs**

Except for signs prohibited by Chapter 3.7, the following signs are exempt from the provisions of this Chapter:

- A.** All signs that are placed inside a structure or building, and that are either not visible through windows or building openings, or are not intended to be visible from outside of the structure or building.
- B.** Public Signs.
- C.** Signs required by law, administrative order or judicial order and erected by public employees performing official duties.

### **3.7.040 Allowed Signs**

The following signs are allowed in all areas of the City and do not require any permit. All signs listed in this section are subject to all other applicable requirements of Chapter 3.7.

- A.** One indirectly illuminated or non-illuminated sign not exceeding one and one-half square feet in area placed on any non-multifamily residential lot. This type of sign is typically used as a name plate.
- B.** Flags, provided that no more than 2 flags are displayed upon a lot under two acres in size and no more than 5 flags are displayed upon a lot two or more acres in size. This does not include blade flags.
- C.** Vehicle signs (in or on a vehicle).
- D.** Signs displayed upon a bus or light rail vehicle owned by a public transit district.
- E.** Seasonal decorations on private property. Seasonal decorations may include flashing or illuminated elements.
- F.** Handheld signs.
- G.** Signs up to four square feet, four linear feet in any direction and four feet maximum height, constructed

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or placed within a parking lot. These signs are typically used to direct traffic and parking.

- H. Any public notice or warning required by federal, state or local law, regulation or ordinance, or a sign within the public right-of-way that is erected by a governmental agency, utility or contractor doing authorized work within the right-of-way.
- I. A sign that does not exceed four square feet, four linear feet in any direction and four feet maximum height, is not erected in a vision clearance area, and is not erected on property where there is a danger to the public or to which public access is prohibited.
- J. Signs incorporated into vending machines or gasoline pumps.
- K. Temporary signs as allowed under Section 3.7.050 of this Chapter.

### **3.7.050 Temporary Signs**

- A. Temporary signs may be erected and maintained in the city only in compliance with the regulations in this Chapter, and with the following specific provisions:
  - 1. No temporary sign shall be internally illuminated or be illuminated by an external light source primarily intended for the illumination of the temporary sign.
  - 2. Temporary signs shall be kept neat, clean and in good repair. Signs that are faded, torn, damaged or otherwise unsightly or in a state of disrepair shall be immediately repaired or removed. A temporary sign shall be attached to the site or constructed in a manner that both prevents the sign from being easily moved or blown from its location and allows for the easy removal of the sign.
  - 3. Except as provided in this chapter, temporary signs shall not be attached to trees, shrubbery, utility poles or traffic control signs or devices. Temporary signs shall not obscure or obstruct signs on adjacent premises.
  - 4. No temporary sign shall be erected or maintained that, by reason of its size, location or construction constitutes a hazard to the public.
- B. The following temporary signs shall be allowed on a lot without issuance of a permit and shall not affect the amount or type of signage otherwise allowed by this Chapter. This signage shall not be restricted by content, but is usually and customarily used to advertise real estate sales, political or ideological positions, garage sales, home construction or remodeling and similar activities. Signage shall be allowed for each lot as follows:
  - I. Freestanding election signs not exceeding four square feet, four linear feet in any direction and four feet maximum height, during the period from 120 days before a public election or the time

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the election is called, whichever is earlier, to five days after the public election.

2. One temporary sign not exceeding four square feet, four linear feet in any direction and four feet maximum height, which is erected for a maximum of eight days in any calendar month.
3. A freestanding sign not exceeding four square feet, four linear feet in any direction and four feet maximum height, during the time of sale, lease or rental of the property provided that the sign is removed within 15 days of the sale, lease or rental of the property. The sign may remain in place for no more than 60 days in any 90 day period.

**D.** No temporary signs or banners shall be allowed in the public right of way or on public property, except for those listed in this subsection.

- I. The following temporary signs shall be permitted in the right-of-way and shall not affect the amount or type of signage otherwise allowed by this Chapter. No temporary sign in the right-of-way shall interrupt the normal flow of vehicle, pedestrian or bicycle traffic and shall provide a minimum of five feet of clear passage for pedestrians on a sidewalk where a sidewalk exists. No temporary sign shall extend into a vision clearance area. Temporary signs allowed in the right-of-way shall include:
  - a. Signs owned or erected by a governmental entity.
  - b. Portable signs limited to a maximum of four sq. ft., four linear feet in any direction and four feet maximum height, displayed only on weekends and holidays, placed at street intersections in relative close proximity to a property for sale or lease during the time of that display. One single sign for each property or development shall be permitted at each intersection and shall be positioned as to be no closer than two feet from areas subject to vehicular travel.
  - c. Bench signs located at mass transit stops so long as the bench sign copy does not exceed 15 square feet and the bench sign is approved by the owner.
  - d. Signs attached to mass transit shelters that have been approved by the mass transit agency and the owner.

### **3.7.060. Prohibited Signs**

The following signs are unlawful and are nuisances:

- A.** Billboards.
- B.** Video signs.
- C.** Any sign constructed, maintained or altered in a manner not in compliance with this Chapter.

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- D. Any sign constructed in such a manner or at such a location that it will obstruct access to any fire escape or other means of ingress or egress from a building or an exit corridor, exit hallway or exit doorway. No sign or supporting structure shall cover, wholly or partially, any window or doorway in any manner that it will substantially limit access to the building in case of fire.
  - E. Any sign located in a manner that could impede traffic on any street, alley, sidewalk, bikeway or other pedestrian or vehicular travel way.
  - F. Any sign equipped with moving, rotating or otherwise animated parts.
  - G. Any sign that is wholly or partially illuminated by a flashing light, lights, lamps, bulbs, or tubes, except as specifically allowed elsewhere in this sign Chapter. Rotary beacon lights, zip lights, strobe lights, or similar devices shall not be erected or maintained, or attached to or incorporated in any sign.
  - H. Roof signs.
  - I. Any sign attached to a tree or a plant, a fence or a utility pole, except as otherwise allowed by this Chapter.
  - J. Any sign within or over any public right of way, or located on private property less than two feet from any area subject to vehicular travel, except for:
    - 1. Public signs.
    - 2. Temporary signs specifically allowed within the public right of way under section 3.7.050 of this code.
  - K. Temporary signs, including banners, pennants, wind signs, and Blade flags, except as authorized by sections 3.7.040 and 3.7.050 of this code.
  - L. Any signage on the Tualatin River.

### **3.7.070. Nonconforming Signs**

- A. Nonconforming signs may continue to exist, subject to the following provisions:
  - 1. No additions or enlargements may be made to a non-conforming sign except those additions or enlargements that are required by law.
  - 2. A sign that is moved, replaced, or structurally altered shall be brought into conformance with this Chapter, except that:
    - a. Nonconforming signs may be repaired and maintained and may have the sign copy changed. A sign may be removed from its sign structure for repair or maintenance if a permit is obtained under this Chapter.

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- b. Nonconforming signs may be structurally altered when the alteration is necessary for structural safety.
  - c. Nonconforming signs may be reconstructed if required to be moved for construction or repair of public works or public utilities and the sign reconstruction is completed within 90 days after the completion of the public works or public utility construction or repair.
3. A nonconforming sign that is damaged shall not be repaired if the estimated expense to repair the sign exceeds 50 percent of the replacement cost of the sign as of the day before the sign was damaged. A damaged nonconforming sign that cannot be repaired shall be removed within 90 days of the date the sign was damaged. As used herein, “nonconforming sign” includes the sign structure, foundation and supports.
4. Whenever a nonconforming sign is damaged and the estimated cost to repair the sign is 50 percent or less of its replacement value as of the day before the sign was damaged, it may be repaired and restored to the condition it was in before it was damaged and may continue to be used as a nonconforming sign, provided that such repairs and restoration are started within 90 days of the date the sign was damaged and are diligently used thereafter.
5. Any nonconforming sign that is determined by the building official to be an unsafe sign shall be removed.
- B.** Nothing in this section shall be deemed to prevent the maintenance of any sign, or regular manual changes of sign copy on a sign.

### **3.7.080 Construction and Maintenance Standards**

- A.** All permanent signs shall be constructed and erected in accordance with the requirements of the International Building Code, as adopted by the State of Oregon.
- B.** All signs, together with all of their supports, braces, guys, and anchors shall be kept in good repair and be maintained in a safe condition. All signs and the site upon which they are located shall be maintained in a neat, clean, and attractive condition. Signs shall be kept free from excessive rust, corrosion, peeling paint or other surface deterioration. The display surfaces of all signs shall be kept neatly painted or posted.
- C.** No sign shall be erected or maintained in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit, or standpipe. No signs shall be erected or maintained so as to obstruct any building opening to such an extent that light or ventilation is reduced below minimums required by any applicable law or provisions of this chapter.

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### **3.7.090. Removal of Signs**

- A.** The City Manager may remove or may order the removal of any sign erected or maintained in violation of the provisions of this Chapter or other applicable provisions of this code. Signs installed in violation of any prior sign code or applicable laws and regulations, and which are in violation of this Chapter, shall be removed, replaced or altered in order to conform to the requirements of this Chapter. An order to remove a sign shall be in writing and mailed to the owner of the sign or the owner of the building, structure or premises on which the sign is located.
- B.** The order shall inform the owner that the sign violates the regulations in this Chapter and must be brought into compliance or be removed within 30 days of the date of the order. The City Manager may order immediate removal of a sign under subsection (G) of this section.
- C.** If the owner fails to immediately remove an unsafe sign or otherwise fails to file an appeal or remove a sign within 30 days of the date of the City Manager's order, or within the time provided in the decision rendered following an appeal, the City Manager shall cause the sign to be removed. The removal shall be at the expense of the owner of the sign or the owner of the building, structure, or premises on which the sign is located.
- D.** These costs and expenses, including, but not limited to, the notification, efforts to secure compliance, painting out of a sign, sign removal, storage, transportation and attorneys fees, shall be a lien against land or premises on which the sign is located, and may be collected or foreclosed in the same manner as liens that are entered in the liens docket of the City of Rivergrove.
- E.** Instead of removing a sign, the City Manager may file charges against the sign owner in Rivergrove municipal court. Each day following the 30 day period in which the sign owner is not in compliance with this Chapter constitutes a separate violation.
- F.** Any sign installed or placed on public property, except in conformance with the requirements of this Chapter, shall be forfeited to the city and confiscated. Removal costs may be collected as provided in 3.7.110.
- G.** If the City Manager finds that any sign is in violation of the applicable provision of this code and that, by reason of its condition, it presents an immediate and serious danger to the public, the City Manager may, without prior written notice, order the immediate removal or repair of the sign within a specified period. The City Manager may remove or authorize others to remove the sign in the event that the person responsible for such sign cannot be found or if that person, after notification, refuses to repair or remove it. The owner of the sign and the owner of the building, structure, or premises on which the sign is located, are jointly and severably liable for the cost of removing such sign as provided for in 3.7.110.



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### **3.7.100. Enforcement of Rivergrove Sign Chapter by City Manager**

- A.** The City Manager is hereby authorized and directed to enforce the provisions of this chapter. Upon presentation of proper credentials the City Manager or duly authorized representative may enter at reasonable times any building or structure or upon any premises in the city to perform any duty imposed upon the City Manager by this chapter.
- B.** The City Manager may promulgate reasonable rules and regulations necessary to carry out the provisions of this chapter.
- C.** The City shall store any sign ordered to be removed by the City Manager for a period of 30 days from the time the person responsible therefore is notified as provided in this Chapter. The city shall continue to store such sign for any additional period during which an appeal thereon is before the planning and zoning hearings board or municipal court. At the expiration of the time specified in this section, if the person responsible for the sign or other interested person has not reclaimed the sign as provided herein, the City Manager may destroy the sign or dispose of it in any manner deemed appropriate.
- D.** To reclaim any sign removed by the City Manager the person reclaiming the sign shall pay the city an amount equal to the costs incurred by the City Manager in enforcing this chapter.
- E.** This Chapter shall not be construed to create mandatory enforcement obligations for the city. The enforcement of this Chapter shall be a function of the availability of sufficient financial resources consistent with adopted budgetary priorities and prosecutorial priorities within the range of delegated discretion to the City Manager.

### **3.7.110 Penalties**

- A.** The City Council is empowered to determine violations of this chapter and seek remedies in circuit court. In addition to any other penalty of law, the court is empowered to issue an injunctive order, impose a monetary penalty, or enter a judgment necessary to insure cessation of the violation.
- B.** Each day there is a violation of any provision of this chapter constitutes a separate offense.
- C.** Any person who places a sign on property in violation of this chapter shall be responsible for all costs, including attorney fees, incurred by the City in enforcing the terms of this Chapter.

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## Article 4 – Application Review Procedures and Approval Criteria

### Chapters:

- 4.1 General Review Procedures
- 4.2 Site Design Review
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- 4.4 Conditional Use Permits
- 4.5 Modifications to Approved Plans and Conditions
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### Chapter 4.1 – General Review Procedures

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- 4.1.010 Purpose and Applicability
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- 4.1.060 Time Limit, Consolidated Review, and City Manager’s Duties
- 4.1.070 Neighborhood Contact
- 4.1.080 Pre-application Conference
- 4.1.090 Action On Resubmission of Denied Application

#### **4.1.010 Purpose and Applicability**

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

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

**I. Type I Procedure (Staff Review).** Type I decisions are made by the City Manager, or his or her designee, without public notice and without a public hearing. A Type I procedure is used in applying

City standards and criteria that do not require the use of discretion (i.e., there are clear and objective standards).

2. **Type II Procedure (Administrative/Staff Review with Notice).** Type II decisions are made by the City Manager, with public notice and an opportunity for appeal to the Planning Commission. Alternatively the City Manager may refer a Type II application to the Planning Commission for its review and decision in a public meeting.
3. **Type III Procedure (Quasi-Judicial Review – Public Hearing).** Type III decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council. Quasi-Judicial decisions involve discretion but implement established policy. Type III Zone Changes (quasi-judicial) go to City Council after a review and recommendation by the Planning Commission.
4. **Type IV Procedure (Legislative Review).** The Type IV procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Type IV reviews are considered by the Planning Commission, which makes a recommendation to City Council. City Council makes the final decision on a legislative proposal through the enactment of an ordinance.

<b>Table 4.1.010 – Summary of Approvals by Type of Review Procedure</b>		
<b>Approvals*</b>	<b>Review Procedures</b>	<b>Applicable Regulations</b>
Floodplain Development Permit	Type I	Chapter 2.4
Adjustment	Type II	Chapter 4.7
Annexation	Type IV	See Oregon Revised Statute 222
Code Interpretation	Type II or III	Chapter 1.5. Routine interpretations that do not involve discretion do not require a permit.
Code Text Amendment	Type IV	Chapter 4.6
Comprehensive Plan Amendment	Type IV	Chapter 4.6
Conditional Use Permit	Type III	Chapter 4.4
Home Occupation	No permit, except when required by Chapter 4.7.	
Legal Lot Determination	Type I	Chapter 1.3

#### **4.1.020 Type I Procedure (Staff Review)**

- A. **Type I Procedure (Staff Review).** The City Manager, or his or her designee, without public notice and without a public hearing, makes ministerial decisions through the Type I procedure. Ministerial decisions are those where City standards and criteria do not require the exercise of discretion (i.e.,

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there are clear and objective standards).

**B. Application Requirements.**

1. **Application Forms.** Approvals requiring Type I review, including Floodplain Development Permits, shall be made on forms provided by the City.
2. **Application Requirements.** When a Type I Review is required, it shall:
  - a. Include the information requested on the application form;
  - b. Address the criteria in sufficient detail for review and action; and
  - c. Be filed with the required fee.

