



## CITY OF MANZANITA

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### Planning Commission

Zoom Video Webinar

<https://ci.manzanita.or.us/planning-commission/>

### AGENDA

May 12, 2025

04:00 PM Pacific Time

**Video Meeting:** The Planning Commission will hold this meeting through video conference.

The public may watch live on the City's Website: [ci.manzanita.or.us/broadcast](https://ci.manzanita.or.us/broadcast)

or by joining the Zoom Meeting:

<https://us02web.zoom.us/j/83678284830?pwd=razeUed3jOUpLsYyyjpDPbgaczeSlp.1>

Meeting ID: 836 7828 4830

Passcode: 293493

Dial in number: (253) 215 8782

**Please note that a passcode is not required to enter the webinar.**

**Note:** Agenda item times are estimates and are subject to change

**1. CALL TO ORDER (4:00 p.m.)**

**2. AUDIENCE PARTICIPATION**

Comments must be limited to city topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to [planning@ci.manzanita.or.us](mailto:planning@ci.manzanita.or.us)), or in person to city staff.**

**3. APPROVAL OF MINUTES**

A. April 24, 2025

**4. New Business**

A. Comp Plan

**5. UPDATES**

A. Leila Aman

**5. ADJOURN (5:30 p.m.)**

**CITY OF MANZANITA**  
**PLANNING COMMISSION MEETING MINUTES**  
**April 21, 2025, 2025**

- I. CALL MEETING TO ORDER:** Chair Reddick-Yurka called the meeting to order at 4:18 p.m.
- II. ROLL:** Planning Commission members present were: Karen Reddick-Yurka, Lee Hiltenbrand, Bert Gregory, John Collier, Thomas Christ, Frank Squillo, and Brad Berman. Staff present were: Building Official Scott Gebhart, 3<sup>rd</sup> Party City Planner Scott Fregonese, housing subject matter expert Marcy McInelly and permit tech Chris Bird.
- III. AUDIENCE:** There were 18 persons in the audience.
- IV. PUBLIC COMMENTS:** There were no public comments.
- V. APPROVAL OF MINUTES: MARCH 10, 2025 -** A motion was made by John Collier, seconded by Frank Squillo, to approve March 10, 2025 minutes as submitted. Motion passed unanimously.

**DISCUSSION**

**VI. UPDATE ON THE COMPREHENSIVE PLAN AND HOUSING ORDINANCE UPDATE PROJECT**

- A. INTRODUCTION** – Housing subject matter expert Marcy McInelly presented code concepts both clearly and not clearly supported from the last work session.
- B. PRESENTATION** – Marcy McInelly first presented the proposal to reduce the number of use zones from five to three zones before going into an overview of code amendments. Zones MH-1, MH-2 and MH-3 would replace the current 5 zones of the city.

Marcy's presentation then went into the proposed changes to the zoning ordinances. She started with changes in definitions for dwelling units. Next, it was explained that the R2 zone would become the new MH-1. R3, R4, and RMD would become MH-2, with SR-R becoming MH-3.

The presentation then talked about uses and development standards in the new zones. Floor area ratio was then discussed to limit house sizes and to promote additional housing on the same lot. Marcy then asked the commission about an upper limit for maximum lot sizes. The presentation then turned to off-street parking requirements and proposed changes.

Marcy ended her presentation by letting everyone know there would be another work session, followed by hearings and a briefing of City Council.

**C. GENERAL COMMENTS AND QUESTIONS** – Planning Commissioners wanted to know if the current zone use designations would remain or be replaced. It was also asked if units would be limited in the new MH-1 zone and if floor area ratio includes garages. It was asked if the new definitions for housing were consistent with state law.

The commissioners asked if cottage cluster requirements could be changed to suit the community and where group homes fit into the new definitions. Concern was shown for the definition of density for cottage clusters and if higher density can be mandated more than the state minimum. Mary was asked if the new zones would increase density throughout the city and do we need to modify areas in zones if that's where the increase in density is actually going to happen.

It was then asked what the criteria is to define a PUD in one of the new zones. The commissioners wanted to know about commercial uses in the new zones. It was then asked and conversation turned to if building height was 35 feet, could someone doing workforce housing could get height beyond the maximum allowed and its ramifications.

Conversation turned to floor area ratio as an effective tool to measure building size and if house size would or should need to be limited regardless of floor area ratio. On the subject of maximum lot sizes, the commission's thinking was not to limit lot sizes and to incentivize additional dwelling units on the same lot. Marcy was asked about the state's parking rules for ADU's. Commissioners showed concern but were open with the relaxation of parking standards for housing and its potential effect on the city.

The commissioners asked Marcy if there would be another Planning Commission hearing prior to an adoption hearing at City Council. It was asked if the Planning Commission doesn't have code ready ordinance language if they want to have an extra meeting in May.

**VII. GENERAL UPDATES:** Building Official Scott Gebhart briefed the Planning Commission that there were no design reviews scheduled for May and that they continue their code adoption conversation with a possible subdivision in June.

**VIII. ADJOURNMENT:**

**Chair Reddick-Yurka adjourned the meeting at 6:37 p.m.**

**MINUTES APPROVED THIS 12TH  
DAY OF MAY 2025**

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Karen Reddick-Yurka, Chair

**ATTEST:**

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Leila Aman, City Manager/Recorder



Date 28 April 2025  
Subject Manzanita Draft Code Amendments  
To Leila Aman, City Manager, City of Manzanita  
From Marcy McInelly, AIA, Urbsworks, Inc.

MANZANITA MIDDLE HOUSING CODE & COMPREHENSIVE PLAN AMENDMENTS

## Cover Memo

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### Project Purpose

From the Scope of work:

*The purpose of this Project is to prepare a hearings-ready development code amendments to comply with and exceed housing-related statutes and facilitate housing production, affordability, and choice. Amendments will include allowing duplexes on all single family detached lots in accordance with House Bill 2001. Other amendments may include single family (accessory dwelling units, manufactured homes) and middle housing types (tri/quadplex, townhomes, cottage clusters). Code amendments will not address multifamily housing.*

### Contents of this package

- Code Amendments Draft – Summary Table (this document)
- ORD 95-4\_Track changes version
- Attachment A\_95-4\_New Zones Maps
- Attachment B\_95-4\_New land use districts – proposed text amendments
- Attachment C\_95-4\_Section 4.160 Supplemental Standards for Middle Housing
- Attachment D\_95-5\_Land Division
-

# Code amendments summary table

## MANZANITA SUBDIVISION STANDARDS AND PROCEDURES ORDINANCE #95-5

Article	Description of amendments
All articles	Proposed Ordinance 95-5 - LAND DIVISIONS completely replaces current text.

## MANZANITA ZONING ORDINANCE #95-4

Article	Description of amendments
1. INTRODUCTORY PROVISIONS Section 1.030 Definitions	<p>Add definitions of the new housing types.</p> <p>Delete use of “<u>family</u>” in housing types definitions. Instead refer to “<u>dwelling</u>” and “<u>household</u>” to comply with ORS 90.112 which restricts cities from limiting occupancy based on familial relationship.</p> <p>Add or revise definitions for consistency, clarity and compliance, e.g., for measuring minimum and maximum density; “<u>common courtyard</u>,” “<u>story</u>,” “<u>side yard daylight plane</u>,” etc.</p>
2. BASIC PROVISIONS Section 2.020 Classification of Zones	Amend listing of zones.
2. BASIC PROVISIONS Section 2.030 Location of Zones	Amend reference to locations of zones and new maps, see Attachment B.