**C. Requirements.** Building permits shall not be issued until the City Manager has issued an approval for the Type I application.

**D. Criteria and Decision.** The City Manager’s review of a Type I is intended to determine whether minimum code requirements are met and whether any other land use permit or approval is required prior to issuance of a building permit. Criteria will be all standards required to satisfy from Chapter 2.

**E. Effective Date.** A Type I decision is final on the date it is approved by the City Manager. It is not a land use decision as defined by ORS 197.015, and therefore is not subject to appeal to the state Land Use Board of Appeals. See also, Section 1.2.010, Coordination of Building Permits.

**4.1.030 Type II Procedure (Administrative Review With Notice)**

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

**A. Application Requirements.**

1. **Application Forms.** Applications for projects requiring Administrative Review shall be made on forms provided by the City Manager.
2. **Submittal Information.** The City Manager shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
  - a. The information requested on the application form;
  - b. Plans and exhibits required for the specific approval(s) being sought (For example, requirements

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for property line adjustments are in Chapter 4.3.);

- c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
- d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
- e. The required fee and a notarized agreement to cover all processing costs.
- f. Mailing labels for all properties within 200 feet of the applicant's property.

**B. Procedure.**

- 1. The City Manager shall mail notice of a pending Type II decision to the following individuals and agencies no fewer than 14 days prior to making the Type II decision.
- 2. The purpose of the pending Administrative decision notice is to give nearby property owners and other interested people and agencies the opportunity to submit written comments on the application before the City Manager issues the decision. The intent is to invite people to participate early in the decision-making process. Therefore all of the following individuals and agencies shall be notified:
  - a. All owners of record of real property within a minimum of 200 feet of the subject site;
  - b. Any person who submits a written request to receive a notice; and
  - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Manager shall notify the road authority if different than the City of Rivergrove. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
- 3. The notice of pending Administrative Decision, at a minimum, shall contain all of the following information:
  - a. The deadline for submitting written comments, which must be at least 14 days prior to the scheduled decision date or, as applicable, the scheduled Planning Commission meeting date where an application is referred to the Commission for review;
  - b. A summary of the proposal and the relevant approval criteria in sufficient detail to help the public identify and locate applicable code requirements;
  - c. The address and City contact person for submitting written comments; and the date, time, and location the City Manager or Planning Commission, as applicable, is scheduled to make a decision

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- on the application;
- d. The street address or other easily understandable reference to the location of the proposed use or development;
  - e. Disclosure statement indicating that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
  - f. Statement that all evidence relied upon by the City Manager or Planning Commission, as applicable, to make its decision is in the public record and is available for public review. Copies of this evidence can be obtained at a reasonable cost from the City; and
  - g. Statement that after the comment period closes, the City will issue its decision and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.
4. At the conclusion of the comment period, the City Manager shall review the comments received and prepare a decision notice approving, approving with conditions, or denying the application based on the applicable Code criteria. Alternatively, the City Manager may transmit all written comments received, if any, along with a copy of the application to the Planning Commission for review and decision at its next regularly scheduled meeting (no additional notice shall be required).
  5. Where the City Manager refers an application subject to Administrative Review to the Planning Commission, the Planning Commission shall approve, approve with conditions, or deny the application through the Type II procedure based on the applicable Code criteria. The Planning Commission may continue its review to the next meeting to allow the applicant time to respond to questions, provided that the Commission makes a final decision within the 120-day period prescribed under state law (ORS 227.178) and as described in Section 4.1.060 of this Code. Alternatively, the applicant may voluntarily waive his or her right to a final decision within the 120-day timeframe and the Commission may decide to accept oral and written testimony in a public hearing review of the application, pursuant to Section 4.1.040; in which case, a new public notice must be mailed to those who received the original notice indicating the change to a quasi-judicial (public hearing) review procedure.
  6. Within five days of a Type II (Administrative) decision, the City Manager shall proceed to prepare a notice of decision and mail it to the applicant, property owner (if different), the Building Official, those who provided written comments on the proposal, and those who requested a copy of the decision. The City Manager shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.



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7. The Administrative Notice of Decision shall contain all of the following information:
- a. A description of the applicant’s proposal and the City’s decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
  - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor’s map may be used);
  - c. A statement of where the City’s decision can be obtained;
  - d. The date the decision shall become final, unless appealed; and
  - e. A statement that all persons entitled to notice may appeal the decision to the Planning Commission/City Council pursuant to subsection 4.1.030.D.

**C. Effective Date of Decision.** Unless the conditions of approval specify otherwise, an Administrative Decision becomes effective 12 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 4.1.030.D.

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

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

- a. The applicant or owner of the subject property;
- b. Any person who was entitled to written notice of the Type II decision; and
- c. Any other person who participated in the proceeding by submitting written comments on the application to the City by the specified deadline.

**2. Appeal filing procedure.**

- a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures.
- b. Time for filing. A Notice of Appeal shall be filed with the City Manager within the timeframe

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specified on the Notice of Decision; this will be within 12 days of the date the Notice of Decision is mailed.

c. Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:

- (1) An identification of the decision being appealed, including the date of the decision;
- (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
- (3) A statement explaining the specific criteria or conditions of approval being raised on appeal; and
- (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period.

**3. Scope of appeal.** The appeal of a Type II Administrative Decision shall be a hearing de novo, either before the Planning Commission, where the contested decision was made by the City Manager, or before the City Council, where the Planning Commission made the contested decision. The hearing appeal body shall allow additional evidence, testimony, or argument concerning any relevant standard, criterion, condition, or issue.

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

**5. Appeal Waiver.** If the applicant is the only person with standing to file an appeals they may waive the right to appeal and have the effective date be the approval by the hearing body. Such a request should be made in writing or on the record.

**E. Expiration of the decision.** When the decision becomes final, the development requested must commence within one year, and must be completed within two years. If this does not occur, the applicant must reapply, or request an extension prior to the expiration of the permit.

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

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

##### **A. Application Requirements.**

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1. **Application Forms.** Applications requiring Quasi-Judicial review shall be made on forms provided by the City Manager.
  2. **Submittal Information.** The City Manager shall advise the applicant on application submittal requirements. At a minimum, the application shall include all of the following information:
    - a. The information requested on the application form;
    - b. Plans and exhibits required for the specific approval(s) being sought;
    - c. A written statement or letter explaining how the application satisfies each and all of the relevant criteria and standards in sufficient detail;
    - d. Information demonstrating compliance with prior decision(s) and conditions of approval for the subject site, as applicable; and
    - e. The required fee and a notarized agreement to cover all processing costs.
    - f. Evidence of neighborhood contact, as applicable, pursuant to Section 4.1.070.
    - g. Mailing labels for all properties within 200 feet of the applicant's property.

## **B. Procedure.**

### **1. Mailed and Posted Notice.**

- a. The City shall mail public notice of a public hearing on a Quasi-Judicial application at least 20 days before the hearing date to the individuals and organizations listed below. The City Manager shall prepare an affidavit of notice, which shall be made a part of the file. The affidavit shall state the date that the notice was mailed. Notice shall be mailed to:
  - (1) All owners of record of real property located within a minimum of 200 feet of the subject site;
  - (2) Any person who submits a written request to receive a notice; and
  - (3) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies. At a minimum, the City Manager shall notify the road authority if different than the City of Rivergrove. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.
- b. At least 14 days before the first hearing, the City may publish notice of the hearing on the City website, and/or have said notice published in the Rivergrove Report.

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- 2. Content of Notice.** Notice of a Quasi-Judicial hearing to be mailed and published per subsection 1 above shall contain all of the following information:
- a. A summary of the proposal and the relevant approval criteria, in sufficient detail to help the public identify and locate applicable code requirements;
  - b. The date, time, and location of the scheduled hearing;
  - c. The street address or other clear reference to the location of the proposed use or development;
  - d. A disclosure statement that if any person fails to address the relevant approval criteria with enough detail, he or she may not be able to appeal to the City Council, Land Use Board of Appeals, or Circuit Court, as applicable, on that issue, and that only comments on the relevant approval criteria are considered relevant evidence;
  - e. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards shall be available for review at the office of the City Manager, and that copies shall be provided at a reasonable cost;
  - f. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
  - g. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
  - h. A statement that after the public hearing closes, the City will issue its decision, and the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice.

**C. Conduct of the Public Hearing.**

- I. At the commencement of the hearing, the Chairperson of the Commission or Mayor<sup>1</sup>, as applicable, or his or her designee, shall state to those in attendance all of the following information and instructions:
  - a. The applicable approval criteria by Code chapter that apply to the application;
  - b. Testimony and evidence shall concern the approval criteria described in the staff report, or other

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<sup>1</sup> Zoning designation changes that impact only one owner or property, or Comprehensive Plan Land Use (Map) Amendments are Type III cases and are heard by the City Council in a Quasi-judicial capacity.

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criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

- c. Failure to raise an issue with sufficient detail to give the hearing body and the parties an opportunity to respond to the issue, may preclude appeal to the state Land Use Board of Appeals on that issue;
  - d. At the conclusion of the initial evidentiary hearing, the hearing body shall deliberate and make a decision based on the facts and arguments in the public record. See subsection 'E' Record of the Public Hearing; and
  - e. Any participant may ask the hearing body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing; if the hearing body grants the request, it will schedule a date to continue the hearing as provided in paragraph 5 of this subsection, or leave the record open for additional written evidence or testimony as provided paragraph 6 of this subsection.
2. The public is entitled to an impartial hearing body, free from potential conflicts of interest and pre-hearing ex parte (outside the hearing) contacts. Where questions related to ex parte contact are concerned, members of the hearing body shall follow the guidance for disclosure of ex parte contacts contained in ORS 227.180. Where a real conflict of interest arises, that member or members of the hearing body shall not participate in the hearing, except where state law provides otherwise. Where the appearance of a conflict of interest is likely, that member or members of the hearing body shall individually disclose their relationship to the applicant in the public hearing and state whether they are capable of rendering a fair and impartial decision. If they are unable to render a fair and impartial decision, they shall be excused from the proceedings.
  3. Presenting and receiving evidence.
    - a. The hearing body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony or evidence;
    - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing only as provided by this section; and
    - c. Members of the hearing body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.
  4. The hearing body, in making its decision, shall consider only facts and arguments in the public hearing record; except that it may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous City decisions; case law; staff reports). Upon announcing its intention to take

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notice of such facts in its deliberations, it must allow persons who previously participated in the hearing to request the hearing record be reopened, as necessary, to present evidence concerning the newly presented facts.

5. If the hearing body decides to continue the hearing, the hearing shall be continued to a date that is at least seven days after the date of the first evidentiary hearing (e.g., next regularly scheduled meeting). An opportunity shall be provided at the continued hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the continued hearing, any person may request, before the conclusion of the hearing, that the record be left open for at least seven days, so that he or she can submit additional written evidence or arguments in response to the new written evidence. In the interest of time, after the close of the hearing, the hearing body may limit additional testimony to arguments and not accept additional evidence.
6. If the hearing body leaves the record open for additional written testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the hearing body in writing for an opportunity to respond to new evidence (i.e., information not disclosed during the public hearing) submitted when the record was left open. If such a request is filed, the hearing body shall reopen the record, as follows:
  - a. When the record is reopened to admit new evidence or arguments (testimony), any person may raise new issues that relate to that new evidence or testimony;
  - b. An extension of the hearing or record granted pursuant to this section is subject to the limitations of Section 4.1.060 (ORS 227.178 - 120-day rule), unless the applicant waives his or her right to a final decision being made within 120 days of filing a complete application; and
  - c. If requested by the applicant, the hearing body shall grant the applicant at least seven days after the record is closed to all other persons to submit final written arguments, but not evidence, provided the applicant may expressly waive this right.
7. The Notice of Quasi-Judicial Decision shall contain all of the following information:
  - a. A description of the applicant's proposal and the City's decision on the proposal, which may be a summary, provided it references the specifics of the proposal and conditions of approval in the public record;
  - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area (a copy of assessor's map may be used);
  - c. A statement of where the City's decision can be obtained;
  - d. The date the decision shall become final, unless appealed; and

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- e. A statement that all persons entitled to notice may appeal the Planning Commission's decision to City Council pursuant to subsection 4.1.040.D, or may appeal the City Council's decision to the state Land Use Board of Appeals, as applicable.

**C. Effective Date of Decision.** Unless the conditions of approval specify otherwise, a Quasi-Judicial Decision becomes effective 12 days after the City mails the decision notice, unless the decision is appealed pursuant to subsection 4.1.040.D.

**D. Appeal Waiver.** If the applicant is the only person with standing to file an appeal, they may waive the right to appeal and have the effective date be the approval date by the hearing body. Such a request must be made in writing or on the record.

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

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

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

**2. Appeal filing procedure.**

- a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type III Quasi-Judicial Decision by filing a Notice of Appeal according to the following procedures.
- b. Time for filing. A Notice of Appeal shall be filed with the City Manager within the timeframe specified on the Notice of Decision; typically, this will be within 12 days of the date the Notice of Decision is mailed.
- c. Content of notice of appeal. The Notice of Appeal shall be accompanied by the required filing fee and shall contain:
  - (1) An identification of the decision being appealed, including the date of the decision;
  - (2) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
  - (3) A statement explaining the specific criteria and/or conditions of approval being raised on appeal; and
  - (4) If the appellant is not the applicant, a statement demonstrating that the appeal issues were

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raised during the comment period.

- 3. Scope of appeal.** The appeal of a Type III Quasi-Judicial Decision shall be a hearing *de novo* before the City Council. The hearing appeal body shall allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

**F. Record of the Public Hearing.**

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

**G. Effective Date and Appeals to State Land Use Board of Appeals.** A Quasi-Judicial Decision or Appeal Decision, as applicable, is effective the date the City mails the decision notice. Appeals of City Council decisions under this chapter shall be filed with the state Land Use Board of Appeals pursuant to ORS 197.805 - 197.860. 4.1.050

**H. Expiration of the decision.** When the decision becomes final, the development requested must commence within one year, and must be completed within two years. If this does not occur, the applicant must reapply, or request an extension prior to the expiration of the permit.. This does not apply to quasi-judicial Comprehensive Land Use classification amendments or Zoning designation amendments.

**4.1.050 Type IV (Legislative Decisions)**

**H. Timing of Requests.** The City Council may establish a schedule for when it will accept legislative code



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amendment or plan amendment requests, or the City Council may initiate its own legislative proposals at any time. Legislative requests are not subject to the 120-day review period under ORS 227.178. A citizen request for a Comprehensive Plan Amendment can only be made to the City Council during a public meeting, or by written request to the City Manager (to be placed on an agenda). In order for the amendment to commence, the Council must initiate the Comprehensive Plan Amendments (map or text amendment) by directing staff to accept an application from the citizen, and application fee. City Code text amendments can be applied for by a citizen through the City Manager.

**I. Application Requirements (after Council initiation is made).**

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

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

- a. The information requested on the application form;
- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
- c. The required fee, except when City of Rivergrove initiates request; and a notarized agreement to cover all processing costs.
- d. One copy of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards; and
- e. Evidence of neighborhood contact, pursuant to Section 4.1.070.

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

1. The City Manager shall notify in writing the Oregon Department of Land Conservation and Development (DLCDC) of legislative amendments (zone change, rezoning with annexation, or comprehensive plan amendment) at least 35 days before the first public hearing at which public testimony or new evidence will be received. The notice shall include a DLCDC Certificate of Mailing.
2. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance for any zone change, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
  - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one Comprehensive Plan land use designation to another), see ORS 227.186 for instructions;

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- b. Any affected governmental agency;
  - c. Any person who requests notice in writing; and
  - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
3. At least 10 days before the scheduled City Council public hearing date, public notice shall be published in The Rivergrove Report.
  4. For each mailing and publication of notice, the City Manager shall keep an affidavit of mailing/publication in the record.

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

#### **4.1.060 Time Limit, Consolidated Review, and City Manager's Duties**

- A. Time Limit - 120-day Rule.** The City shall take final action on Administrative and Quasi-Judicial land use applications, pursuant to this chapter, including resolution of all appeals, within 120 days from the date the City Manager deems the application complete for purposes of processing, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (Note: The 120-day rule does not apply to Legislative Land Use decisions.)
- B. Time Periods.** In computing time periods prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which case the period runs until the end of the next day that is not on a weekend or legal holiday.
- C. Consolidated Review of Applications.** When an applicant applies for more than one type of land use or development permit for the same one or more contiguous parcels of land, the proceedings shall be consolidated for review and decision. When proceedings are consolidated, required notices may be consolidated, provided the notice shall identify each application to be decided. When more than one application is reviewed in a hearing, separate findings and decisions shall be made on each application.
- D. City Manager's Duties.** The City Manager, or his or her designee, shall perform all of the following duties with regard to administration of this Code:

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1. Prepare application forms based on the provisions of this Code and applicable state law;
  2. Prepare required notices and process applications for review and action;
  3. Assist the Planning Commission and City Council in administering the hearings process;
  4. Answer questions from the public regarding the City's land use regulations;
  5. Prepare staff reports summarizing pending applications, including applicable decision criteria;
  6. Prepare findings consistent with City decisions on land use and development applications;
  7. Prepare notices of final decisions, file the notices in the City's records, and mail a copy of the notices to all parties entitled to notice under this Code; and
  8. Maintain and preserve the file and public record for each application.

#### **4.1.070 Neighborhood Contact**

- A. Purpose and Applicability.** Applicants for master planned development, subdivision, or site design review on projects involving parcels or lots larger than one acre, and property owner-applicants for zone changes, are required to contact neighboring property owners and offer to a hold meeting with them prior to submitting an application. This is to ensure that affected property owners are given an opportunity to preview a proposal and offer input to the applicant before a plan is formally submitted to the City, thereby raising any concerns about the project and the project's compatibility with surrounding uses early in the design process when changes can be made relatively inexpensively.
- B. Notice.** Notice of the meeting must be given in writing and delivered in person, or by certified mail, to all of the property owners whose property is located within 200 feet of the site, at their addresses of record at the applicable Washington or Clackamas County Assessor's office, at least 14 days before the meeting and at least 21 days before submitting the application to the City. The notice must state the time, place, and purpose of the meeting, including a description of the proposed development.
- C. Meeting place, date, and time.** The meeting must be held within the City limits or a reasonable distance outside the City limits, at a location obtained or provided by the applicant with sufficient room for the expected attendance. The meeting place must be accessible to persons with disabilities. It must be scheduled at a date and time reasonably calculated to allow maximum participation by interested property owners.
- D. Conduct of meeting.** At the meeting, the applicant, or the applicant's agent, must present sufficient information about the proposed development to inform the property owners in attendance of the nature of the proposal and impacts it may have on neighboring properties, including transportation impacts. Persons attending must be allowed to ask questions and make comments. The applicant, or the

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applicant's agent, must make a sound or video recording or keep written minutes of the meeting that give a true reflection of the matters discussed at the meeting and the views of the participants. The applicant must also make a list of names of persons attending the meeting.

- E. Filing requirements.** Proof of having held the meeting, even if no affected property owners attend, is required and must be submitted to the City with a land use application for the application to be deemed complete. Copies of the following information must accompany the land use application: a copy of the notice mailed, certified mail receipts, all addresses for which notice was mailed (e.g., copy of mailing labels), a certificate of personal service for those persons who were provided notice by personal service (including the date of service and the name of the person who provided service), a record or minutes of the meeting with a list of attendees, and copies of the meeting notice and all other written materials provided prior to or distributed at the meeting.

#### **4.1.080 Pre-application Conference**

An applicant or his authorized representative may request the staff to conduct a pre-application conference. Upon such request, staff will transmit the pre-application materials to all appropriate agencies for review and schedule a meeting with any appropriate agencies, the applicant, and staff. The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this code, provide for an exchange of information regarding applicable elements of the plan and development requirements, arrange any technical and design assistance that will aid the applicant, and to otherwise identify policies and regulations that create opportunities or pose significant problems for the proposed development, and to simplify and expedite the development process.

A summary may be provided by staff and may include confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application.

Preapplication reviews are optional for all applications except subdivisions. A fee is required.

#### **4.1.090 Action On Resubmission of Denied Application**

Upon a final determination denying an application, an applicant may take appropriate measures to cure the defect and resubmit the proposal with payment of any additional fees required. If a previously denied application is submitted within one year, previous approvals need not be reconsidered unless the hearing authority finds that changed conditions or changes in the proposal warrant reconsideration of the entire proposal.

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## Chapter 4.2 Site Design Review

### Sections:

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

### **4.2.010 Purpose**

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

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

### **4.2.020 Applicability**

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

- A. Change in occupancy from one type of land use to a different land use resulting in no increase in vehicular traffic or development;
- B. Fences (fences within the floodplain require a floodplain development permit, all other fences must follow the fence standards of Chapter 3.4 but do not require a permit from the City Manager, building permits may apply);
- C. Sheds under 200 sq ft in a flood plain, and 300 sq ft elsewhere (two sheds under this size are permitted without a Site Design Review; any amount over this requires a Site Design Review);

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- D. Home occupation, except for uses requiring a Conditional Use Permit;
  - E. Development and land uses that are already approved as part of a Site Design Review or Conditional Use Permit application, provided that modifications to such plans may require Site Design Review, pursuant to Chapter 4.7;
  - F. Public improvements required by City standards or as stipulated by a condition of land use approval (e.g., transportation facilities and improvements, parks, trails, utilities, and similar improvements), as determined by the City Manager, except where a condition of approval requires Site Design Review;
  - G. Regular maintenance, repair, and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair;
  - H. Mailboxes and flag poles;
  - I. Landscaping or other treatment or use of the land surface not involving a structure;
  - J. A change internal to a building or other structure that does not substantially affect the use or external appearance of the structure;
  - K. Erection of a tent or similar portable temporary structure provided that the structure is in place for no more than 3 months per calendar year, or is not visible to the public;
  - L. Farming, truck gardening, orchards and nurseries provided that no wholesale business office is maintained on the premises, and provided that no poultry or livestock, other than household pets, shall be housed within 100 feet of any residence other than the dwelling on the same lot;
  - M. An alteration that does not substantially affect the use or appearance of land or a structure;
  - N. The establishment, construction, or termination of a public facility that directly serves a single user, including facilities such as public or private streets, sewer and water lines, or telephone or television cable systems.
  - O. New public facilities such as pump stations are exempt from Site Design review;
  - P. Installation or construction of an accessory structure that does not require a building permit.
  - Q. Family child care homes and child care centers.

#### **4.2.030 Review Procedure**

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

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- A. The use exceeds 3,000 square feet of interior space, excluding the garage;
  - B. The proposal involves a Conditional Use (new or expanded);
  - C. The proposal involves a variance under Chapter 4.7;
  - D. The proposal involves expansion of a non-conforming use; or
  - E. The City Manager determines that, due to the nature of the proposal, a public hearing is the most effective way to solicit public input in reviewing the application.

#### **4.2.040 Application Submission Requirements**

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

##### **A. General Submission Requirements**

- I. Information required for Type II or Type III review, as applicable (see Chapter 4.1).

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

- I. **Site analysis map.** The site analysis map shall contain all the following information, as the City Manager deems applicable:
  - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;
  - b. Topographic contour lines at two-foot intervals for slopes, except where the City Manager determines that larger intervals will be adequate for steeper slopes;
  - c. Identification of slopes greater than 15 percent, with slope categories identified in 5 percent increments (e.g., 0%-5%, >5%-10%, >10%-15%, >15%-20%, and so forth);
  - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;

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- e. An exhibit must show potential natural hazard areas, including, as applicable, the base flood elevation identified on FEMA Flood Insurance Rate Maps or as otherwise determined through site specific survey, areas subject to high water table, and areas designated by the City, county, or state as having a potential for geologic hazards;
  - f. Areas subject to overlay zones;
  - h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals, and ditches;
  - i. The location, size, and species of trees (outside proposed building envelope) that would require a tree cutting permit to be removed (see section 4.10).
  - j. North arrow and scale;
  - k. The names and addresses of all persons listed as owners of the subject property on the most recently recorded deed; and
  - k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable.

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

- a. The proposed development site, including boundaries, dimensions, and gross area;
- b. Features identified on the existing site analysis maps that are proposed to remain on the site;
- c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
- d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
- e. The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
- f. The location and dimensions of all parking and vehicle circulation areas;
- g. Location of mail boxes, if known;
- h. Name and address of project designer, if applicable; and



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- i. Locations of bus stops and other public or private transportation facilities.

**3. Architectural drawings.** Architectural drawings shall include, as applicable:

- a. Building elevations with dimensions;
- b. Building materials, colors, and type; and
- c. Name and contact information of the architect or designer.

**4. Preliminary grading plan.** A preliminary grading plan prepared by a registered engineer shall be required for development sites one-half acre or larger, or where otherwise required by the City. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Section 3.6.050.

**5. Landscape plan.** Where a landscape plan is required, it shall show the following, pursuant to Chapter 3.4:

- a. The location and height of existing and proposed fences, buffering, or screening materials;
- b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
- c. The location, size, and species of the existing and proposed plant materials (at time of planting);
- d. Existing and proposed building and pavement outlines;
- e. Specifications for soil at time of planting, irrigation if plantings are not drought tolerant (may be automatic or other approved method of irrigation), and anticipated planting schedule; and
- f. An arborist's report is required for sites with mature trees that are planned to be retained/protected and those proposed for removal; and
- g. Other information as deemed appropriate by the City Manager.

**6. Deed restrictions.** Copies of all existing and proposed restrictions or covenants, including those for roadway access control.

**7. Narrative.** Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 4.2.050.

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**8. Other information** determined by the City Manager. The City may require studies or exhibits prepared by qualified professionals to address specific site features or project impacts (e.g., traffic, noise, environmental features, natural hazards, etc.), as necessary to determine a proposal's conformance with this Code.

**9. Names of Surrounding Property Owners** within 200 feet minimum on address labels.

#### **4.2.050 Approval Criteria**

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

- A. The application is complete, in accordance with Section 4.2.040, above;
- B. The application complies with all of the applicable provisions of the underlying Zoning District (Article 2), including, but not limited to, building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other applicable standards;
- C. The proposal includes required upgrades, if any, to existing development that does not comply with the applicable Zoning district standards, pursuant to Chapter 1.4 Non-Conforming Uses and Development;
- D. The proposal complies with all of the Community Design Standards of Article 3, as applicable, including, but not limited to:
  - 1. Chapter 3.3 Access and Circulation;
  - 2. Chapter 3.4 Landscaping, Fences and Walls, Outdoor Lighting;
  - 3. Chapter 3.5 Parking and Loading; and
  - 4. Chapter 3.6 Public Facilities.
- E. The proposal meets all existing conditions of approval for the site or use, as required by prior land use decision(s), as applicable.

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

#### **4.2.060 Assurances**

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

#### **4.2.070 Compliance With Conditions, Permit Expiration, and Modifications**

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

**A. Approval Period.** Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:

1. Construction on the site is in violation of the approved plan; or
2. The applicant has not commenced with substantial construction of the approved project. Specifically, this means that a continuous on-site physical construction program has progressed to a point where 25% or more of the total project is completed or where 25% or more of the total material cost of the project has been expended for materials which are at the site.

**B. Extension.** The City Manager, upon written request by the applicant, may grant a single written extension of the approval period not to exceed one year, provided all items listed below are satisfied. Any further extensions may be granted by the Planning Commission using the criteria listed above, but in no case shall the project receive more than 3 extensions.

1. No significant changes are made on the original approved plan;
2. The applicant can show intent of initiating construction on the site within the one-year extension period;
3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the subject plan does not comply with those changes, then the extension shall not be granted; in this case, a new Site Design Review shall be required; and
4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

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**C. Modifications to Approved Plans and Developments.** Modifications to approved plans are subject to City review and approval under Chapter 4.5.

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## Chapter 4.3 - Land Divisions and Property Line Adjustments

### Sections:

- 4.3.010 Purpose
- 4.3.020 General Requirements
- 4.3.030 Preliminary Plat Approval Process
- 4.3.040 Pre-Planning for Large Sites
- 4.3.050 Lot Size Averaging, Flag Lots, and Infill Development
- 4.3.060 Preliminary Plat Submission Requirements
- 4.3.070 Preliminary Plat Approval Criteria
- 4.3.080 Land-Division-Related Variances
- 4.3.090 Final Plat Submission Requirements and Approval Criteria
- 4.3.100 Filing and Recording
- 4.3.110 Re-platting and Vacation of Plats
- 4.3.120 Property Line Adjustments

### **4.3.010 Purpose**

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

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

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#### **4.3.020 General Requirements**

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

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

Note: Property line adjustments and lot consolidation requests (i.e., no new lot is created) are subject to Section 4.3.120; they are not subject to 4.3.020 through 4.3.110.

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

**C. Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than three times or 300 percent the minimum lot size allowed by the underlying land use district), the lots shall be of such size, shape, and orientation as to facilitate future re-division and extension of streets and utilities. The applicant shall submit a future re-division plan, or shadow plan, indicating how re-division of oversized lots and extension of planned public facilities to adjacent parcels can occur in the future. (See also, Section 4.3.040 Pre-Planning for Large Sites.)

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

**E. Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage, improve water quality, and assure that drainage patterns will not alter on neighboring properties. Water quality or quantity control improvements may be required, pursuant to Chapter 3.6.

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

#### **4.3.030 Preliminary Plat Approval Process**

**A. Review of Preliminary Plat.** Preliminary plats shall be processed using the Type III procedure under Section 4.1.040. All preliminary plats, including partitions and subdivisions, are subject to the approval criteria in Section 4.3.070.

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**B. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted or other assurance provided, pursuant to Section 4.3.090, within the two-year period. The Planning Commission may approve phased subdivisions, pursuant to subsection 4.3.030.D, with an overall time frame of more than two years between preliminary and final plat approvals.

**C. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.5. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant written extensions of the approval period not to exceed one year per extension and not to exceed two extensions total, provided that all of the following criteria are met:

1. Any changes to the preliminary plat follow the procedures in Chapter 4.5;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.

**D. Phased Subdivision.** The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant's proposal meets all of the following criteria:

1. In no case shall the construction time period (i.e., for required public improvements, utilities, streets) for the first subdivision phase be more than one year;
2. Public facilities shall be constructed in conjunction with or prior to each phase;
3. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;
4. The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and
5. Planning Commission approval is required for modifications to phasing plans.

**E. Preapplication Review.** A pre-application review, outlined in section 4.1.080, is required for all subdivisions, but not partitions.