Article	Description of amendments
<p>3. USE ZONES</p> <p>Sections 3.010 Medium Density Residential Zone; R-2, Section 3.020 High Density Residential Zone, R-3; Section 3.025 High Density Residential/Limited Commercial Zone, R-4; Section 3.030 Special Residential/Recreational Zone, SR-R, and Section 3.060 Residential Manufactured Dwelling, RMD.</p>	<p>Reduce number of Use Zones.</p> <p>Explicitly list and permit required and desired housing types.</p> <p>Ensure that development standards permit required and desired housing types.</p> <p>Within development standards, add any requirements that address the form based approach appropriate to each context zone.</p> <p>Establish a residential Floor Area Ratio (FAR) maximum cap of 2,500 square feet for the first dwelling unit, with a give-back for additional dwelling units.</p> <p>Establish a residential Floor Area Ratio for residential uses (one does not exist today).</p> <p>Establish a maximum cap on square footage for the first dwelling unit of 2,500 sf.</p> <p>Allow additional square footage for each additional dwelling unit up to the FAR, which will increase based on lot size.</p> <p>Increase maximum height to 35 feet.</p>
<p>3. USE ZONES</p> <p>Section 3.040 Commercial Zone, C-1 and Section 3.050 Limited Commercial Zone, LC</p>	<p>Explicitly list and permit required housing types.</p>
<p>4. SUPPLEMENTAL PROVISIONS</p> <p>Section 4.060 Multifamily or Apartment Siting Criteria</p>	<p>Add housing type-specific regulations for ADUs, plexes, cottage clusters, courtyard apartments =, and small apartment buildings.</p> <p>Customize housing type forms to context zone characteristics (i.e., small and large forms such as limitations on number of townhouses attached in MH-1 versus MH-2 and SR-R—as discussed in code concepts).</p>
<p>4. SUPPLEMENTAL PROVISIONS</p> <p>Section 4.080 Off-Street Parking and Off-Street Loading Requirements</p>	<p>Strike current requirement for parking to be located “on the same lot with the dwelling.”</p> <p>Permit required parking spaces to be located on-street instead of on-site.</p> <p>Customize on-street parking approaches.</p> <p>Allow shared parking arrangements.</p>

Article	Description of amendments
<p>4. SUPPLEMENTAL PROVISIONS</p> <p>Section 4.090 Off-Street Parking Requirements</p>	<p>For all the “have-to-do “ housing types, reduce parking requirements from two per dwelling unit to one per dwelling unit.</p> <p>Reducing parking requirements for ADUs and dwelling units to one per “want-to-do-housing types.</p>

DRAFT

Ordinance 95-4 Zoning Ordinance

Key to track change text amendments

Proposed text  
Deleted text

MANZANITA ZONING ORDINANCE  
#95-4

[As Amended by Ord. 97-01 (1/8/97); Ord. 98-03 (3/4/98); Ord. 01-03 (8/27/01);  
Ord. 03-06 (7/9/03); Ord. 03-08 (10/15/03); Ord. 05-03 (5/13/05); Ord. 06-03  
(10/18/06);  
Ord. 06-04 (10/18/06); Ord. 09-02 (2/4/09); Ord. 10-02 (5/5/10); Ord. 11-04 (11/9/11);  
Ord. 14-02 (4/9/14); Ord. 16-04 (11/9/16); Ord. 18-03 (8/8/18)]

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**ORDINANCE NO. 95 - 4**

**AN ORDINANCE REGULATING THE USE OF LAND AND STRUCTURES IN THE  
CITY OF MANZANITA, AND ESTABLISHING ZONES FOR THAT PURPOSE IN  
CONFORMANCE WITH THE COMPREHENSIVE PLAN AND REPEALING  
ORDINANCE NO. 90-10**

**THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:**

**ARTICLE 1. INTRODUCTORY PROVISIONS**

**Section 1.010 TITLE.** This Ordinance shall be known as the Manzanita Zoning Ordinance.

**Section 1.020 PURPOSE.** The purpose of the Ordinance is to encourage the orderly development of the City; to promote appropriate uses of land; to conserve and stabilize the value of property; to aid in the rendering of fire and police protection; to provide adequate light and air; to lessen congestion; to prevent undue concentration of population; to facilitate adequate provisions for community facilities such as water supply and sewerage; to protect and enhance the character and appearance of the City as it currently exists; and in general to promote the public health, safety, convenience and general welfare.

**Section 1.030 DEFINITIONS.** As used in the Ordinance the following words and phrases shall mean:

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

**Accessory Use and Structure.** A use or structure incidental and subordinate to the main use of the of the property and located on the same lot as the main use.

**Adult Foster Home.** Any family home or facility in which 24 hour care is provided for five or fewer adults who are not related to the provider by blood or marriage.

**Alley.** A street which affords only a secondary means of access to property.

**Average Finished Grade.** The average of the elevations of the finished ground or sidewalk adjacent to the mid-points of all exterior walls of the building wall. Purpose of the 5 foot requirement is to permit determination of average finished grade based on actual yard ground level where there is a sunken walkway adjacent to the building. This is not meant to permit construction of artificial berm adjacent to the house in order to increase allowable building height. [Amended by Ord. 16-04, passed November 9, 2016].

**Awning.** A shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for supporting framework. [Added by Ord. 09-02, passed February 4, 2009]

**Beach.** Gently sloping areas of loose material (e.g., sand, gravel, cobbles) that extend landward from the low water line (extreme low tide) to a point where there is a definite change in material type or landform or to the line of year-round vegetation. In most cases, the line of vegetation is followed by the Oregon Beach coordinate or zone line, as defined by O.R.S. 390.770. Where the vegetation line is eastward or landward of the coordinate line, the eastward line of the beach shall be the actual line of vegetation.

**Brewery-Public House or Brewpub.** Means a restaurant or lounge serving beer brewed in an accessory microbrewery on the premises where (1) at least eighty-five percent (85%) of the beer produced on the premises is consumed on the premises or otherwise sold to individuals for personal consumption, (2) the beer is not bottled or canned on site, and (3) no more than fifteen percent (15%) of the beer is reserved or distributed for resale off-site. [Added by Ord. 16-04, passed November 9, 2016].

**Building.** A structure, other than a mobile home, built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind and having a fixed connection to the ground.

**Business Premises.** A parcel of property or that portion thereof occupied by one commercial tenant.  
**[Added by Ord. 09-02, passed February 4, 2009]**

**Camping Vehicle.** A vacation trailer or a self propelled vehicle or structure equipped with wheels for highway use and which is being used for vacation and recreational purposes, and is equipped with plumbing, sink or toilet. The term shall also include similar equipment without wheels, intended to be transported on a pickup or flat-bed truck and not permanently attached thereto.

**Codes.** As used in this Ordinance, codes refer to the Uniform Building Code, (UBC) and the Congress of American Building Officials (CABO) for one and two family dwellings.

**Common Courtyard.** A common area for use by residents of a cottage cluster or courtyard apartment. A common courtyard may function as a community yard. Hard and soft landscape features may be included in a common courtyard, such as pedestrian paths, lawn, groundcover, trees, shrubs, patios, benches, or gazebos.

**Cottage Industry.** A lawful occupation carried on by a resident of a building as a secondary use within the same dwelling or its appurtenant structures, and there is no activity conducted in such a manner as to give an outward appearance or manifest any characteristics of a business in the ordinary meaning of the term, except as permitted by the Planning Commission under the conditional use procedures and based on applicable standards. [Added by Ord. 95-4, passed March 6, 1996].

**Dune, active.** A dune that migrates, grows, and diminishes from the effect of wind and supply of sand. Active dunes include all open sand dunes, active hummocks, and active foredunes.

Dune, conditionally stable. A dune presently in a stable condition, but vulnerable to becoming active due to fragile vegetative cover.

Dune, older stabilized. A dune that is stable from wind erosion, and that has significant soil development that may include diverse forest cover. They include older foredunes.

Dune, open sand. A collective term for active, unvegetated dune land forms.

Dune, recently stabilized. A dune with sufficient vegetation to be stabilized from wind erosion, but with little, if any, development of soil or cohesion of the sand under the vegetation.  
Recently stabilized dunes include conditionally stable foredunes, conditionally stable dunes, dune complexes and younger stabilized dunes.

Dunes, younger stabilized. A wind-stable dune with weakly developed soils and vegetation.

Dune complex. Various patterns of small dunes with partially stabilized intervening areas.

Dwelling, Unit. Means one or more rooms occupied, designed or intended for occupancy as separate living quarters, and containing four (4) or more of the following:

- refrigerator
- cooking facility (including cooking stove, hot plate, range hood, microwave, or similar facility) or wiring or venting to support same
- dishwashing machine
- sink intended for meal preparation (not including a wet bar)
- garbage disposal
- toilet
- shower or bathtub [Amended by Ord 03-08, passed October 15, 2003]

Any building or portion thereof designed or used as the residence or sleeping place for one or more persons. This use classification does not include Adult Foster Homes, Residential Homes, or Residential Facilities.