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#### 4.3.040 Pre-planning for Large Sites

- A. Purpose.** Section 4.3.040 requires the pre-planning of large sites in conjunction with requests for annexation, and applications for phased subdivisions and master plan developments; the purpose of which is to avoid piecemeal development with inadequate public facilities.
- B. Applicability.** This section applies to land use applications and annexations affecting more than 2 acres of land under the same contiguous ownership, even where only a portion of the site is proposed for subdividing. For the purposes of this section, the same contiguous ownership means the same individual, or group of individuals, corporations, or other entities, controls a majority share of ownership.
- C. Area Plan Required.** Prior to submittal of an annexation petition or land division application for an area subject to Section 4.3.040, a conceptual master plan shall be submitted to the City Manager with the required pre-application materials for the project or proposal. The conceptual master plan shall illustrate the type and location of planned streets, utility corridors, parks, open spaces, and land uses for the ultimate buildout of the subject property and all lands under contiguous ownership. The plan shall demonstrate how future development, including any proposed phasing, can meet all the guidelines under subsection D, below.
- D. Criteria.** The conceptual plan required under subsection C, above, is not required to be engineered but shall have a sufficient level of detail so that the City officials can determine that it meets the following design guidelines:
1. Streets are interconnected to the extent practicable; blocks are walkable in scale (generally 200-600 feet in length), except where topography, existing development, or other physical features require longer blocks, in which case pedestrian access ways connect through long blocks;
  2. Water, sewer, and storm drainage facilities logically extend to serve the site at buildout, consistent with adopted public facility plans. Where a public facility plan identifies a need for new capacity-related improvements (e.g., water storage, sewage treatment, pump stations, etc.) in the future, the plan shall describe conceptually how such improvements can be accommodated;
  3. Overall, the plan achieves a housing density that is consistent with the Comprehensive Plan and Development Code; and
  4. The plan reserves land needed for public use (e.g., schools, parks, fire stations, and other facilities), in accordance with the Comprehensive Plan and to the extent allowed under applicable law.
- E. Implementation.** The City will review the conceptual master plan required by this section and provide input to the applicant during the pre-application meeting for the land use application or annexation petition, as applicable. The City may also refer the plan to outside agencies with jurisdiction for their input. The master plan is not binding, but the applicant is encouraged to refine the plan based on City input before submitting a land use application or annexation petition for the subject property. The applicant is also required to contact adjacent property owners and solicit their input prior to submitting



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a land use application.

#### **4.3.050 Lot Size Averaging, Flag Lots, and Infill Development**

**A. Lot Size Averaging.** To allow flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees, and other natural and built features, the approval body may grant a 20 percent modification to the lot area and/or lot dimension (width/depth) standards in Chapter 2.2, provided that the overall density of the subdivision does not exceed the allowable density of the district and the approval body finds that all of the following are met:

1. Granting the modification is necessary to achieve planned housing densities, as allowed by the underlying zone, or to improve development compatibility with natural features or adjacent land uses;
2. Where a proposed subdivision would abut an existing subdivision with standard-, or larger-, sized lots, the perimeter of the proposed subdivision shall contain standard-, or larger-, sized lots; except that this provision does not apply where the existing lots are larger than 20,000 square feet; and
3. The Planning Commission may require screening, buffering, or other transitions in site design where substandard lots are proposed to abut standard-, or larger-, sized lots;
4. The modification will allow for additional open space within the project development. The open space be preserved with an easement or dedication and shall be at least 20 percent of the required lot size.

**B. Flag Lots.** Flag lots may be created only when a through street cannot be extended to serve abutting uses or future development. A flag lot driveway (“flag pole”) shall serve not more than four dwelling units, including accessory dwellings and dwellings on individual lots. The layout of flag lots, the placement of buildings on such lots, and the alignment of shared drives shall be designed so that future street connections can be made as adjacent properties develop, to the extent practicable, and in accordance with the transportation connectivity and block length standards of Section 3.6.020.D.

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

**D. Maximum Drive Lane Length.** The maximum length of a drive serving more than one dwelling is subject to requirements of the Uniform Fire Code, but in no case shall it exceed 640 feet or serve more than 4 dwelling units without providing secondary access/egress, or as approved by the fire department.

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#### **4.3.060 Preliminary Plat Submission Requirements**

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

##### **A. General Submission Requirements.**

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

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

##### **1. General information:**

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

**2. Existing Conditions.** Except where the City Manager deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on existing

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conditions of the site:

- a. Streets: Location, name, and present width of all streets, alleys, and rights-of-way on and abutting the site;
- b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
- c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
- d. Ground elevations shown by contour lines at two-foot vertical intervals. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor; the Planning Commission may waive this standard for partitions when grades, on average, are less than six percent;
- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
- f. The Base Flood Elevation, per FEMA Flood Insurance Rate Maps, as applicable;
- g. North arrow and scale; and
- h. Other information, as deemed necessary by the City Manager for review of the application. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

**3. Proposed Development.** Except where the City Manager deems certain information is not relevant, applications for Preliminary Plat approval shall contain all of the following information on the proposed development:

- a. Proposed lots, streets, tracts, open space, and park land (if any); location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
- b. Easements: location, width, and purpose of all proposed easements;
- c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;

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

#### **4.3.070 Preliminary Plat Approval Criteria**

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

1. The land division application shall conform to the requirements of Chapter 4.3;
2. All proposed lots, blocks, and proposed land uses shall conform to the applicable provisions of Article 2 Zoning Regulations, except as modified by the provisions of Chapter 4.3 (e.g., lot size averaging);
3. Access to individual lots, and public improvements necessary to serve the development, including but not limited to water, sewer, and streets, shall conform to Article 3 Community Design Standards;
4. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
5. The proposed streets, utilities, and surface water drainage facilities conform to applicable engineering standards, and allow for transitions to existing and potential future development on adjacent lands.

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The preliminary plat shall identify all proposed public improvements and dedications;

6. All proposed private common areas and improvements, if any, are identified on the preliminary plat and maintenance of such areas is assured through appropriate legal instrument;
7. Evidence that any required county, state and federal permits, as applicable, have been obtained or can reasonably be obtained prior to development; and
8. Evidence that improvements or conditions required by the City, road authority, applicable Washington or Clackamas County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and
9. The architectural (housing variety) standards of Section 3.2.030.D are met.

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

#### **4.3.080 Land Division-Related Variances**

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

#### **4.3.090 Final Plat Submission Requirements and Approval Criteria**

Final plats require review and approval by the City Manager prior to recording with the applicable Washington or Clackamas County. The City Manager may go to the Planning Commission for review as a Type III for approval if they feel significant discretion is required. The final plat submission requirements, approval criteria, and procedure are as follows:

**Submission Requirements.** The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 4.3.070. The format of the plat shall conform to ORS 92.

**B. Approval Process and Criteria.** By means of a Type I Review, the City Manager and one member of the Planning Commission or City Council (selected by the Mayor or City Manager) shall review and approve or deny the final plat application based on findings of compliance or noncompliance. Both shall sign the Final Plat. All of the following criteria shall be met:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, rights-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City or applicable service provider if different than the City of Rivergrove (e.g., road authority), or

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otherwise bonded in conformance with Section 3.6.090;

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

#### **4.3.100 Filing and Recording**

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

- A. Filing Plat with County.** Within 60 days of City approval of the final plat, the applicant shall submit the final plat to the applicable Washington or Clackamas County for signatures of County officials, as required by ORS Chapter 92.
- B. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the City a mylar copy and three paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots. All mylars shall be signed by the Mayor and the City Manager.

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### **C. Prerequisites to Recording the Plat.**

1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92.
2. No plat shall be recorded until the County Surveyor approves it in the manner provided by ORS Chapter 92.

#### **4.3.110 Re-platting and Vacation of Plats**

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

#### **4.3.120 Property Line Adjustments**

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

- A. Submission Requirements.** All applications for Property Line Adjustment shall be made on forms provided by the City and shall include information required for a Type I review, pursuant to Section 4.1.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions, footprints and dimensions of existing structures (including accessory structures), location and dimensions of driveways and public and private streets within or abutting the subject lots, location of lands subject to the City of Rivergrove Flood Plain Overlay, existing fences and walls, and any other information deemed necessary by the City Manager for ensuring compliance with City codes. The application shall be signed by all of the owners as appearing on the deeds of the subject lots.
- B. Approval Criteria.** The City Manager shall approve or deny a request for a property line adjustment in writing, based on all of the following criteria:
  1. **Parcel Creation.** No additional parcel or lot is created by the lot line adjustment;
  2. **Lot standards.** All lots and parcels conform to the applicable lot standards of the zoning district (Article 2) including lot area, dimensions, setbacks, and coverage. As applicable, all lots and parcels shall conform to the City of Rivergrove Flood Plain Overlay; and

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3. **Access and Road authority Standards.** All lots and parcels conform to the standards or requirements of Chapter 3.3 Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made less conforming by the property line adjustment.

### **C. Recording Property Line Adjustments**

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



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## Chapter 4.4 - Conditional Use Permits

### Sections:

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

### **4.4.010 Purpose**

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

### **4.4.020 Approvals Process**

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

### **4.4.030 Application Submission Requirements**

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

### **4.4.040 Criteria, Standards, and Conditions of Approval**

The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, including requests to enlarge or modify a conditional use, based on findings of fact with respect to all of the criteria and standards in A. and B., below (see Chapter 4.5).

#### **A. Use Criteria**

- I. The site size, dimensions, location, topography, and access are adequate for the needs of the proposed use, considering the proposed building massing, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

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2. The negative impacts of the proposed use, if any, on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval;
  3. All required public facilities, including water, sanitary sewer, and streets, have adequate capacity or are to be improved to serve the proposal, consistent with City standards; and
  4. A conditional use permit shall not allow a use that is prohibited or not expressly allowed under Article 2; nor shall a conditional use permit grant a variance without a variance application being reviewed with the conditional use application.

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

1. Limiting the hours, days, place, and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor, and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building or structure height, size, lot coverage, and/or location on the site;
5. Designating the size, number, location, and/or design of vehicle access points or parking and loading areas;
6. Requiring street right-of-way to be dedicated and street improvements made, or the installation of pathways or sidewalks, as applicable;
7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height, and/or lighting of signs;
9. Limiting or setting standards for the location, type, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening, or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location, and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat

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areas, drainage areas, historic resources, cultural resources, and/or sensitive lands;

13. Requiring improvements to water, sanitary sewer, or storm drainage systems, in conformance with City standards; and
14. The Planning Commission may require review and renewal of conditional use permits annually or in accordance with another timetable as approved pursuant to this chapter. Where applicable, the timetable shall provide for periodic review and renewal, or expiration, of the conditional use permit to ensure compliance with conditions of approval; such period review may occur through a Type III review process, except where the Planning Commission delegates authority to the City Manager to issue renewals, who shall do so through a Type I or Type II procedure, as applicable (see Chapter 4.1 for review procedures).

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## Chapter 4.5 - Modifications to Approved Plans and Conditions

### Sections:

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

### **4.5.010 Purpose**

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

### **4.5.020 Applicability**

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

### **4.5.030 Major Modifications**

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

1. A change in land use, from a less intensive use to a more intensive use, as evidenced by parking, paved area, an estimated increase in automobile or truck trips (peak and/or average daily trips), an increase in hours of operation, an increased demand for parking, additional paved area, or similar factors, where the increase is twenty percent or more, provided the standards of Article 2 and Article 3 are met;
2. A reduction in required setbacks, or an increase in lot coverage, by twenty percent or more, provided the standards of Article 2 and Article 3 are met;
3. A change in the type and/or location of vehicle access points or approaches, driveways, or parking areas affecting off-site traffic when the roadway authority determines the change could cause a significant adverse impact on traffic operations or safety (i.e., requiring mitigation);
4. A reduction to screening, or a reduction to the area reserved for common open space or landscaping by twenty percent or more;
5. Change to a condition of approval, or a change similar to items 1-5, above, that could have a

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detrimental impact on adjoining properties. The City Manager shall have discretion in determining detrimental impacts triggering a major modification; or

6. Other changes similar to those in subsections 1-6, above, in scale, magnitude, or impact to adjacent properties, as determined by the City Manager.

**B. Major Modification Applications.**

Applications for modifications to approved plans shall include a description of the approved project proposed for changes, the proposed changes, the existing conditions, a site plan, and information on any existing and any proposed restrictions or covenants. (For a more detailed description of each item, please refer to Section 4.2.040 Site Design Review Application Submission Requirements.) An application for a modifications to approved plans shall also contain a narrative report or letter responding to the applicable approval criteria in Section 4.5.030 or 040, whichever is applicable.

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

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

**4.5.040 Minor Modifications**

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

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

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

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## Chapter 4.6 – Amendments to the Comprehensive Plan (map or text), Zoning Map, or Development Code

### Sections:

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

### **4.6.010 Purpose**

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

### **4.6.015 Applications**

Applications for Zone Map Amendments shall include copies of the deed, a map showing the existing conditions and information on any existing and any proposed restrictions or covenants. An application for a Zone map Change or a text change shall also contain a narrative report or letter responding to the applicable approval criteria in Section 4.6.030. A change to the City Comprehensive Plan can only be made after the City Council has authorized the submittal of an application.

### **4.6.020 Procedure**

- A. Site specific changes to the Comprehensive Plan Land Use Map or the Zoning Map are quasi-judicial (though processed as a Type IV to assure they are heard by the City Council as well as the Planning Commission). They require a hearing by the Planning Commission and the City Council. The Planning Commission will make a recommendation to the City Council. The City Council will make a final determination. Except for corrections, amendments to Development Code, or Comprehensive Plan text are Legislative (Type IV); See 4.5.040
- B. Amendments to the Zoning Map that affect more than one parcel, or more than one-half of an acre, whichever is greater, are Legislative (Type IV) actions.
- C. Amendments to the Zoning Map that require an amendment to the Comprehensive Plan are Legislative (Type IV) actions.

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- D. Amendments that do not meet the criteria under subsections 4.6.020.A, 4.6.020.B, or 4.6.020.C may be processed as Quasi-Judicial amendments, pursuant to the Type III procedure, including smaller Zone Map changes.

#### **4.6.030 Criteria**

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

- A. If the proposal involves an amendment to the Comprehensive Plan, the amendment must be consistent with the Statewide Planning Goals and relevant Oregon Administrative Rules;
- B. The proposal must be consistent with the Comprehensive Plan (the Comprehensive Plan may be amended concurrently with proposed changes in zoning);
- C. The City Council must find the proposal to be in the public interest with regard to community conditions; the proposal either responds to changes in the community, or it corrects a mistake or inconsistency in the subject plan or code; and
- D. The amendment must conform to Section 4.6.050 Transportation Planning Rule Compliance (see Section 4.6.050).

#### **4.6.040 Record of Amendments**

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

#### **4.6.050 Transportation Planning Rule Compliance**

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



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## Chapter 4.7 - Adjustments and Variances

### Sections:

- 4.7.010 Purpose
- 4.7.020 Intent
- 4.7.030 Adjustments
- 4.7.040 Variances
- 4.7.050 Expiration

### **4.7.010 Purpose**

Chapter 4.7 provides standards and procedures for adjustments and variances, which are rare modifications to development standards that are not otherwise permitted elsewhere in this Code and must meet strict criteria.

### **4.7.020 Intent**

Adjustments are variances that are intended to provide relief from code standards in specific situations. Both procedures are intended to ensure that the resulting development is compatible with adjacent properties and is consistent with the intent of the Code.

- A. Adjustments.** Adjustments provide relief from specific code provisions when a code provision has the unintended effect of preventing reasonable development in conformance with all other code requirements. Adjustments are allowed in limited situations pursuant to Section 4.7.030.
- B. Variances.** Variances provide greater flexibility to code standards than adjustments, where the physical characteristics of a site or its surroundings prevent reasonable development in compliance with a code standard.

### **4.7.030 Adjustments**

Adjustments are minor modifications to Code standards that are intended to provide reasonable flexibility for planned land uses and development. Adjustments are subject to the following standards and procedures. Permitted uses, as provided in Article 2, shall not be adjusted.

- A. Applicability.** The City Manager or Planning Commission, through a Type II procedure, may adjust the following standards:
  - 1. Setbacks:** Up to a fifteen percent reduction to a minimum setback.
  - 2. Lot Coverage:** Up to a fifteen percent increase to the maximum lot coverage.

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3. **Lot Dimensions:** Up to a fifteen percent decrease to a minimum lot dimension.
  4. **Lot Area:** Up to a fifteen percent decrease in minimum lot area.
  5. **Other Dimensional Standards:** Up to a fifteen percent increase or decrease in a quantitative (numerical) standard not listed above. This option is limited to standards in Article 2 (Table 2.2.040 and Chapter 2.3 Special Uses) and Article 3; it does not include building code requirements, engineering design standards, public safety standards, or standards implementing state or federal requirements, as determined by the City Manager.
  6. **Single Lot:** An application for an Adjustment is limited to one lot per application.

**B. Approval criteria.** The City may grant an Adjustment only upon finding that all of the following criteria are met. The burden is on the applicant to demonstrate compliance with the criteria.

1. The Adjustment allows for a building plan that is more compatible with adjacent land uses, or it does not create a conflict with adjacent uses;
2. Approval of the Adjustment does not create (a) violation(s) of any other adopted ordinance or code standard, and does not create the need for a Variance;
3. Requests for more than one Adjustment on the same lot shall be consolidated on one application and reviewed concurrently by the City;
4. Not more than three Adjustments may be approved for one lot or parcel in a continuous 12-month period; and
5. All applicable building code requirements and engineering design standards shall be met.

#### **4.7.040 Variances**

**C. Applicability.** A Variance is similar to an adjustment, but does not otherwise meet the criteria under Section 4.7.030.

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

1. The Variance is necessary because the subject Code provision does not account for special or unique physical circumstances of the subject site, not to avoid financial hardship;
2. The Variance is the minimum necessary to address the special or unique physical circumstances related to the subject site;
3. The need for the Variance is not self-imposed by the applicant or property owner. (For example, the

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Variance request does not arise as a result of a property line adjustment or land division approval previously granted to the applicant);

4. The Variance does not conflict with other applicable City policies or other applicable regulations;
5. The Variance will result in no foreseeable harm to adjacent property owners or the public; and
6. All applicable building code requirements and engineering design standards shall be met.
7. For variances from the standards of Chapter 2.4, the following additional criteria apply:
  - a. The impact of the increase in flood hazard, which will result from the variance, will not prevent the City or County from meeting the requirements of the Overlay Zone. In support of these criteria the applicant shall have a qualified professional engineer document the expected height, velocity and duration of flood waters, and estimate the rate of increase in sediment transport of the flood waters expected both downstream and upstream as a result of the variance;
  - b. The variance will not increase the cost of providing and maintaining public services during and after flood conditions so as to unduly burden public agencies and taxpayers;
  - c. A variance to avoid the loss of substantial economically viable use of a lot that is partially inside the Water Quality Resource Area Overlay Zone is permitted if development on the lot does not disturb more than 5,000 square feet of a vegetated corridor, including access roads and driveways, subject to the erosion and sediment control standards in Section VII of this ordinance. Applicants must demonstrate that without the proposed variance, the applicant would be denied economically viable use of the subject property. To meet this criterion, the applicant must show that no other design could result in an economically viable use of the subject property. Evidence to meet this criterion shall include other alternative designs on the subject property, including the use of smaller homes. If a smaller home could be used, the variance request cannot meet this criteria.

**E. Conditions of approval.** Conditions of approval can be added to any variance to assure compliance with code standards. If a variance is granted pursuant to Subsection D.7, the variance shall be subject to the following conditions:

- a. The minimum width of the vegetated corridor shall be 15 feet on each side of a Primary Protected Water Feature;
- b. No more than 25 percent of the length of the Water Quality Resource Area for a Primary Protected Water Feature within a development site can be less than 30 feet in width on each side of the water feature; and
- c. In either case, the average width of the Water Quality Resource Area shall be a minimum of 15 feet on each side for Secondary Protected Water Features, a minimum of 50 feet on each side for Primary Protected Water Features; or up to 200 feet on each side in areas with slopes greater than 25 percent. The stream shall be allowed to meander within this area, but in no case shall the stream be less than 10 feet from the outer boundary of the Water Quality Resource Area.

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#### **4.7.050 Expiration**

Approvals granted under Chapter 4.7 shall expire if not acted upon by the property owner within one year of the City approving the variance. Where the owner has applied for a building permit or final plat, has made site improvements consistent with an approved development plan (e.g., Site Design Review or preliminary subdivision plan), or provides other evidence of working in good faith toward completing the project, the City Manager may extend an approval accordingly.

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## Chapter 4.8 – Street Vacations

### Sections:

- 4.8.010 Purpose
- 4.8.020 Intent
- 4.8.030 Procedure
- 4.8.040 Criteria
- 4.8.050 Conditions
- 4.8.060 Recordation

### **4.8.010 Purpose**

Chapter 4.8 provides standards and procedures for street vacations.

### **4.8.020 Intent**

Street vacations allow the City the ability to entertain proposed street eliminations, or vacations, which remove the streets right of way and place the property form the right of way back to the neighboring property owners.

### **4.8.030 Procedure**

A proposal to vacate a street, plat, public square, or other public place shall be under a Type IV procedure and applicable State law.

### **4.8.040 Criteria**

The City Council shall base its recommendation on the following criteria:

- A. The proposal shall not violate the transportation system plan or Comprehensive Plan.
- B. No street to be vacated shall substantially reduce the fair market value of abutting property unless a majority of the owners of the affected property consent to the vacation in writing.
- C. The Planning Commission and City Council finds that the vacation is in the public interest of the community. The City Council shall make affirmative findings on the criteria and vacation proceedings may be terminated at any time.

### **4.8.050 Conditions**

Conditions on Street Vacations may include, but are not limited to, the following:

- A. Retention of an easement for a public utility or public service facility and limitations on the use of the

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area adjacent to such facility;

- B. Construction or removal of a public utility or public facility;
- C. Replatting of land in a subdivision to be vacated; or
- D. Construction or improvement of replacement facilities.

#### **4.8.060 Recordation**

City Council approval of a street vacation is only a tentative action. Once approved by the City Council the applicant must record the street vacation with the appropriate County. A street vacation approval by the City Council shall expire after two years if not recorded with the appropriate County.

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## Chapter 4.9 – Annexations and Urban Growth Boundary Changes

### Sections:

- 4.9.010 Urban Growth Boundary Changes
- 4.9.020 Procedure
- 4.9.030 Annexation Procedure
- 4.9.040 Annexation Criteria
- 4.9.050 Designation of Annexed Property

### **4.9.010 Urban Growth Boundary Changes**

Chapter 4.9 provides standards and procedures for Urban Growth Boundary changes and annexations. A proposed revision to the urban growth boundary (UGB) can only be made by the City Council. All requirements for processing a revision to the UGB shall be made in accordance with the Metro code, including a concept plan for the area, and any Urban Planning Area Agreements between either Clackamas or Washington County and the City. All criteria for a UGB change come from the State and the Metro Code. A UGB modification must first be approved by the respective County, and then the City Council. No Planning Commission review is required.

### **4.9.020 Purpose**

Chapter 4.9 establishes the procedures and requirements for Urban Growth Boundary Changes and Annexations to the City. De-annexations are administered pursuant to State Rules and requirements.

### **4.9.030 Annexation Procedure**

A proposal to annex territory to the city shall be conducted under the Type IV procedure with supplements or modifications required to comply with state law. When an annexation proposal has been initiated and the City Manager has determined the territory is eligible for annexation it shall be referred to the planning commission for a recommendation to the City Council.

### **4.9.040 Annexation Criteria**

The City Council shall base its decision on whether the following criteria have been met:

- A. The proposal conforms to the comprehensive plan or substantial changes in conditions have occurred which render the comprehensive plan inapplicable to the annexation.
- B. The inclusion of the territory within the city would be in the best interest of the City.
- C. The proposed annexation meets all State requirements and criteria.
- D. The proposed annexation is consistent with all requirements of the State's Transportation Planning Rule requirements as outlined in State law (ORS 197.646) which

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requires that local governments comply with statewide planning goals and rules adopted to implement them when they consider plan amendments.

- E. The proposed annexation must be consistent with Metro requirements listed in Metro Criteria from Metro Code Section 3.09.045 (D).

Although the City Council shall make affirmative findings on the criteria if it proceeds with the annexation, proceedings may be terminated by the City Council at any time.

#### **4.9.050 Designation of Annexed Property**

Territory annexed to the City shall remain subject to the land development regulations of the county until changed by the City. Any annexation to the City shall either have had a City Zoning/ Comprehensive Plan (the City uses a one-map system where the Zoning and Comprehensive Plan land Use designations are one in the same) designations applied to the property previously through a Type IV legislative process, or the required Zoning/Comprehensive Plan Land Use designation can be applied at the same time as the proposed annexation using the annexations Type IV action. Such change must be entirely carried out as a part of the annexation proceedings.



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## Chapter 4.10 Tree Cutting Permits

### Sections:

- 4.10.010 Purpose
- 4.10.020 Applicability
- 4.10.030 Review Procedure
- 4.10.040 Application Submission Requirements
- 4.10.050 Approval Criteria
- 4.10.060 Standards
- 4.10.070 Evidence of Tree Cutting Violation
- 4.10.080 Tree Cutting Violation Penalties
- 4.10.090 Relationship to Other Regulations

### **4.10.010 Purpose**

To protect and preserve the character of the City through the protection of trees. The City shall allow the cutting of trees on an established lot in order to construct proposed improvements or to otherwise utilize the applicant's property to the extent allowed by law.

### **4.10.020 Applicability**

- A. This Chapter shall apply to all trees in the City of Rivergrove. See Chapter 2.4.
- B. Notwithstanding the above, the following trees are exempt from regulation under this Chapter:
  - 1. Orchard species trees that bear fruit or nuts for human consumption.
  - 2. Plants that would otherwise meet the above descriptions but are typically grown as shrubs. Some typical examples are Hazelnut, Photinia, and Laurel. The first tree cut on any single lot or parcel within the City within a single calendar year, provided the owner notifies the City Manager of the intent to cut the tree, electronically or in writing, prior to the cutting. This exception does not apply to trees in the WQRA or Flood Hazard Area.
  - 3. Trees that are listed on the Rivergrove Noxious and Undesirable Tree List.
  - 4. One tree cutting on a single lot or parcel within a calendar year.

### **4.10.030 Review Procedure**

A tree cutting permit shall be conducted using the Type II procedure found in Section 4.1.030.

- A. A permit is required for each tree cut (as applicable under 4.10.020) within the City. Application is to

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be made and permit obtained from the City before the tree is cut, except for emergency tree cutting allowed in sub section D.2 below, or the first tree cut on any single lot or parcel within a single calendar year. Application for approvals must be made on the City Tree application form.

- B. Any tree work (e.g. pruning, limbing, cutting, binding, staking, etc.) or removals that could result in personal injury or property damage, should be done by a licensed and insured arborist.
- C. A tree cutting permit issued for construction of an improvement or utility shall not be valid, and no trees shall be cut, until all building permits or development permits have been issued by the City, County, or any other required approving agencies (local, State, or Federal).

D. Permit Types

1. Emergency Tree Cutting Permit –

In emergency conditions that require prompt cutting or removal of Dangerous Trees to avoid immediate danger or hazard to persons or property, an Emergency Tree Cutting Permit may be issued by the Mayor, the President of the City Council or the Chair of the Planning Commission without formal application. If the above-mentioned individuals are unavailable, it is permissible to cut those portions of the tree(s) immediately, as necessary, to avoid any immediate danger or hazard.

Within seven (7) days of any cutting, an application must be filed with the City providing information and evidence as may be reasonably required justifying the Emergency Tree Cutting. If the City Staff decides that the information and evidence provided by the owner does not justify the Emergency Tree Cutting, the application shall be denied and the property owner shall be subject to the penalties set forth in Chapter 1.6 and/or this Chapter (see Section 4.10.070-090). The City Staff shall also require an approved Mitigation Plan to offset the loss of any illegally cut tree(s).

2. NON-Water Quality Resource Area (NON-WQRA) or Flood Hazard Area Tree Cutting Permit-

This permit is for cutting any tree NOT in the WQRA or Flood Hazard Area.

Any application for cutting trees beyond the limit of one tree cutting on a single lot or parcel within a calendar year shall require review and approval or denial through the Type II process. The City's determination shall be made with the City Arborist's review and opinion, if deemed necessary.

3. Water Quality Resource Area (WQRA) or Flood Hazard Area Tree Cutting Permit-

This permit is for cutting of any tree in the WQRA or Flood Hazard Area.

A permit application must be made to the City for review and approval or denial through the Type II process. Requirements in Chapter 2.4 shall be followed, as well as any local, state, or

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federal flood or water quality regulations.

4. Dead, Dying, or Dangerous Tree Cutting Permit-

This permit is for cutting any tree that meets any aspect of the definitions below. A permit application must be made to the City for review.

“Dead” - means the tree is lifeless. Proof shall be either by a photograph of the tree provided to the City by the property owner, or a statement from a Certified Arborist. No Type II process is required, City Staff shall approve the permit immediately after receipt of all required information.

“Dying” - means the tree has been damaged beyond repair or is in an advanced state of decline because it is diseased, infested by insects, or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of the infestation or disease to other trees. Determination of this condition shall be made by City Staff with the City Arborist's review and opinion, if deemed necessary.

“Dangerous” – means the condition or location of the tree presents a clear public safety hazard or foreseeable danger of personal injury or property damage to an existing structure or utilities, and such hazard or danger cannot reasonably be alleviated by treatment or pruning. Determination of this condition shall be made by City Staff with the City Arborist's review and opinion, if deemed necessary.

For Dying and Dangerous tree cutting, the Type II process determination shall be made with the City Arborist's review and opinion, if deemed necessary.

#### **4.10.040 Application Submission Requirements**

All applications shall include the following:

- A. Information required for Type II review (see Chapter 4.1).
- B. An alternatives analysis. This must show other possible project configurations that could potentially minimize impacts the existing trees on site.
- C. When an application includes any tree cutting for subdivision, single lot development, or improvements, the City staff or the Planning Commission (if paired with permits requiring Commission review) shall require a report by a Certified Arborist or a report summarizing a review performed by the City Arborist regarding the impact of the tree cutting. In a development that involves the creation of more than one lot, the applicant shall provide both a report by the developer's Certified Arborist and a review by the City Arborist.
- D. Tree Protection Zone Plan:
  - I. All trees on any parcel or lot, other than those to be cut or pruned at the time of development,

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are considered Protected Trees for purposes of the permit being requested. The City Arborist or a Certified Arborist shall provide a Tree Protection Zone Plan for review with the application, showing methods to protect any tree that could be impacted by the proposed development. This shall include at a minimum adequate Protective Fencing for impacted trees before work of any kind proceeds at the site. This provision only applies if a tree cutting permit is required. If no tree cutting permit is required no tree protection plan is required.