Dwelling, two-family duplex. Means a detached building, including a manufactured housing unit containing two dwelling units. Two dwelling units on a lot or parcel. This includes any configuration of two detached or attached dwelling units on one lot or parcel.

Dwelling, cottage cluster. A grouping of no fewer than sixteen detached units per acre with a footprint of less than 900 square feet each that includes a common courtyard.

Dwelling, courtyard apartment. A grouping of no fewer than sixteen attached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard.

Dwelling, multi-family unit. Means a building containing three-five or more dwelling units, configured as attached dwelling units stacked on multiple floors or stories.

Dwelling, one-family plex. Means a detached building, including a manufactured housing unit other than a trailer house, containing one dwelling unit.

Dwelling, quadplex. Four dwelling units on a lot or parcel. This includes any configuration of four detached or attached dwelling units on one lot or parcel.

**Commented [MOU1]:** After consulting with HAP and DLCD staff and reviewing a number of HB 2001-compliant cities' codes, Urbsworks proposes this definition. It does not conflict with common cultural living arrangements, such as multi-generational households or co-housing, and does not preclude SROs. (SRO, or Single Room Occupancy dwellings, are not part of this project and would need to be explicitly adopted if they are identified as a desired housing type during the Comprehensive Plan Update project or other projects.)

**Dwelling, triplex.** Three dwelling units on a lot or parcel. This includes any configuration of three detached or attached dwelling units on one lot or parcel.

**Dwelling, townhouse.** A dwelling unit that is part of a row of two or more attached dwelling units, where each unit is located on an individual lot or parcel and shares at least one common wall with an adjacent dwelling unit.

**Dwelling unit, accessory.** Means an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a one-plex.

~~Family. Means an individual or two or more persons related by blood, marriage, adoption or legal guardianship, living together as one house keeping unit using one kitchen.~~

**Fence, sight obscuring.** Means a fence or evergreen planting arranged in such a way as to obstruct vision.

**Floor Area, Gross.** The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts. [Added by Ord. 11-04, passed November 9, 2011]



Floor Area Ratio (FAR). The gross floor area of a building or buildings divided by the lot area and is usually expressed as a decimal. Buildings of varying number of stories can have the same FAR because the FAR counts the total floor area of a building, not just the building's footprint. (For example, on a 4,000 square foot lot, a 1,000 square foot, one story building would have the same FAR (.25) as a two story building where each floor was 500 square feet.) [Added by Ord. 11-04, passed November 9, 2011]

Foredune, active. An unstable barrier ridge of sand paralleling the beach and subject to wind erosion, water erosion, and growth from new sand deposits. Active foredunes may include areas with beach grass, and occur in sand spits and at river mouths as well as elsewhere.

Foredune, conditionally stable. An active foredune that has ceased growing in height and that has become conditionally stable with regard to wind erosion.

Foredune, older. conditionally stable foredune that has become wind stabilized by diverse vegetation and soil development.

**Height of Building. The vertical distance above average finished grade, as that term is defined, to the highest point of the coping of a flat roof, mansard roof, gabled or hipped roof. For shapes such as, but not limited to, domed, vaulted, or pyramidal forms, the measurement is to the highest point of the roof. [Amended by Ord 97-01, passed January 8, 1997; Amended by Ord. 16- 04, passed November 9, 2016].**

**Commented [MOU2]:** Update and possibly illustrate the measurement of height to allow for sloped lots and roofs.

Home Occupation. A lawful occupation carried on by a resident of a building as a secondary use within the same dwelling or its appurtenant structures when there is no person employed other than a member of the family residing on the premises, and there is no activity conducted in such a manner as to give an outward appearance or manifest any characteristics of a business in the ordinary meaning of the term. [Amended by Ord. 95-4, passed March 6, 1996].

**Household. Person or persons who live together in one dwelling unit.**

Interdune Area. Low lying areas between higher sand land forms and which are generally under water during part of the year. These areas may be in the AO flood zone, and be subject to ocean flooding.

Landscaping: A combination of living plant materials such as trees, shrubs, groundcovers, flowers, lawn, and non-living materials such as benches, walkways, and courtyards, consisting of brick/concrete, rock or other decorative material. [Amended by Ord. 14-02, passed April 9, 2014].

Lot. A designated parcel, tract or area of land established by lot line adjustment, partition or subdivision.

Lot Abutting the Oceanshore. Means a lot which abuts the Oregon Coordinate line or a lot where there is no buildable lot between it and the Oregon Coordinate line.

Lot Area. The total area within the lot lines of a lot, excluding any street right of way.

Lot, corner. A lot abutting two or more streets other than an alley, at their intersection.

**Lot Coverage. The area of a lot covered by a building or buildings expressed as a percentage of total lot area. [Amended by Ord. 01-03, passed 8/27/01]**

Lot Depth. Means the average horizontal distance between the front lot line and the rear lot line. Lot

Line. The property line bounding a lot.

Lot Line, front. The lot line separating the lot from the street other than an alley, and in the case of a corner lot, the shortest lot line along a street other than an alley, and in the case of an oceanfront lot, the oceanfront lot line shall be considered the front.

**Lot line, interior. A lot line common to two lots. [Added by Ord. 01-03, passed 8/27/01]**

Lot Line, rear. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular, or other shaped lot, a line 10 feet in length within the lot parallel to and at a maximum distance from the front lot line.

Lot Line, side. Any lot line not a front or rear lot line.

**Lot, through. A lot which abuts 2 or more streets. The streets do not intersect at boundaries of the lot. [Amended by Ord. 95-4, passed March 6, 1996].**

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

#### **Manufactured Dwelling.**

1. **A residential trailer, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed before January 1, 1962.**
2. **A mobile house, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed between January 1, 1962, and June 16, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.**
3. **A manufactured home, a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, is being used for residential purposes and was constructed in accordance with federal manufactured housing construction and safety standards regulations in effect at the time of**

**Commented [MOU3]:** Flagging this section for future amendments that are not part of this project. This should be updated to align with 2024 DLCD guidance, specifically modernized classification and definitions for prefabricated, manufactured, and modular housing, at;  
<https://www.oregon.gov/lcd/housing/pages/mass-timber-modular-housing-code-up-project.aspx>

And

[https://www.oregon.gov/lcd/Housing/Documents/Prefabricated\\_and\\_Modular\\_Housing\\_Model\\_Code\\_and\\_Audit\\_Workbook%20.pdf](https://www.oregon.gov/lcd/Housing/Documents/Prefabricated_and_Modular_Housing_Model_Code_and_Audit_Workbook%20.pdf)

**construction.**

**"Manufactured dwelling" does not mean any building or structure subject to the Structural Speciality Code adopted pursuant to ORS 455.100 - 455.450. [Added by Ord.95-4, passed March 6, 1996].**

Manufactured Dwelling Park. Any place where four or more manufactured dwellings are located within 5 hundred feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental 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 a subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot if the subdivision was approved by the City. [Amended by Ord. 95-4, passed March 6, 1996].

**Maximum Density. Maximum housing densities are calculated based on gross acreage (i.e. including areas to be dedicated for rights-of-ways, utility easements, etc. but excluding areas dedicated for public parks) of the subject property with fractional units rounded down to the next whole unit.**

**Minimum Density. Minimum housing densities are calculated based on gross acreage (i.e. including areas to be dedicated for rights-of-ways, utility easements, etc. but excluding areas dedicated for public parks) of the subject property with fractional units rounded up to the next whole unit.**

Micro-Distillery. Means a restaurant or lounge serving distilled spirits produced in an accessory distillery immediately adjacent to the restaurant or lounge where (1) at least eighty-five percent (85%) of the distilled spirits produced on the premises are consumed in the restaurant or lounge, or otherwise sold to individuals for personal consumption, and (2) no more than fifteen percent (15%) of the distilled spirits are reserved or distributed for resale off-site. [Added by Ord. 16-04, passed November 9, 2016].

Micro-Winery. Means a restaurant or lounge serving wine produced in an accessory winery on the premises where (1) at least eighty-five percent (85%) of the wine produced on the premises is consumed on the premises or otherwise sold to individuals for personal consumption and **(2) no more than fifteen percent (15%) of the wine is reserved or distributed for resale off- site. [Added by Ord. 16-04, passed November 9, 2016].**

Mixed Use Development. Development that combines residential and commercial uses in the same structure and/or on the same lot. Mixed use development may be "vertical" with housing above the ground floor or "horizontal" with no more than 50 percent of a single street frontage at ground level occupied by residential uses. [Added by Ord. 03-06, passed July 9, 2003].

Nonconforming Structure or Use. A lawful existing structure or use at the time this Ordinance or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Nursery. A use involved in the care and sale of young plants.

Ocean Flooding. The flooding of lowland areas by salt water owing to tidal action, storm surge, or tsunamis (seismic sea waves). Land forms subject to ocean flooding including beaches, marshes, coastal lowlands, and low-lying interdune areas. Areas of ocean flooding are mapped by the Federal Emergency Management Agency (FEMA). Ocean flooding includes areas of velocity flooding and associated shallow marine flooding.

Owner. An owner of property or the authorized agent of an owner.

**Parking Space.** An enclosed or unenclosed surfaced area of not less than 18 feet by 9 feet in size, exclusive of maneuvering and access area, permanently reserved for the temporary storage of one automobile, and connected with a street or alley which affords ingress and egress for automobiles.

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

**Person or Business Service Establishment.** Offices which deal primarily with professional services and in which goods, wares and general merchandise are not commercially created, sold or exchanged. Such offices would include medical, engineering, law, accounting, bookkeeping, barber and beauty shop.

**Recreational Vehicle.** Means a vehicle which is:

- a. **Built on a single chassis;**
- b. **400 square feet or less when measured at the lowest horizontal projection;**
- c. **Designed to be self-propelled or permanently towable by a light duty truck; and**
- d. **Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping travel, or seasonal use. [Amended by Ord. 14-02, passed April 9, 2014]**

**Recreational Vehicle Park.** An area which is licensed by the State for the parking of recreational vehicles.

**Residential Facility.** A facility licensed under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for 6-15 individuals who need not be related. Staff persons required to meet Department licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

**Residential Home.** A home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for 5 or fewer individuals who need not be related. Staff persons required to meet Department licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

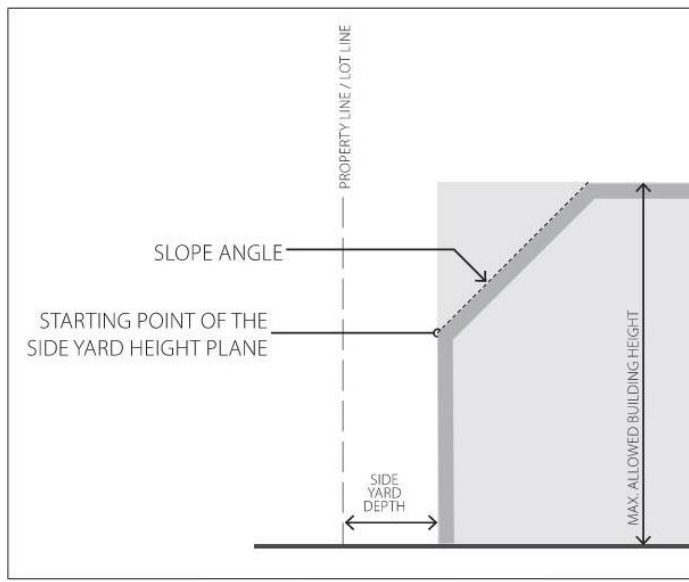
**Short Term Rental.** A dwelling unit that is rented for a period not to exceed 29 days. [Amended by Ord. 94-3, passed April 20, 1994.]

**Side yard height plane.** A plane that limits the building height along side lot lines. Structures on the site must remain underneath the height plane. The height plane applies along side lot lines and is not applicable to front, rear, or street side lot lines. The starting point of the side yard height plane is horizontally offset from the side lot line by the

required side yard depth, and set at specified vertical distance above the grade at the depth of required side yard. From the starting point, the side yard height plane slopes up at a specified angle until it reaches the maximum allowed building height or intersects with the side yard height plane from an opposite side of the lot.

Update this figure

**Figure 1: Side yard height plane**



Sign. An identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure, or land, and whose primary purpose is to convey a message. [Amended by Ord. 09-02, passed February 4, 2009]



**Sign, advertising.** [Deleted by Ord. 09-02, passed February 4, 2009]

**Sign, A-Frame/Sandwich board. A double faced, collapsible sign, hinged at the top and open at the bottom for self support.** [Added by Ord. 09-02, passed February 4, 2009]

Sign, Area of. Sign area means the area within the smallest polygon or curvilinear perimeter enclosing all lettering, writing, representations, emblems, figures, and characters, but excluding essential sign structure, foundations or supports. For a multiple-face (more than two sided) sign, the sign area shall be the total of all faces. If a sign consists of more than one section or module, all areas will be totaled. For a double-faced sign in a single cabinet, the allowed area shall be the dimension of the cabinet, not the total of the area of message. For a permanent sign having two faces showing in opposite directions with the sides parallel or joined at an angle of no more than 25 degrees, the allowed area shall be the area of one face. [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Free Standing. Any ground mounted, pole or monument sign supported by one or more uprights or braces placed upon the ground, and not attached to any building.** [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Height. The vertical distance from the lowest point of the adjacent grade below the sign to the highest part of the sign.** [Added by Ord. 09-02, passed February 4, 2009]

Sign, Incidental. A sign other than a temporary sign, not restricted to content, but customarily used for directional, safety, vacancy, open hours, menus or similar information, including a sign that is an integral component of a fixture, appliance or machine (including ATMs, phone booths, etc.) which is attached to a building or installed on a business premises. [Added by Ord. 09-02, passed February 4, 2009]

Sign, Maintenance. The replacement, care and upkeep, or repair of a part or portion of a sign that does not result in a change of size or shape or the relocation or modification of the structure of the sign. "Maintenance" includes, but is not limited to, repair of a sign that has become unusable through ordinary wear, repair or replacement of a sign damaged beyond the control of the owner, or repair and replacement of the existing copy on a sign. [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Non -conforming. Signs which were lawfully installed which do not comply with the requirements of this sign ordinance/code.** [Added by Ord. 09-02, passed February 4, 2009]

Sign, Permanent. Any legally placed sign which is intended to be and is so constructed as to be of a lasting and enduring condition, remaining unchanged in character, condition (beyond normal wear) and position, and in a permanent manner affixed to the ground, wall, building or window. [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Portable. A temporary sign which is capable of being moved easily and is not affixed to the ground or structure.** [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Public. A sign erected and maintained by a public agency within the right-of-way of a street or alley.** [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Reader Board/ Bulletin Board.** A sign which can accommodate changeable copy. [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Roof.** Any sign erected upon, over or above the roof or parapet of any building with the principal sign support on the roof structure. [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Temporary.** Any sign intended to be displayed for a limited period of time. [Added by Ord. 09-02, passed February 4, 2009]

**Sign, Window.** Signs painted on or affixed permanently to the glass surface of a window. [Added by Ord. 09-02, passed February 4, 2009]

**Story. [definition here].**

**Street.** The entire width between the right of way lines of every public way for vehicular and pedestrian traffic and includes the terms road, highway, place, avenue, alley, and other similar designations.

**Structure.** Structure means anything constructed or built which requires location on the ground or is attached to something having a location on the ground, including covered patios, fences and walls; but not including normal plants and landscaping materials, paved outdoor areas, walks, driveways, and similar improvements.

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

**Tree.** Means any woody plant having at least one well defined stem at least 6 inches in diameter measured at a height of 4 ½ feet above the natural grade.

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

**Yard.** An open space on a lot which is unobstructed from the ground upward except for fences, retaining walls, passive landscaping features, and accessory structures, as otherwise provided in this Ordinance. [Amended by Ord. 16-04, passed November 9, 2016].