E. Mitigation Plans:

1. All applications for tree cutting permits shall include a Mitigation Plan. The number and type of trees to be planted as mitigation for tree cutting in these permits shall be determined on a case by case basis, depending on site specific conditions. The City Arborist shall review and comment on the Mitigation Plan before it is approved or denied.
2. The Mitigation Plan must include at least the following information:
  - a. The species and caliper of mitigation tree(s) to be planted,
  - b. A site map showing the location of trees to be removed, the location of trees to be planted, and any proposed development on site,
  - c. A schedule with the proposed planting date,
  - d. Identification of measures to be taken to keep the mitigation tree(s) alive during the first five years after planting, and
  - e. Identify either a Performance Bond, warranty, or other security acceptable to the City to ensure that all mitigation trees survive for a five-year period after planting. This shall be required by a condition of approval added to the permit only if the value of the mitigation trees and their installation exceeds \$500 in costs.

#### **4.10.050 Approval Criteria**

A tree cutting permit may be approved, approved with conditions, or denied. The decision shall be accompanied by findings of fact, based on evidence in the record, demonstrating that all applicable permit and Chapter requirements are satisfied. A permit shall state the period of time (term) for which it is valid.

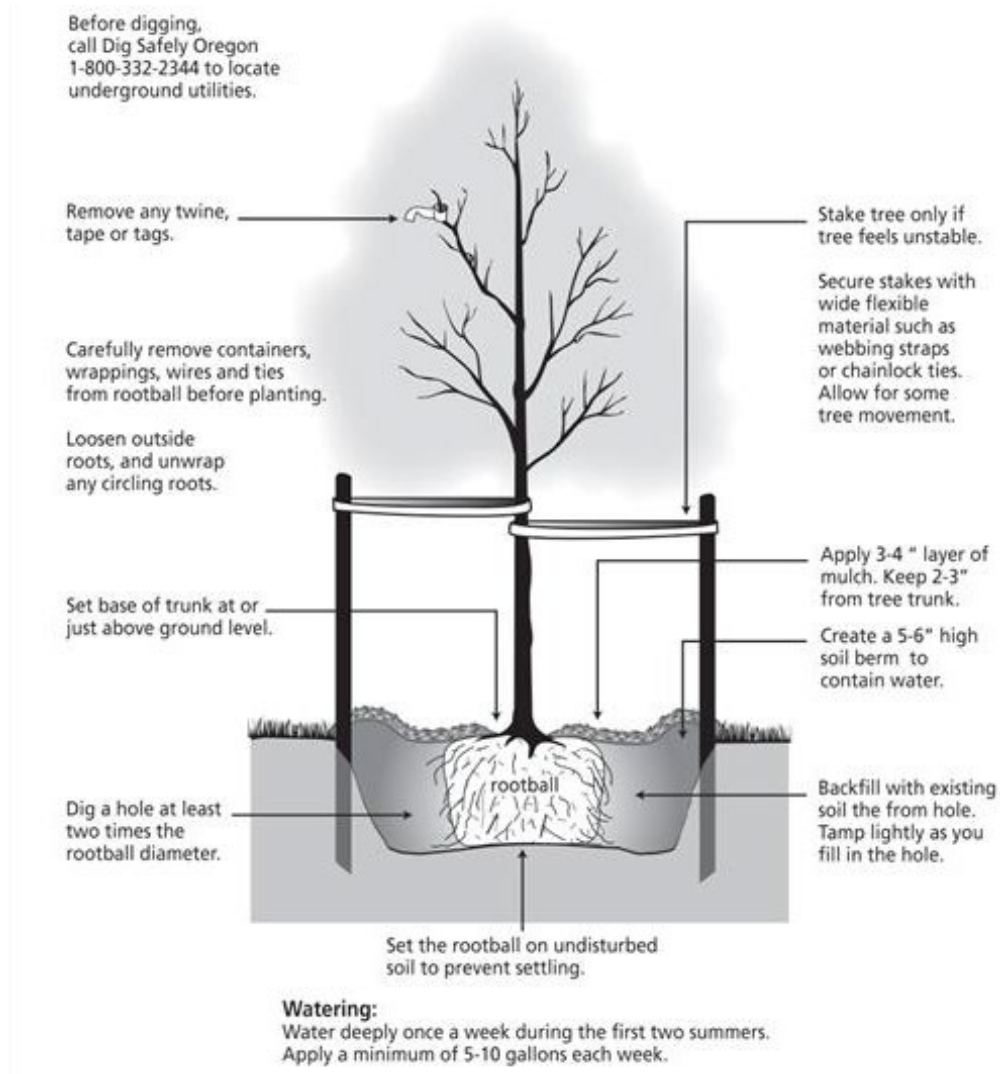
The applicant bears the burden of showing that the granting of the permit would be consistent with the stated purposes of this Chapter. The following criteria must be considered:

- A. The necessity of the tree removal in order to construct proposed improvements or otherwise utilize the applicant's property in a reasonable manner.
- B. The topography of the land and the effect of tree removal on erosion, soil retention, stability of earth, flow of surface waters, protection of nearby trees, windbreaks, and desirable balance between shade and open space.
- C. The number of trees in the existing neighborhood, the character and property uses in the neighborhood, and the effect of tree removal upon the neighborhood characteristics, and beauty.
- D. The adequacy of the Mitigation Plan submitted to the City, including a drainage plan, if appropriate.
- E. Other possible alternatives, such as tree treatment, pruning, relocating site improvements or utilities

to resolve the applicant's request, or an alternate site layout, alternative setbacks, or variance for maximum tree preservation.

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

#### 4.10.060 Standards



The following standards shall be implemented through the permit review. The permit shall impose conditions of approval for improvements, subdivisions, and lot development approvals:

- A. Each development (meaning a new home or other primary structure) or lot subdivision comprised of one or more lots shall plant at least one tree per 35' of frontage on any side of the property that borders a public or private street or vehicular right of way, unless a variance is approved for an

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alternative distance. This includes driveways or other access used by one than one home. Planting shall be on the lot(s) and in the front yard(s). Exact tree location(s) to ensure thriving trees shall be determined in the development approval process.

- B. Trees required to be planted as a result of development are to be chosen from Rivergrove's Approved Tree List, or a species and variety deemed acceptable to the City, as advised by the City Arborist.
- C. Trees required to be planted as a result of development shall be subject to the City's Tree Planting Standards, Survivability, Warranty, and Bonding requirements.
- D. All trees planted in conjunction with this Chapter's requirements will be planted using the above illustration and meet the following specifications, unless otherwise approved by the City and City Arborist.
- E. Trees selected for planting shall be free from injury, pests, disease, nutritional disorders or root defects, and be of good vigor, so as to assure a reasonable expectation of survivability.
- F. All trees planted must be 2 1/2" Caliper according to Chapter 5, unless an appropriate exception or alternate size is granted through the permit process.
- G. After planting trees required, and following acceptance of completion by the City, the owner shall warrant the new trees and provide for the replacement of those which did not survive for a period of no less than five (5) years.
- H. In the event that new trees proposed to be planted as part of a Mitigation Plan are not installed upon application for final occupancy permit, then a performance bond or other acceptable surety in an amount equal to one hundred and ten (110) percent of the value of the new trees and their installation shall be posted in accordance with the performance bonding requirements in the Rivergrove Land Development Ordinance.
- I. Any trees required for street frontage may also count as required mitigation trees.
- J. Modifications to approved plans are subject to City review and approval.
- K. Mitigation trees shall be installed on the same property as the trees that were removed. If there is not sufficient room for the mitigation trees on the same property, the City may approve other nearby locations. Rivergrove City Parks are usually not acceptable as an alternate planting location. All mitigation trees shall be subject to the City's Tree Planting Standards, Survivability Warranty, and Bonding requirements.
- L. It is highly recommended that Mitigation Trees be chosen from the Native Tree list, particularly in WQRA or Flood Hazard areas. It is recommended that other areas use the Approved Tree List.
- M. An approved Mitigation Plan may require the retention of dead or dying trees or tree trunks located in wetlands, natural areas, stream corridors, parks or open space areas, in order to provide for wildlife habitat and natural processes, unless the tree presents a potential hazard to persons or property or conflicts with development of the property.
- N. The City may accept mitigation trees that were planted prior to the application for a tree cutting

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permit.

- O. Failure to conform to an approved Mitigation Plan within a time set by the Permit, shall incur a penalty as set forth in Chapter 1.6 and as outlined further in sub sections 4.10-070-090 below.

#### **4.10.070 Evidence of Tree Cutting Violation**

- A. The following is in conjunction with Chapter 1.6.
- B. If any tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump measured at the ground that is 44” or more in circumference shall be considered prima facie evidence of a violation.
- C. Removal of the stump of a tree cut without a cutting permit prior to the measurement determination above is a violation of this Chapter.
- D. Proof of violation on a property shall be deemed prima facie evidence that the property owner committed such violation. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible individual property owner, legal entity, or collective parties, and shall be carried out in conformance with Chapter 1.6.

#### **4.10.080 Tree Cutting Violation Penalties**

- A. Cutting a tree in violation of this Chapter, breaching the term or conditions of a permit granted under this Chapter, or violation of any other provision of this Chapter is an offense punishable by fine not to exceed \$5,000.00 per tree. The unlawful cutting of each individual tree shall be considered a separate offense.
- B. The City retains the authority to require the applicant to replace any illegally removed trees according to an approved Mitigation Plan; in order to keep such replacement trees alive for a designated period of years and to meet any conditions as set forth by the Permit. No future work, permits, or approvals for any use of the subject property shall be granted without compliance with the Mitigation Plan.
- C. The property owner has the burden to prove that the criteria for granting a permit are satisfied or that any cutting is allowed without a permit.

#### **4.10.090 Relationship to other Regulations**

- A. Relationship to other City, Regional, State and Federal regulations:
  - I. In addition to the requirements of this Chapter and the City's Land Development Ordinance, tree cutting and planting actions shall comply with all other City, regional, state, and federal regulations, including the Clean Water Act, Endangered Species Act, and Migratory Bird

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Treaty Act.

2. Compliance with this Chapter does not in any way imply, either directly or indirectly, compliance with any other law. Where the provisions of this Chapter conflict with those set forth in other regulations under the City code, the more restrictive requirement shall apply. When both provisions are equally restrictive, the most recently adopted requirement shall prevail, except in matters affecting public safety.
3. References in this Chapter to other City, regional, state, or federal regulations do not constitute a complete list of such regulations. These references do not imply any responsibility by the City for enforcement of regional, state or federal regulations.



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**ARTICLE 5 – DEFINITIONS**

**Chapter 5.1 — Definitions**

5.1.010 Purpose	2
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## Article 5 – Definitions

### Chapter 5.1 — Definitions

#### Sections:

- 5.1.010 Purpose
- 5.1.020 Applicability
- 5.1.030 Definitions

#### **5.1.010 Purpose**

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

#### **5.1.020 Applicability**

**A. Definitions.** The definitions in Chapter 5.1 apply to all actions and interpretations under the City of Rivergrove Development Code. The meanings of some terms in this chapter may, in certain contexts in which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control.

**B. When a Term is Not Defined.** Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. *Webster’s Third New International Dictionary of the English Language, Unabridged*, shall be considered a standard reference.

**C. Land Use Categories.** Chapter 5.1 defines the land use categories used in Article 2.

**D. Conflicting Definitions.** Where a term listed in Chapter 5.1 is defined by another section of this Code it is not defined here. Any definition expressed in State or Federal codes supersede those listed below, except where expressly permitted by those codes.

#### **5.1.030 Definitions**

The following definitions are organized alphabetically.

#### **A**

**Abutting.** Contiguous or adjoining.

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

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

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

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

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

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

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

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

**Access Point.** A connection providing for the movement of vehicles between a lot or parcel and a public roadway.

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**Access Spacing / Intersection Spacing.** The minimum required distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.

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

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

**Accessory Structure.** A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure. Accessory structures are detached from the primary structure. Examples of accessory structures include, but are not limited to, garages, decks, fences, arbors, gazebos, garden sheds, equipment sheds, workshops, and other structures. See also, Primary Structure.

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

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

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

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

**Appeal.** A request for a review of the interpretation of any provision of this ordinance or a request for a variance.

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

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such as a builder, developer, or contract purchaser.

**Approved Tree List.** A list of trees that are approved and recommended for planting within Rivergrove.

**Architect.** An architect licensed by the State of Oregon.

**Area of shallow flooding.** A designated Zone AO, AH, AR/AO or AR/AH (or VO) on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard.** The land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, AI-30, AE, A99,AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard". Flood zones are geographic areas that the FEMA has defined according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM) or Flood Hazard Boundary Map. Each zone reflects the severity or type of flooding in the area.

#### Moderate to Low Risk Areas

In communities that participate in the NFIP, flood insurance is available to all property owners and renters in these zones:

- |                    |                                                                                                                                                                                                                                                                                                                                                       |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| B and X (shaded)   | Area of moderate flood hazard, usually the area between the limits of the 100- year and 500-year floods. B Zones are also used to designate base floodplains of lesser hazards, such as areas protected by levees from 100-year flood, or shallow flooding areas with average depths of less than one foot or drainage areas less than 1 square mile. |
| C and X (unshaded) | Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level. Zone C may have ponding and local drainage problems that don't warrant a detailed study or designation as base floodplain. Zone X is the area determined to be outside the 500-year flood and protected by levee from 100- year flood.                     |

#### High Risk Areas

In communities that participate in the NFIP, mandatory flood insurance purchase requirements apply to all of these zones:

- A** Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas; no depths or base flood elevations are shown within these zones.
  
- AE** The base floodplain where base flood elevations are provided. AE Zones are now used on new format FIRMs instead of AI-A30 Zones.

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- AI-30** These are known as numbered A Zones (e.g., A7 or A14). This is the base floodplain where the FIRM shows a BFE (old format).
  - AH** Areas with a 1% annual chance of shallow flooding, usually in the form of a pond, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.
  - AO** River or stream flood hazard areas, and areas with a 1% or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. These areas have a 26% chance of flooding over the life of a 30-year mortgage. Average flood depths derived from detailed analyses are shown within these zones.
  - AR** Areas with a temporarily increased flood risk due to the building or restoration of a flood control system (such as a levee or a dam). Mandatory flood insurance purchase requirements will apply, but rates will not exceed the rates for unnumbered A zones if the structure is built or restored in compliance with Zone AR floodplain management regulations.
  - A99** Areas with a 1% annual chance of flooding that will be protected by a Federal flood control system where construction has reached specified legal requirements. No depths or base flood elevations are shown within these zones.

#### Undetermined Risk Areas

- D** Areas with possible but undetermined flood hazards. No flood hazard analysis has been conducted. Flood insurance rates are commensurate with the uncertainty of the flood risk.

#### **B**

**Bankful Stage** - Defined in OAR 141-85-010 as the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begin to inundate upland areas. In the absence of a physically defined top of bank, the two-year recurrent flood elevation may be used to approximate the bankful stage. See top of bank.

**Banner.** A sign made of fabric or other non-rigid material with no enclosing framework.

**Base Zone** - The zoning for a parcel in the City of Rivergrove as established by the Comprehensive Plan and the Rivergrove Land Development Ordinance.

**Base flood.** The flood having a one percent chance of being equaled or exceeded in any given year.

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**Base flood elevation (BFE).** The elevation to which floodwater is anticipated to rise during the base flood.

**Basement.** Any area of the building having its floor subgrade (below ground level) on all sides.

**Bed and Breakfast Inn.** Any establishment, operating as a business, located in a structure designed for a single-family residence and structures appurtenant thereto, providing limited overnight lodging and meals for guests pursuant to the special use requirements for bed and breakfast inns. These are not permitted in the City at this time.