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

**Yard, rear.** A yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a building or other structure. For a rear yard on a THROUGH LOT in residential zones, buildings hereafter constructed shall be placed at least 20 feet from the street line to the nearest part of the building or the average setback of buildings within 100 feet of both sides of the proposed building on the same side of the

street, whichever is less. For purposes of determining the average setback of buildings, vacant lots within 100 feet of both sides of the proposed building on the same side of the street shall be included and shall be assumed to have a building placed 20 feet from the rear

**lot line to the nearest part of the building. In no case shall rear yard setbacks on through lots in residential zones be less than 12 feet. [Amended by Ord. 95-4, passed March 6, 1996. Amended by Ord. 01-03, passed 8/27/01]**

Yard, side. A yard between the front and rear yard measured horizontally at right angles from the side lot line to the nearest point of a building or other structure.

Yard, street side. A yard adjacent to a street between the front yard and rear lot line measured horizontally and at right angles from the side lot line to the nearest point of a building or other structure.

# ARTICLE 2. BASIC PROVISIONS

**Section 2.010 Compliance with Ordinance.** A lot may be used and a structure or part of a structure may be constructed, reconstructed, (remodeled), altered, occupied, or used only as this Ordinance permits.

**Section 2.020 Classification of Zones.** For the purposes of this Ordinance the following zones are hereby established:

ZONE	ABBREVIATED DESIGNATION
<del>Medium Density Residential Middle Housing 1</del>	<del>R-2</del> <del>MH-1</del>
<del>High Density Residential Middle Housing 2</del>	<del>R-3</del> <del>MH-2</del>
<del>High Density Residential/Limited Commercial</del>	<del>R-4</del>
<del>Special Residential/Recreational Middle Housing 3</del>	<del>SR-R</del> <del>MH-3</del>
Residential Manufactured Dwelling	RMD
Commercial	C-1
Limited Commercial	LC

[Amended by Ord. 95-4, passed March 6, 1996].

## Section 2.030 Location of Zones

- (1) **General.** An official zoning map of the City of Manzanita designating the boundaries of the various zones as set forth in Section 2.020 is to be maintained at the City Hall for use in conjunction with this Ordinance and said zoning map is hereby declared to be a part of this Ordinance.

See Attachment B

## ARTICLE 3. USE ZONES

See Attachment C for replacement language (tables) or paste in here

~~Section 3.010 Medium Density Residential Zone, R-2. In an R-2 zone, the following regulations shall apply:~~

- ~~(1) Uses Permitted Outright. In an R-2 zone, the following uses and their accessory uses are permitted outright:~~
  - ~~(a) One-family and two-family dwellings.~~
  - ~~(b) Home occupation.~~
  - ~~(c) Park and publicly owned recreation area.~~
  - ~~(d) Utility lines necessary for public service.~~
  - ~~(e) A recreation vehicle used during the construction of a permitted use for which a building permit has been issued for a period of six months, with one extension of six months if required.~~
  - ~~(f) Residential home or adult foster home.~~
  - ~~(g) Short term rental subject to the restrictions of Section 6.030. [Amended by Ord. 94-3, passed April 20, 1994.]~~
- ~~(2) Conditional Uses Permitted. In an R-2 zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 5:~~
  - ~~(a) Church or community buildings.~~
  - ~~(b) Nursery.~~
  - ~~(c) Golf course.~~
  - ~~(d) Fire station.~~
  - ~~(e) Schools.~~
  - ~~(f) Government Structure including Utility substation.~~
  - ~~(g) Bed & Breakfast establishments.~~

The following conditions shall apply to all Bed & Breakfast establishments in R-2 zones, plus any other conditions the Planning Commission feels necessary in order to preserve the residential character of the neighborhood.

1. ~~The number of guest bedrooms shall be limited to 2.~~
2. ~~Establishment shall be owner occupied.~~
3. ~~One off-street parking space shall be provided for each rental unit plus the 2 spaces for the residential unit.~~
4. ~~Building meets fire and life safety code with annual inspection required by City.~~
5. ~~Signing is subject to Article 4, Section 4.070. [Amended by Ord. 14-02, passed April 9, 2014].~~

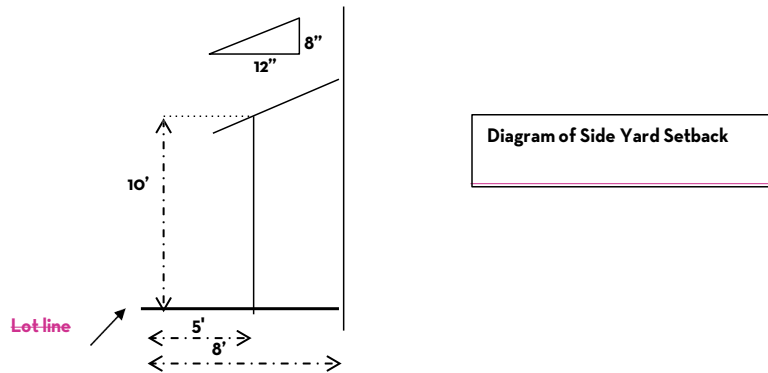
~~(h) Cottage industries. [Added by Ord. 95-4, passed March 6, 1996].~~

~~(3) Standards. In an R-2 zone the following standards shall apply:~~

- ~~(a) The minimum lot size shall be 5,000 square feet for single family or duplexes, and shall not be less than 2,500 square feet per dwelling unit.~~
- ~~(b) The minimum lot width shall be 40 feet.~~
- ~~(c) The minimum lot depth shall be 90 feet.~~
- ~~(d) The minimum side yard setback shall be 5 feet for the portion of the building at the setback line up to 10 feet in height as measured vertically from average finished grade to the highest point of that portion of the building and shall be 8 feet for any portion of the building where this height is exceeded; except that a roof with a pitch of less than or equal to 8 in 12 may extend upward from the 5 foot setback line to the 8 foot setback line. The street side yard setback of a corner lot shall be 12 feet. [Amended by Ord. 95-4, passed March 6, 1996. Amended by Ord. 01-03, passed 8/27/01. Amended by Ord. 16-04, passed November 9, 2016] [SEE DIAGRAM ON PAGE 14]~~
- ~~(e) The maximum lot coverage in the R-2 zone shall not exceed 40%. Less lot coverage may be required in steeply sloping areas or areas with drainage problems. In all cases the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director. [Amended by Ord. 01-03, passed 8/27/01]~~

~~(f) — The minimum rear yard setback shall be 10 feet. [Amended by Ord. 01-03, passed 8/27/01]~~





- (g) — ~~Front yard setbacks: In lots in an R-2 zone, buildings hereafter constructed shall be placed at least 20 feet from the street line to the nearest part of the building, or the average setback of buildings within 100 feet of both sides of the proposed building on the same side of the street, whichever is less. For purposes of determining the average setback of buildings, vacant lots within 100 feet of both sides of the proposed building on the same side of the street shall be included and shall be assumed to have a building placed 20 feet from the front lot line to the nearest part of the building. In no case shall front yard setbacks be less than 12 feet. [Amended by Ord. 01-03, passed 8/27/01]~~
- (h) — ~~The maximum building or structure height shall be 28 feet, 6 inches. However, if more than one-half of the roof area has a roof pitch of less than 3 in 12, the building or structure height shall not exceed 24 feet. The height of a stepped or terraced building shall be the maximum height of any segment of the building or structure. For all lots south of Laneda Avenue abutting the ocean shore, the maximum building or structure height shall be 24 feet. [Amended by Ord. 95-4, passed March 6, 1996. Amended by Ord. 01-03, passed 8/27/01]~~
- (i) — ~~In areas of the City without a high water table, a dry well capable of absorbing the storm runoff of the impervious surfaces of the property shall be provided in accordance with City standards.~~

**Section 3.020 High Density Residential Zone, R-3.** In an R-3 zone, the following regulations shall apply:

**(1) Uses Permitted Outright.** In an R-3 zone, the following uses and their accessory uses are permitted outright:

- (a) One-family dwelling.
- (b) Two-family dwelling.
- (c) Multi-family dwelling of no more than three (3) dwelling units. [Amended by Ord. 06-03, passed 9/18/06.]
- (d) Home occupation.
- (e) Park and publicly owned recreation area.
- (f) Utility lines necessary for public services.
- (g) A recreational vehicle used during the construction of a permitted use for which a building permit has been issued for a period of 6 months, with one extension of 6 months if required
- (h) Signs subject to the provisions of Article 4, Section 4.070.
- (i) Residential home, cottage industries or adult foster home.
- (j) Short term rentals subject to the restrictions of Section 6.030. [Amended by Ord. 94-3, passed April 20, 1994.]

**(2) Conditional Uses Permitted.** In an R-3 zone, the following conditional uses and their accessory uses are permitted subject to the provisions of Article 5:

- (a) Church or community buildings.
- (b) Nursery.
- (c) Government structure, excluding a storage or repair facility.
- (d) Radio or TV transmitting tower.
- (e) Parking lots subject to Section 4.080.
- (f) Schools and daycare centers.

~~(g)~~—**Bed & Breakfast establishments.**

The following conditions shall apply to all Bed & Breakfast establishments in an R-3 zone, plus any other conditions the planning commission feels necessary in order to preserve the residential character of the neighborhood.

1. ~~The number of guest bedrooms shall be limited to 2~~
2. ~~Establishment shall be owner occupied.~~
3. ~~One off-street parking space shall be provided for each rental unit plus the 2 spaces for the residential unit.~~
4. ~~Building meets fire and life safety code with annual inspection required by the City.~~
5. ~~Signing is subject to Article 4, Section 4.070. [Amended by Ord. 14-02, passed April 9, 2014].~~

~~(h) Cottage industries. [Added by Ord. 95-4, passed March 6, 1996].~~

~~(3) Standards. In an R-3 zone the following standards shall apply:~~

- ~~(a) The minimum lot size shall be 5,000 square feet for single family or duplexes, plus 2,500 square feet for each additional dwelling unit.~~
- ~~(b) The minimum lot width shall be 40 feet, except on a corner lot it shall be 60 feet.~~
- ~~(c) The minimum lot depth shall be 90 feet. [Amended by Ord. 95-4, passed March 6, 1996.]~~
- ~~(d) The minimum front yard shall be 20 feet, or the average setback of buildings within 100 feet of both sides of the proposed building on the same side of the street, whichever is less. For purposes of determining the average setback of buildings, vacant lots within 100 feet of both sides of the proposed building on the same side of the street shall be included and shall be assumed to have a building placed 20 feet from the front lot line to the nearest part of the building. In no case shall the front yard setbacks be less than 12 feet. [Amended by Ord. 01-03, passed 8/27/01]~~
- ~~(e) The minimum side yard setback shall be 5 feet for the portion of the building at the setback line up to 10 feet in height as measured vertically from average finished grade to the highest point of that portion of the building and shall be 8 feet for any portion of the building where this height is exceeded; except that a roof with a pitch of less than or equal to 8 in 12 may extend upward from the 5 foot setback line to the 8 foot setback line. The street side yard setback of a~~

~~corner lot shall be 12 feet. [Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 10/27/01; Amended by Ord. 16-04, passed November 9, 2016] [SEE DIAGRAM ON PAGE 14]~~

- (f) ~~The maximum building or structure height shall be 28 feet, 6 inches. However, if more than one-half of the roof area has a roof pitch of less than 3 in 12, the building or structure height shall not exceed 24 feet. The height of a stepped or terraced building shall be the maximum height of any segment of the building or structure. [Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01]~~
- (g) ~~The minimum rear yard setback shall be 10 feet. [Added by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01]~~
- (h) ~~The maximum lot coverage in the R-3 zone shall not exceed 55%. Less lot coverage may be required in steeply sloping areas or areas with drainage problems. In all cases, the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director. [Added by Ord. 01-03, passed 8/27/01]~~
- (i) ~~In areas of the City without a high water table, a dry well capable of absorbing the storm runoff of the impervious surfaces of the property shall be provided in accordance with City standards. [Added by Ord. 01-03, passed 8/27/01]~~

**Section 3.025-High Density Residential/Limited Commercial Zone, R-4. In an R-4 zone the following regulations shall apply:**

**(1)——Uses Permitted Outright. In an R-4 zone the following uses and their accessory uses are permitted outright:**

- (a)——**One-family dwelling.**
- (b)——**Two-family dwelling.**
- (c)——**Multi-family dwelling of no more than four (4) dwelling units. [Amended by Ord. 06-03, passed 9/18/06.]**
- (d)——**Home occupation.**
- (e)——**Park and publicly owned recreation area.**
- (f)——**Utility lines necessary for public service.**
- (g)——**A recreational vehicle may be used during the construction of a permitted use for which a building permit has been issued for a period of 6 months with one extension of an additional 6 months if requested.**
- (h)——**Signs subject to the provisions of Article, Section 4.070.**
- (i)——**Residential home, residential facility and adult foster home.**
- (j)——**Short term rentals subject to the restriction of Section 6.030. [Amended by Ord. 94-3, passed April 20, 1994.]**

**(2)——Conditional Uses Permitted. In an R-4 zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 5:**

- (a)——**Church or community meeting hall.**
- (b)——**Government structure, excluding a storage or repair facility**
- (c)——**Parking lots subject to Section 4.080.**
- (d)——**Schools and radio or tv centers.**
- (e)——**Motels, hotels and tourist courts.**
- (f)——**Personal or business service establishments.**

The following conditions shall apply to all Personal or Business Services Establishments in the R-4 zone:

1. ~~Signing is subject to Article 4, Section 4.070. [Amended by Ord. 14-02, passed April 9, 2014].~~
  2. ~~Off-street parking shall meet the requirements of Section 4.080 and shall be screened along any adjacent residential property or zone boundary by a sight-obscuring fence, wall or hedge.~~
  3. ~~The establishment shall employ no more than 2 persons in addition to the proprietor.~~
  4. ~~Hours of operation open to the public shall be limited to the period between 8:00 a.m. and 6:00 p.m.~~
  5. ~~The establishment at all times shall adhere to the following performance standards:~~
    - (a) ~~Noise levels shall be maintained at a low level compatible with a residential neighborhood.~~
    - (b) ~~There shall be no offensive odors emitted from the establishment.~~
    - (c) ~~No flashing lights or other unusual illumination shall be permitted.~~
    - (d) ~~No accumulation of garbage or trash will be permitted on the premises.~~
    - (e) ~~No outdoor storage of materials or goods will be permitted on the premises.~~
  6. ~~The characteristics of the structure to be used shall be compatible with the residential character of the neighborhood and appropriate landscaping shall be utilized to help achieve this compatibility.~~
  7. ~~Standards contained in subsection (3) of this section shall be met as well as the standards for Conditional Uses as contained in Section 5.031 and any other applicable requirements of this Ordinance.~~
- (g) ~~Bed & Breakfast establishments.~~



The following conditions shall apply to all Bed & Breakfast establishments in the R-4 zone, plus any other conditions the Planning Commission feels necessary in order to preserve the residential character of the neighborhood.

1. ~~The number of guests bedrooms shall be limited to 2.~~
2. ~~Establishment shall be owner occupied.~~
3. ~~One off-street parking space shall be provided for each rental unit plus the 2 spaces for the residential unit.~~
4. ~~Building meets fire and life safety code with annual inspection required by the City.~~
5. ~~Signing is subject to Article 4, Section 4.070. [Amended by Ord. 14-02, passed April 9, 2014].~~

(h) ~~Nursery.~~

(i) ~~Cottage industries. [Added by Ord. 95-4, passed March 6, 1996].~~

(3) ~~Standards. In an R-4 zone the following standards shall apply:~~

- (a) ~~The minimum lot size shall be 5,000 square feet for single family or duplexes, plus 2,500 square feet for each additional dwelling unit. The minimum lot size for commercial developments shall be 5,000 square feet.~~
- (b) ~~The minimum lot width shall be 40 feet, except on a corner lot it shall be 60 feet.~~
- (c) ~~The minimum lot depth shall be 85 feet.~~
- (d) ~~The minimum front yard shall be 20 feet, or the average setback of buildings within 100 feet of both sides of the proposed building on the same side of the street, whichever is less. For purposes of determining the average setback of buildings, vacant lots within 100 feet of both sides of the proposed building on the same side of the street shall be included and shall be assumed to have a building placed 20 feet from the front lot line to the nearest part of the building. In no case shall the front yard setbacks be less than 12 feet. [Amended by Ord. 01-03, passed 8/27/01]~~
- (e) ~~The minimum side yard setback shall be 5 feet for the portion of the building at the setback line up to 10 feet in height as measured vertically from average finished grade to the highest point of that portion of the building and shall be 8 feet for any portion of the building where this height is exceeded; except that a roof with a pitch of less than or equal to 8 in 12 may extend upward from the 5~~