**Bench sign.** A sign on an outdoor bench.

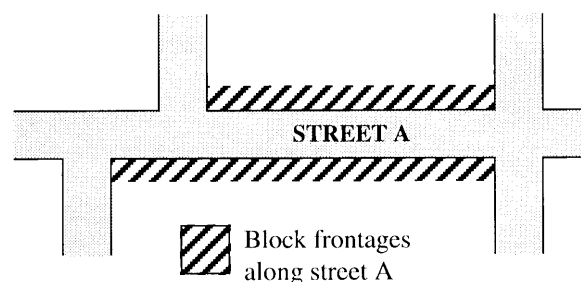
**Billboard.** A sign on which any sign face exceeds two hundred square feet in area.

**Blade Flag.** A piece of fabric attached to an arcing pole mounted to the ground, with a height typically under 8 feet tall and typically about 3 feet wide, usually advertising a business or product sold onsite.

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

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

#### Block Frontage



**Building.** See applicable building code.

**Building Footprint.** The outline of a building, as measured around its foundation. This would include any attached building features that require foundation, including fireplaces, media niches, and bow windows.

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**Building/Structure Height.** The vertical distance from the grade plane to the average height of the highest roof structure.

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

## C

**Caliper.** The caliper is the diameter of the trunk and shall be taken six inches above the ground up to and including four-inch caliper size. If the caliper at six inches above the ground exceeds four inches, then caliper should be measured at 12 inches above the ground, according to American Standard for Nursery Stock ANSI Z60.1-2004.

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

**Carport.** A stationary structure consisting of a roof, its supports, and not more than one wall or storage cabinets substituting for a wall, used to shelter motor vehicles, recreational vehicles, or boats; does not include temporary shelters or canopies not affixed to a permanent foundation per applicable building codes. These are not permitted in the City at this time.

**Certified Arborist.** An individual who has either obtained a certification as an arborist from the International Society of Arboriculture, or who is a member of the American Society of Consulting Arborists.

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

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

**City.** The City of Rivergrove, Oregon.

**City Arborist.** The person designated and contracted as such by the City Council.

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

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

**Commercial.** Land use involving buying/selling of goods or services as the primary activity. See also, Retail Sales and Services. There are no commercial zones in the City at this time.



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

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

**Comprehensive Plan.** The current adopted Comprehensive Plan of the City of Rivergrove.

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

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

**Corner lot.** See Lot, Corner lot.

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

**Cottage Housing.** A grouping of small, single-family dwelling units clustered around a common area with a coherent plan for the entire site sharing amenities such as open space, gardens, a workshop or a community building.

**Council/City Council.** The City Council of Rivergrove, Oregon.

**County.** Clackamas or Washington County.

**Created Wetlands -** Those wetlands developed in an area previously identified as a non-wetland to replace, or mitigate wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

## D

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

**Debris** - Discarded man-made objects that would not occur in an undeveloped stream corridor or wetlands. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or Styrofoam. Debris does not include objects necessary to a use allowed by this ordinance, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into Protected Water Features.

**Department of Environmental Quality (DEQ) Water Quality Standards.** The numerical criteria or narrative condition needed in order to protect an identified beneficial use.

**Design Flood Elevation.** The elevation of the 100-year storm as defined in FEMA Flood Insurance Studies.

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

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

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

**Development.** Any man-made change defined as buildings, the siting of manufactured homes or other structures, mining, dredging paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than 20 percent of the vegetation in the Water Quality Resource Area on a lot is defined as development, for the purpose of this ordinance. An activity that is not development but results in the removal of vegetation in the Water Quality Resource Area on a lot must comply with the Erosion and Sediment Control measures set forth herein. Development for the purposes of this ordinance does not include the following: a) Stream enhancement or restoration projects approved by cities and counties and b) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this ordinance.

**Dividing Land.** The process of separating a parcel of land or a lot in a subdivision into a number of lots by subdivision or parcels by partitioning. Dividing occurs when an improved plat or plan has been filed, or, if approval is not required, when less than the entire contiguous land holdings in a single ownership on the effective date of this ordinance is transferred to a new owner.

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

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

**Disturb.** Man-made changes to the existing physical status of the land, which are made in connection with development. The following uses are excluded from the definition- enhancement or restoration of the Water Quality Resource Area; planting native cover identified in the Rivergrove Native Plant List.

**Drip Line Area.** The area under the tree's canopy as defined by an imaginary vertical line extending downward from the outermost tips of a tree's natural length branches to the ground.

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

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

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

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

**Dwelling.** A structure conforming to the definition of a dwelling under applicable building codes and providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. If the individual units are self-contained, assisted living facilities for the elderly or disabled as defined by the State of Oregon, having common food preparation, dining, social, recreational, and/or housekeeping facilities are included in this definition. Typical accessory uses include: accessory storage buildings; private garage and parking areas; storage of not more than one commercial vehicle per dwelling unit; common area buildings for residents, guest houses, and guest quarters not in the main building, provided such houses and quarters are and remain dependent upon the main building for either kitchen or bathroom facilities, or both, and the guest facilities are used for temporary lodging only and not as a place of residence; and the taking of boarders or leasing of rooms by a resident family, providing the total number of boarders and roomers does not exceed two in any dwelling unit. For the purposes of this Code, the following types of dwelling units are defined:

- **Accessory Dwelling.** A secondary dwelling unit on a lot where the primary use is a single-family dwelling.
- **Attached, Single-Family (Townhome).** A dwelling unit located on its own lot that shares one or more common or abutting walls with one or more dwelling units on adjacent lot(s).

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- **Duplex Dwelling.** A structure that contains two primary dwelling units on one lot. The units must share a common wall or common floor/ceiling.
  - **Dwelling Unit.** A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, as applicable, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar.
  - **Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."
  - **Mobile Home.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
  - **Multifamily Development.** A structure or grouping of structures containing three or more dwellings on the same lot.
  - **Multifamily Structure.** A structure containing four or more dwelling units. The land underneath the structure is not divided into separate lots. These are not permitted in the City at this time.
  - **Residential Trailer.** A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities; that is intended for human occupancy; that is being used for residential purposes; and that was constructed before January 1, 1962.
  - **Recreational Vehicle (RV).** A vehicle, with or without motive power, that is designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes and is further defined by state law and/or administrative rules.
  - **Residential Home** is a residential treatment or training or adult foster home licensed by or under the authority of the Department of Human Services, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500, or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. (See also, ORS 197.660.).
  - **Residential Facility** is defined under ORS 430.010 (for alcohol and drug abuse programs), ORS 443.400 (for persons with disabilities), and ORS 443.880; residential facilities provide housing and care for 6 to 15 individuals who need not be related. Staff persons required to meet state licensing

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requirements are not counted in the number of facility residents and need not be related to each other or the residents. These are not permitted in the City at this time.

- **Senior Housing.** Housing designated and/or managed for persons over a specified age. Specific age restrictions vary, and uses may include assisted living facilities, retirement homes, convalescent or nursing homes, and similar uses not otherwise classified as Residential Homes or Residential Facilities. These are not permitted in the City at this time.
- **Single-Family, Detached Dwelling.** A detached dwelling unit located on its own lot.

## E

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

**Emergency.** Any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

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

**Engineer.** A registered professional engineer licensed by the State of Oregon.

**Enhancement.** The process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

**Erosion.** Erosion is the movement of soil particles resulting from actions of water or wind.

## F

**Family Child Care Home.** Care for not more than 16 children in a home. See ORS 329A.440 for applicable licensing and other requirements.

**FEMA.** The Federal Emergency Management Agency

**Fill.** Any material such as, but not limited to, sand, gravel, soil, rock or gravel that is placed in a wetland or floodplain for the purposes of development or redevelopment.

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

**Flag.** A piece of fabric of distinctive design that is displayed hanging free from a staff, halyard or building to which it is attached. A flag is often used to display the symbol of the United States, a nation, state, local government, business, organization or a person.

**Flood or Flooding.**

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation study.** An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

**Flood Insurance Rate Map (FIRM).** The official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Insurance Study (FIS).** See “Flood elevation study.”

**Flood proofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

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

**Floodplain.** The land area identified and designated by the FEMA that has been or may be covered temporarily by water as a result of a storm event of identified frequency. It is usually the flat area of land adjacent to a stream or river formed by floods.

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**Floodway** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

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

**Freestanding sign.** A sign that is not attached to a building and is erected on a structure connected to the ground. A freestanding sign does not include a portable sign. No part of a freestanding sign shall be erected or maintained within three feet of a street front property line, or within five feet of a side lot line and a freestanding sign shall not project or extend into a right-of-way or any vision clearance area. Only one freestanding sign is allowed for each street frontage.

**Functionally dependent use.** A use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

## G

**Garage.** A permanent structure with a roof and four walls, designed to provide shelter for vehicles, and which is accessory to a dwelling or other primary use.

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

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

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

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

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

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only, and similar uses.

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

## H

**Handheld sign.** A hand carried sign of four sq. ft. or less, four linear feet in any direction, worn or carried by a person when being displayed.

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

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

**Height (signs).** The vertical distance measured from grade to the highest attached component of a sign including the supporting structure.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure.** Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior or



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- b. Directly by the Secretary of the Interior in states without approved programs.

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

**Hotel/Motel.** A building or portion thereof designed and used for occupancy of transient individuals lodged with or without meals for a continuous period not to exceed 29 days. (See ORS 446.310.). These are not permitted in the City at this time.

## I

**Impact Area** means an area that has been identified in the plan or map as needing land or Water management to protect against adverse impact such as erosion, slippage, loss of unique wildlife or plant habitat or another feature identified as needing special consideration and protection where such management is to be implemented through a site investigation program.

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

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

**Invasive Non-native or Noxious Vegetation.** Plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities.

## J

**Junk Yard.** (1) Any property or establishment on which one or more persons are engaged in breaking up, dismantling, sorting, storing, distributing, buying, or selling scrap, boats, trailers, vehicles or waste materials. (2) Any establishment or place of business on which two or more inoperable motor vehicles or an equivalent volume of waste or refuse are maintained, stored, bought, or sold. Includes wrecking yards, automobile graveyards, garbage dumps, and scrap metal processing facilities. These are not permitted in the City at this time.

## K

**Kennel.** Any lot or premises where three or more dogs or cats aged six months or older are boarded or bred for compensation. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels. These are not permitted in the City at this time.

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## L

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

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

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

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

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

**Level of Service ("LOS").** A quantitative standard for transportation facilities describing operational conditions.

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

**Lowest floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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

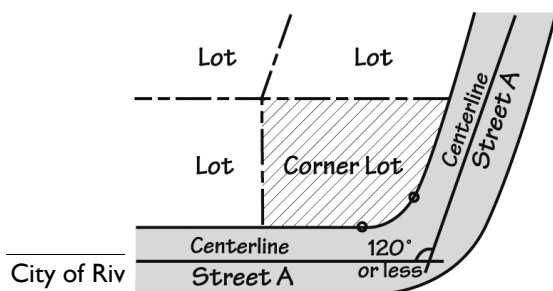
- **Corner Lot.** A lot that has frontage on more than one intersecting street. A street that curves with angles of 120 degrees or less, measured from the center line of the street, is considered two intersecting streets for the purpose of evaluating whether a lot is a corner lot. See figures, below.

- **Flag Lot.** A lot with two distinct parts:
  - The flag, which is the only building site and is located behind another lot; and
  - The pole, which connects the flag to the street, provides the only street frontage for the lot, and at any point is less than the minimum lot width for the zone.
  - Structures on a flag lot can orient any direction, the front property line can be any of the property lines.
- **Through/Reverse Frontage Lot.** A lot that has frontage on two parallel or approximately parallel streets.

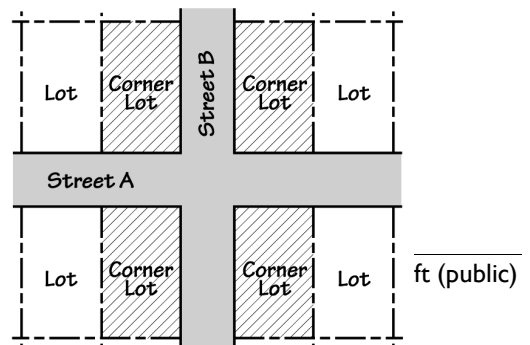
**Lot Lines / Property Lines.** The property lines along the edge of a lot or site. See figures, below.

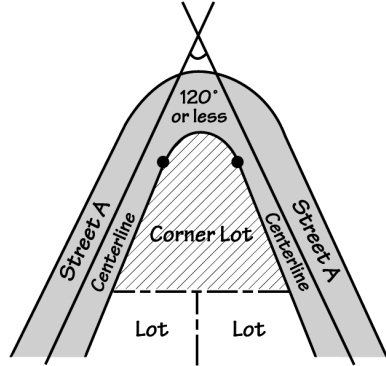
- **Front Lot Line.** A lot line, or segment of a lot line, that abuts a street. On a corner lot, the applicant or property owner can choose which lot line is to be the front lot line for the purpose of determining required setbacks. However, a through lot has two front lot lines regardless of whether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

### Corner Lots

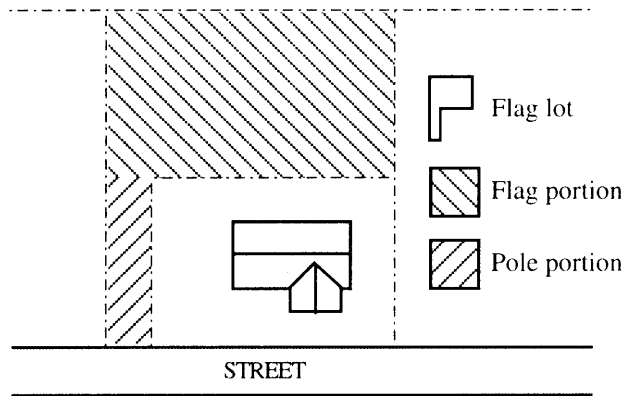


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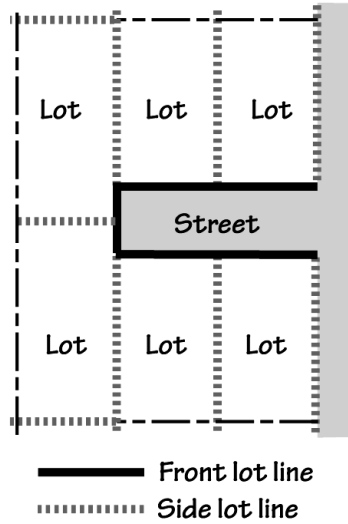




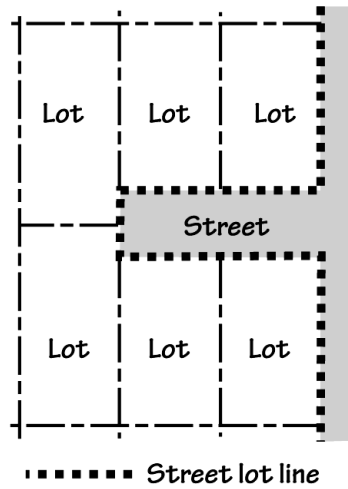
**Flag Lot**



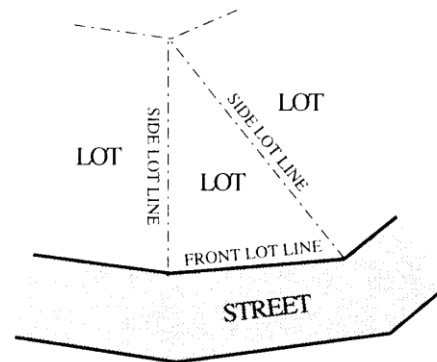
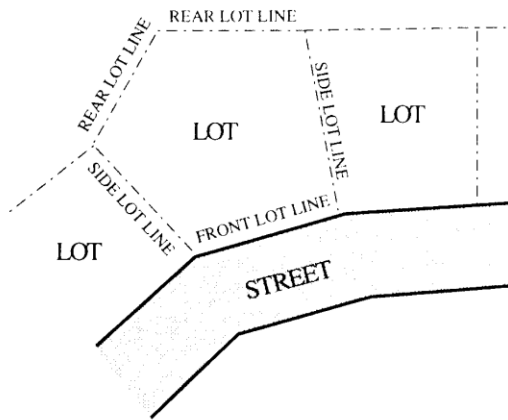
**Front and Side Lot Lines**



**Street Lot Lines**



**Lot Lines on Irregular Lots**



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

**Lot, Double-Frontage.** See Lot, Through/Reverse Frontage Lot.

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

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

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

**Lot Line Adjustment.** See Property Line Adjustment.

## M

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

**Major Remodeling.** Projects where the floor area or the developed area of the site increases by 20 percent or more.

**Maneuvering Area/Aisle.** The driving area in a parking lot where motor vehicles are able to turn around

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and access parking or loading spaces.