~~foot setback line to the 8 foot setback line. The street side yard setback of a corner lot shall be 12 feet.~~

[Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01; Amended by Ord. 16-04, passed November 9, 2016] [ SEE DIAGRAM ON PAGE 14]

- (f) ~~The maximum building or structure height shall be 28 feet, 6 inches. However, if more than one-half of the roof area has a roof pitch of less than 3 in 12, the building or structure height shall not exceed 24 feet. The height of a stepped or terraced building shall be the maximum height of any segment of the building or structure.~~ [Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01]
- (g) ~~The minimum rear yard setback shall be 10 feet.~~ [Amended by Ord. 01-03, passed 8/27/01]
- (h) ~~The maximum lot coverage in the R-4 zone shall not exceed 60%. Less lot coverage may be required in steeply sloping areas or areas with drainage problems. In all cases the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director.~~ [Amended by Ord. 01-03, passed 8/27/01]
- (i) ~~In areas of the city without a high water table, a dry well capable of absorbing the storm water runoff of the impervious surfaces of the property shall be provided in accordance with City standards.~~

### **~~Section 3.030 Special Residential/Recreational Zone, SR-R.~~**

~~(1) Purpose. To allow greater freedom and flexibility in site design, setbacks and use of open space than in medium and high density areas where standard platting has taken place.~~

~~(2) Uses Permitted Outright. In the SR-R zone the following uses and their accessory uses are permitted outright:~~

- ~~(a) One-family dwelling.~~
- ~~(b) Two-family dwelling.~~
- ~~(c) Multi-family dwelling.~~
- ~~(d) Condominiums and town houses.~~
- ~~(e) Golf course including a club house, eating or drinking establishment or related commercial enterprise such as a pro shop.~~
- ~~(f) Public or private park or recreation facilities, not including a recreation vehicle parking area.~~
- ~~(g) A recreational vehicle used during the construction of a permitted use for which a building permit has been issued for six months, with one extension of six months, if required. [Amended by Ord. 95-4, passed March 6, 1996].~~
- ~~(h) Motel, hotel, including an eating and drinking establishment in conjunction therewith.~~
- ~~(i) Signs subject to the provisions of Article 4, Section 4.070.~~
- ~~(j) Residential home or residential facility and adult foster home.~~
- ~~(k) Home occupations and cottage industries.~~
- ~~(l) Short term rentals subject to the restrictions of Section 6.030. [Amended by Ord 94-3, passed April 20, 1994].~~
- ~~(m) Cottage industries. [Added by Ord. 95-4, passed March 6, 1996].~~

~~(3) Conditional Uses Permitted. In an SR-R zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 5:~~

- ~~(a) Government use such as a fire station.~~

~~(b) Utility substation and lines chru.~~

~~(c) Church.~~

~~(d) Community meeting building.~~

~~(e) Temporary real estate sales office maintained in a model home in a legally recorded subdivision for a period not to exceed one year.~~

~~(4) Standards. In the SR-R zone the following standards shall apply:~~

~~(a) Overall density for the SR-R zone is 6.5 dwelling units per gross acre. Dwellings may be clustered on one portion of a site within the SR-R zone and achieve a maximum density of 13 dwellings per acre where at least 40% of the total lot or parcel area is reserved or dedicated as permanent open space as a public or private park area or golf course. The open space shall be so indicated on the Plan and zoning map, and deed restrictions to that effect shall be filed with the City.~~

~~(b) Standards other than density in the SR-R zone shall conform to those established in the R-3 zone (Section 3.020) except that the Planning Commission may authorize relaxation of these standards to permit flexibility in design such as cluster development, with respect to lot size, setbacks and lot coverage, but not use.~~

~~(c) The Planning Commission shall use the procedure set forth in Section 4.136 of this Ordinance (Planned Development) in order to evaluate development proposals in this area.~~

~~(d) The maximum lot coverage in the SR-R zone shall not exceed 40%. Less lot coverage may be required in steeply sloping areas or areas with drainage problems. In all cases the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director. [Amended by Ord. 01-03, passed 8/27/01]~~

~~(e) In areas without a high water table, a dry well capable of absorbing the storm runoff shall be provided in accordance with City standards.~~

## Section 3.040 Commercial Zone, C-1.

(1) **Uses Permitted Outright.** In the C-1 zone the following uses and their accessory uses are permitted outright:

- (a) **A use permitted in the R-2, R-3 and R-4 zones.**
- (b) **Retail trade establishment (other than an auto wrecking yard or outdoor storage of scrap material).**
- (c) **Repair and maintenance service excluding gasoline stations, garages or other such large facilities.**
- (d) **Business office.**
- (e) **Restaurants or lounges.**
- (f) **Financial institutions.**
- (g) **Health facilities.**
- (h) **Government structure or facility such as a fire station.**
- (i) **Motels, hotels including eating and drinking establishments in conjunction therewith.**
- (j) **Airport and accessory uses.**
- (k) **Signs in accordance with Article 4, Section 4.070.**
- (l) **Parking lot.**
- (m) **Mixed use development [Added by Ord.03-06 passed July 9, 2003].**
- (n) **Personal or business service establishments. [Amended by Ord. 06-03, passed 9/18/06.]**
- (o) **Brewpub, Micro-Winery or Micro-Distillery [Added by Ord. 16-04, passed November 9, 2016]**

(2) **Conditional Uses Permitted.** In the C-1 zone, the following conditional uses are permitted subject to the provisions of Article 5:

- (a) **Cottage industries such as crafts manufacturing, woodworking shops, and similar activities which are small scale and low impact in terms of vehicle traffic generation, noise and pollutants.**

**Commented [MOU4]:** Once amendments are adopted, this existing clause will permit all middle housing types that are in the amended MH-1 and MH-2 zones (formerly the R-2, R-3, and R-4 zones).

- (b) **Wholesale trade establishments.**

- (c) **Garages, mini-storage and gasoline stations located adjacent to U.S. Highway 101 and south of Laneda.** [Amended by Ord. 95-4, passed March 6, 1996].
  - (d) **Recreation facilities.**
  - (e) **Drive-in restaurants or walkup, fast food operations.**
- (3) **Standards. In the C-1 zone the following standards shall apply:**
- (a) **The minimum lot size, setbacks and height for residential uses, except in mixed use development, shall be the same as in the R-2 zone.** [Amended by Ord.03-06, passed July 9, 2003].
  - (b) **For commercial, nonresidential, or mixed use development uses, the minimum front yard shall be 10 feet, the minimum side yard shall be 5 feet, and the minimum rear yard shall be 5 feet. For corner lots adjacent to Laneda Avenue, the yard facing Laneda Avenue shall be considered the front yard.** [Amended by Ord. 11-04, passed November 9, 2011].
  - (c) **The maximum building or structure height shall be 28 feet, 6 inches. However, if more than one-half of the roof area has a roof pitch of less than 3 in 12, the building or structure height shall not exceed 24 feet. The height of a stepped or terraced building shall be the maximum height of any segment of the building or structure.** [Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01]
  - (d) **Minimum landscaped area: At least 10% of the total lot area of commercial, mixed use, or non-residential uses shall be devoted to landscaping or usable open space such as playgrounds, sitting areas or picnic areas. For developments exempt from on-site parking requirements under Section 4.090(2) and for commercial and mixed use developments providing less than the required number of parking spaces on-site, an additional 10% of the total lot area shall be devoted to landscaping. The minimum lot area required for landscaping in residential and other uses shall be 20%. Placement of landscaping is subject to standards specified in Section 4.156.** [Amended by Ord. 11-04, passed November 9, 2011]
  - (e) **Parking shall be in accordance with Article 4, Section 4.080.**
  - (f) **Signs shall be in accordance with Article 4, 4.070.**
  - (g) **In the C-1 zone, signs, awnings, marquees and sidewalk coverings shall extend not more than 10 feet from a building or more than 5 feet over a sidewalk, whichever is less.** [Amended by Ord. 14-02, passed April 9, 2014].