**Manufactured and Mobile Homes.** See definitions under Dwelling.

**Manufactured Dwelling and Mobile Home Park (Land Use).** A parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale located within 500 feet of one another on a lot, tract, or parcel of land under the same ownership, the primary purpose of which is to rent or lease space, or keep space for rent or lease, to any person for a charge or fee paid, or to be paid, for the rental or lease or use of facilities, or to offer space free in connection with securing the trade or patronage of such person. Manufactured dwelling park does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by one manufactured dwelling per lot. See also, ORS Chapter 446. These are not permitted in the City at this time.

**Mean sea level.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

**Mitigation.** The reduction of adverse effects of a proposed project by considering, in the order:

- a) avoiding the impact all together by not taking a certain action or parts of an action;
- b) minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- c) rectifying the impact by repairing, rehabilitating or restoring the effected environment;
- d) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
- e) compensating for the impact by replacing or providing comparable substitute Water Quality Resource Areas.

**Mixed-Use.** The combination of residential uses with commercial (e.g., office, retail, or services), civic, or light industrial uses on a site. These are not permitted in the City at this time.

**Multifamily Development and Structure.** See definitions under Dwelling.

## N

**Native Tree List.** A list of trees indigenous to the Rivergrove area. A native tree is one that has not been introduced by man and occurs naturally. The City Council, with the guidance of the City Arborist, maintains a list of native trees recommended for planting in Rivergrove.

**Native Vegetation.** Any vegetation native to the Portland metropolitan area or listed on the Rivergrove Native Plant List as adopted by Rivergrove Council resolution.

**New construction.** For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management

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regulation adopted by the City of Rivergrove and includes any subsequent improvements to such structures.

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

**Nonconforming sign.** A sign that was lawful when it was constructed but does not meet the requirements of this ordinance.

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

**Nonconforming Use.** A use that was allowed by right when established or a use that obtained a required land use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Chapter 1.4.

**Noxious and Undesirable Tree List.** A list of trees that are harmful or invasive and prohibited from being planted in the City. The City Council, with the guidance of the City Arborist, maintains a list of trees that are noxious and undesirable in Rivergrove.

## O

**Office (Land Use).** Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services. These are not permitted in the City at this time.

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

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

**Open Space.** Land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and parks.



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

**Overlay Zone** - An area within the City of Rivergrove that requires more specific Zoning regulations applied to a specific area.

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

## P

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

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

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

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

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

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

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

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

**Pennant.** A sign device made from a strip of flexible material intended to wave in the wind.

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

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**Planning Commission** means the Planning Commission of the City of Rivergrove, Oregon, and also serves as the City Design Review Body.

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

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

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

**Portable sign.** A sign that is not permanently affixed to a building, structure, or the ground and designed to be moved from place to place.

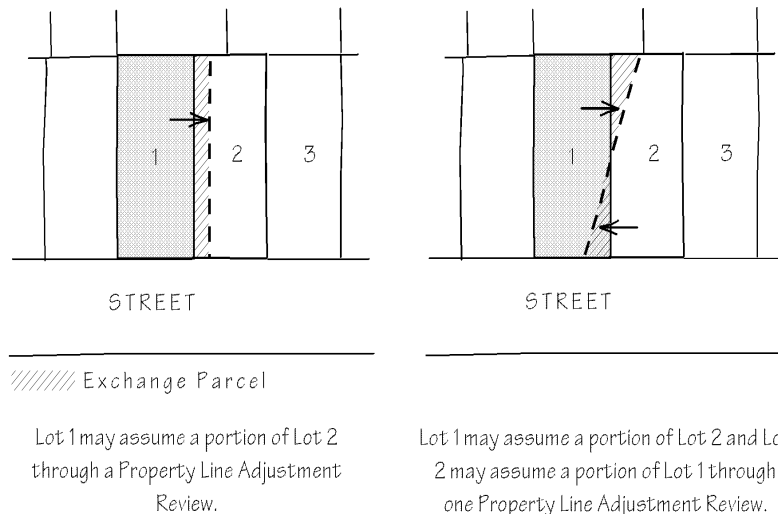
**Practicable.** Capable of being done after taking into consideration reasonable cost, existing technology, and logistics in light of overall project purposes; for flood purposes this means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.

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

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

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

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



**Protective Tree Fencing.** A temporary enclosure erected around a tree to be protected at the boundary of the Tree Protection Zone. The fence serves three primary functions:

- 1) to keep the foliage crown, branch structure and trunk clear from direct contact and damage by equipment, materials or disturbances;
- 2) to preserve roots and soil in an intact and non-compacted state; and
- 3) to identify the Tree Protection Zone in which no soil disturbance is permitted and activities are restricted.

**Protected Trees.** All trees that are not specifically designated and approved to be removed on private property, as part of an approved development permit. Protected trees are to be indicated on development plans submitted for approval.

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

**Public Improvements.** Development of public infrastructure, as required by the City, a special district, or road authority, as applicable. See Chapter 3.6.

**Public right-of-way.** A travel area open for public use and or under control of a public agency, including but not limited, to highways, private streets, public streets, bike paths, alleys and sidewalks.

**Public sign.** A sign that was constructed or placed within or proximate to the public right-of way by or with the approval of the governmental agency having authority over, control of or ownership of the right-of-way or a sign that was constructed or placed by a public utility on or adjacent to a pole, pipe, or distribution facility of the utility and within or proximate to the public right-of-way.

**Protected Water Features.** Primary Protected Water Features shall include:

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- a) wetlands;
  - b) rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow);
  - c) streams carrying year-round flow;
  - d) springs which feed streams and wetlands and have year-round flow; and
  - e) natural lakes.

## Q

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

## R

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

**Recreational vehicle:** A vehicle that is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

**Repair.** Mending or replacing broken or worn parts with comparable materials.

**Residential Use (Land Use).** Long-term (i.e., more than 28 days) occupancy of a dwelling unit, which may be owner-occupied or rented. Occupancy of a dwelling unit for shorter periods of time is considered an overnight accommodation.

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**Residential Care Home.** Residential care homes are single family homes that provide room and board for up to 5 people who typically cannot provide care for themselves. They are licensed and surveyed by the State of Oregon. Board and care homes in Oregon provide full-time, family-type living in a private residential home for elderly persons or adults with a disability, who are not related to the owner. The owner lives in the same house as the residents.

**Restoration.** The process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function, and/or diversity to that which occurred prior to impacts caused by human activity.

**"Resource" versus "Facility."** The distinction being made is between a "resource," a functioning natural system such as a wetland or stream; and a "facility" which refers to a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

**Retail Sales and Service Uses (Land Use).** Retail Sales and Service uses sell, lease, or rent new or used products, goods, or services. They include services such as barber/salon, accountant, restaurant, bar, repair service, and similar uses. See also, Vehicle Servicing. These are not permitted in the City at this time.

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

**Riparian** -Those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

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

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

**Roof sign.** A sign erected upon, against, or over the roof of any building or structure.

**Routine Repair and Maintenance** - activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

## S

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

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**Seasonal decorations.** Every type of decoration displayed during and around a federally recognized holiday or on a seasonal basis, whether illuminated or not, and whether attached to utility poles, buildings or any other structure.

**Secondary Protected Water Features** shall include intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

**Self-Service Storage.** Mini-storage or other storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property. These are not permitted in the City at this time.

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

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

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

**Sidewalk.** A paved walkway within a public street right-of-way that is generally located adjacent to and separated from the roadway by a curb[, *drainage facility (e.g., ditch or swale),*] or planter strip.

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

**Sign.** Any writing, video projection, pictorial representation, illustration, decoration (including any material used to differentiate sign copy from its background), emblem, symbol, design, trademark, banner, flag, pennant, captive balloon, streamer, spinner, ribbon, sculpture, statue, or any other figure or character that:

1. Is a structure or any part thereof (including the roof or wall of a building); or
2. Is written, printed, projected, painted, constructed, transmitted or otherwise placed or displayed upon or designed into a structure or an outdoor screen or monitor, or a board, plate, canopy, awning, marquee, or a vehicle, or upon any material object or device whatsoever; and
3. By reason of its form, color, wording, symbol, design, or illumination, attracts or is designed to attract attention and communicate a message. Graphics, murals and art work that do not

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communicate informational messages, apart from any aesthetic or artistic message, are not signs. It is a disputable presumption that a graphic, mural or art work that depicts or relates to the use of a site or structure on which it is displayed, is intended to communicate an informational message about the site or structure.

**Sign copy.** The message or image conveyed by a sign.

**Sign face.** The sum of the surfaces of a sign face as seen from one plane or elevation included within the outer dimensions of the sign board, frame or cabinet.

**Sign area.** The area of the sign measured within lines drawn between the outermost points of a sign, but excluding essential sign structure, foundations, or supports.

**Sign height.** The average level of the grade below the sign to the topmost point of the sign including the supporting sign structure, foundations, and supports.

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

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

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

**Special flood hazard area.** See “Area of special flood hazard” for this definition.

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

**Street frontage.** The length or width of a site, measured along a line separating the site from a street or public right-of-way.

**Start of construction.** Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of

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excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure.** For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

**Street.** A public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land, and the placement of utilities and including the terms "road," "highway," "lane," "avenue," "way," "place," "court," "boulevard," "circle," "drive," "alley," or other similar designation.

- (1) "Alley" means a narrow street through a block primarily for vehicular service access to the back or side of property otherwise abutting on another street.
- (2) "Arterial" means street of considerable continuity which is primarily a traffic artery for inter-communication among large areas.
- (3) "Collector" means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas; also used to some extent for access to abutting properties and may be used to a limited extent for through traffic.
- (4) "Cul-de-sac" means a short street having one end open to traffic and terminated by a vehicle turnaround; also called a dead-end street.

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

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

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

**Stream.** A body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.

**Stormwater Pre-treatment Facility.** Any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water runoff during and after a storm



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event for the purpose of water quality improvement.

**Structure.** Except as provided by applicable building codes, any object constructed in or on the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, utility vaults, and other similar objects. Structure does not include paved areas or vegetative landscaping materials. For flood purposes a structure is a building or other major improvement that is built, constructed or installed, not including minor improvements, such as utility poles, flagpoles or irrigation system components, that are not customarily regulated through zoning codes. Fences and decks are considered structures for the purpose of this ordinance.

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

**Substantial damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement.** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**Supporting structure (signs).** A structure specifically intended for supporting or containing a sign.

## T

**Temporary Signs.** Any sign placed or erected for an event. The sign shall not be displayed for more than the time permitted in section 3.7.050.

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

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

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**Top of Bank.** The same as "bankful stage" defined in OAR 141-85-010(2). See bankful

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

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

**Tree.** Any standing woody, perennial plant, deciduous, evergreen, or coniferous, having a main stem or trunk a minimum of 12" DBH (Diameter Breast Height – measured 4.5' from the ground) or 37 ¾" circumference at that height.

- a. Trees with multiple trunks shall have each trunk measured at the 54" DBH standard and the sum computed as total DBH.
- b. The minimum size for Oregon White Oak, Pacific Madrone, Yew, and Pacific Dogwood trees shall be 6" DBH or 18 7/8" circumference at that height.

**Tree Cutting.** Any of the following:

- a. Complete removal, such as cutting to the ground or extraction, of a tree;
- b. Taking any action foreseeably leading to the death of a tree or permanent damage to a tree's health. Cutting includes, but is not limited to: excessive pruning, cutting, girdling, poisoning, or overwatering; trenching, excavating, or altering the grade around a tree; compacting the soil or paving within the Drip Line Area of a tree; or unauthorized relocation or transportation of a tree; or
- c. Cutting off more than one-third of the functional leaf and stem area of a tree in any 12- month period, or removal of tree limbs and foliage so as to cause the tree's limb structure to be unbalanced, or sometimes called "topping."

**Tree Mitigation Plan.** A plan to remediate, remedy and offset the loss/removal of trees on a property, generally by planting new trees.

**Tree Protection Zone (TPZ).** Unless otherwise specified by a Certified Arborist or City Arborist, the area inside the Protected Tree Fencing. The TPZ is a restricted activity zone where no soil disturbance is permitted, unless otherwise approved. The TPZ will normally be measured at ½ foot radius per DBH inch for any given tree.

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

**Travel Trailer.** A vacation structure or self-propelled vehicle equipped with wheels for street or highway use; intended for human occupancy; equipped with plumbing, sink, or toilets; used for vacation and

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recreational purposes; and not used as a residence. See ORS 446.003(5), (24), and Recreational Vehicle.

## U

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

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

**Utility Facilities** - buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pretreatment facilities.

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

## V

**Variance.** A Planning Commission decision to lessen or otherwise modify the requirements of this Code. See Chapter 4.7. A variance for Flood purposes is a grant of relief by the City from the terms of a flood plain management regulation.

**Vegetated Corridor.** The area of setback between the top of bank of a Protected Water Feature and the delineated edge of the Water Quality Resource Area.

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

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

**Vehicle sign.** A non-illuminated sign permanently or temporarily placed on or attached to the exterior of a

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motor vehicle, trailer railroad car, or light rail car that is used in the regular course of business for purposes other than the display of signs.

**Vehicle Servicing.** Gas stations, unattended card key stations, car washes, commercial vehicle maintenance and/or oil and lubrication services, and similar uses. These are not permitted in the City at this time.

**Video sign.** A sign providing information in both a horizontal and vertical format (as opposed to linear), through use of pixel, sub-pixel or other technology having the capacity to create continuously changing sign copy.

**Violation (for flood purposes).** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**Visible or Measurable Erosion.** Visible or measurable erosion includes, but is not limited to: Deposits of mud, dirt sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.

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

## W

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

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

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

**Water Quality Resource Areas (WQRA) -** The Protected Water Feature and the adjacent

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Vegetated Corridor as established in this ordinance.

**Watershed.** A watershed is a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

**Warehouse, Freight Movement and Distribution.** The storage or movement of goods, except as accessory to a primary permitted use on the subject site. These are not permitted in the City at this time.

**Wetlands.** Wetlands are those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the most recent Corps of Engineers Wetland Delineation Manual and created wetlands.

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

**X** [reserved]

**Y**

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

**Z** [reserved]