- (h) **Adequate storm drainage shall be provided as specified by the City.**

- (i) **Design review subject to Section 4.152. [Amended by Ord. 95-4, passed March 6, 1996].**
- (j) **Building(s) on a lot shall have a floor area ratio of no more than 0.65. The combined floor area of all buildings on a lot shall be used in calculating the floor area ratio. If a development is proposed on a lot divided between the R-4 and C-1 zones, the area in the R-4 zone shall be assumed to be no greater than the area in the C-1 zone for purposes of calculating the floor area ratio. [Added by Ord. 11-04, passed November 9, 2011]**
- (k) **If a development is proposed on a parcel consisting of two or more contiguous lots, the lots must be legally combined into one lot. [Added by Ord. 11-04, passed November 9, 2011]**

**Section 3.050 Limited Commercial Zone, LC.** In a Limited Commercial Zone, the following regulations shall apply:

(1) **Uses Permitted Outright.** In the LC zone the following uses and their accessory uses are permitted outright:

- (a) Residential uses permitted in the R-2, R-3 and R-4 zones.
- (b) Eating and drinking establishments.
- (c) Motels, hotels, tourist courts and associated eating and drinking establishments or gift shops.
- (d) Signs in accordance with Article 4, Section 4.070.
- (e) Exterior lighting in accordance with Article 4, Section 4.080(9).
- (f) Mixed use development (Added by Ord.03-06, passed July 9, 2003)

(2) **Standards.** In a Limited Commercial Zone, the following standards shall apply:

- (a) The standards of the C-1 zone shall apply in the LC zone.

**Commented [MOU5]:** Once amendments are adopted, this existing clause will permit all middle housing types that are in the amended MH-1 and MH-2 zones (formerly the R-2, R-3, and R-4 zones).

See Attachment B for replacement language (tables)

~~Section 3.060- Residential Manufactured Dwelling, RMD. In a RMD zone the following regulations shall apply:~~

~~(1) — Uses Permitted Outright. In a RMD zone the following uses and their accessory uses are permitted outright:~~

- ~~(a) — One-family and two-family dwellings.~~
- ~~(b) — Manufactured dwelling. [Amended by Ord. 95-4, passed March 6, 1996.]~~
- ~~(c) — Manufactured dwelling park. [Amended by Ord. 95-4, passed March 6, 1996.]~~
- ~~(d) — Manufactured dwelling and cottage industry.~~
- ~~(e) — Park and publicly owned recreation area.~~
- ~~(f) — Utility lines necessary for public service.~~
- ~~(g) — A recreational vehicle used during the construction of a permitted use for which a building permit has been issued for a period of 6 months, with one extension of 6 months, if required.~~
- ~~(h) — The placement of a recreational vehicle in a manufactured home subdivision or manufactured home park existing on the date of initial adoption of this Ordinance (November 7, 1979).~~
- ~~(i) — Residential home.~~
- ~~(j) — Short term rentals subject to the restrictions of Section 6.030. [Amended by Ord. 94-3, passed April 20, 1994].~~

~~(2) — Conditional Uses permitted. In a RMD zone the following conditional uses and their accessory uses are permitted subject to the provisions of Article 5:~~

- ~~(a) — Church or community buildings.~~
- ~~(b) — Nursery.~~
- ~~(c) — Golf course.~~
- ~~(d) — Fire station.~~
- ~~(e) — Schools.~~
- ~~(f) — Utility substation.~~

(g) — ~~Cottage industries.~~ [Added by Ord. 95-4, passed March 6, 1996].

~~(3) Standards. In a RMD zone the following standards shall apply:~~

- ~~(a) The minimum lot size shall be 5,000 square feet for single family, mobile homes or duplexes, and shall not be less than 2,500 square feet per dwelling unit.~~
- ~~(b) The minimum lot width shall be 40 feet.~~
- ~~(c) The minimum lot depth shall be 90 feet.~~
- ~~(d) The minimum side yard setback shall be 5 feet for the portion of the building at the setback line up to 10 feet in height as measured vertically from average finished grade to the highest point of that portion of the building and shall be 8 feet for any portion of the building where this height is exceeded; except that a roof with a pitch of less than or equal to 8 in 12 may extend upward from the 5 foot setback line to the 8 foot setback line. The street side yard setback of a corner lot shall be 12 feet. [Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01; Amended by Ord. 16-04, passed November 9, 2016][ SEE DIAGRAM ON PAGE 14]~~
- ~~(e) The maximum lot coverage in the RMD zone shall not exceed 40%. Less lot coverage may be required in steeply sloping areas or areas with drainage problems. In all cases the property owner must provide the City with a storm drainage plan which conducts storm runoff into adequately sized storm drains or approved natural drainage as approved by the Public Works Director. [Amended by Ord. 01-03, passed 8/27/01]~~
- ~~(f) The minimum rear yard setback shall be 10 feet. [Amended by Ord. 01-03, passed 8/27/01]~~
- ~~(g) Front yard setbacks: In lots in an RMD zone, buildings hereafter constructed shall be placed at least 20 feet from the street line to the nearest part of the building, or the average setback of buildings within 100 feet of both sides of the proposed building on the same side of the street, whichever is less. For purposes of determining the average setback of buildings, vacant lots within 100 feet of both sides of the proposed building on the same side of the street shall be included and shall be assumed to have a building placed 20 feet from the front lot line to the nearest part of the building. In no case shall front yard setbacks be less than 12 feet. [Amended by Ord. 01-03, passed 8/27/01]~~
- ~~(h) The maximum building or structure height shall be 28 feet, 6 inches. However, if more than one-half of the roof area has a roof pitch of less than 3 in 12, the building or structure height shall not exceed 24 feet. The height of a stepped or terraced building shall be the maximum height of any segment of the building or structure. [Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01]~~

- ~~(i) — In areas of the City without a high water table, a dry well capable of absorbing the storm runoff of the impervious surfaces of the property shall be provided in accordance with City standards.~~

~~(j) — Manufactured Dwellings in the RMD zone shall be subject to the requirements of Section 4.135. [Amended by Ord. 95-4, passed March 6, 1996].~~

~~(k) — Manufactured Dwelling Parks shall be subject to the requirements of Section 4.096. [Amended by Ord. 95-4, passed March 6, 1996].~~

**Section 3.061 Flood Damage Overlay Zone. Purpose and Objectives.** It is the purpose of this Flood Damage Overlay Zone to regulate the use of those areas subject to periodic flooding, to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions. In addition to these principles and the general purpose of the Manzanita Comprehensive Plan and Zoning Ordinance, the specific objectives of the FDO zone are:

1. **To combine with the present zoning requirements certain restrictions made necessary for the known flood hazard areas to promote the general health, welfare and safety of the City;**
2. **To prevent the establishment of certain structures and land uses in areas unsuitable for human habitation because of the danger of flooding, unsanitary conditions or other hazards;**
3. **To minimize the need for rescue and relief efforts associated with flooding;**
4. **To help maintain a stable tax base by providing for sound use and development in flood prone areas and to minimize prolonged business interruptions;**
5. **To minimize damage to public facilities and utilities located in flood hazard areas.**
6. **To ensure that potential home and business buyers are notified that property is located in a flood area; and,**
7. **To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.**

**Section 3.062 Definitions.** Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

1. **Appeal means a request for a review of the interpretation of any provision of this ordinance or a request for a variance. [Added by Ord. 18-03, passed August 8, 2018].**
2. **Area of shallow flooding means a designated AO or AH zone on the a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 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. [Amended by Ord. 18-03, passed August 8, 2018]

3. **Area of special flood hazard** is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard". [Amended by Ord. 18-03, passed August 8, 2018]
4. **Base Flood** means the flood having a one-percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood". Designation on maps always includes the letters A or V. [Amended by Ord. 14-02, passed April 9, 2014].
5. **Basement** means any area of the building having its floor subgrade (below ground level) on all sides. [Added by Ord. 14-02, passed April 9, 2014].
6. **Breakaway walls** means a wall that is not a part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
7. **Coastal high hazard area** means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on FIRM as Zone V1-30 or VE zone. [Amended by Ord. 18-03, passed August 8, 2018]
8. **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste. [Added by Ord. 18-03, passed August 8, 2018].
9. **Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard. [Amended by Ord. 18-03, passed August 8, 2018]
10. **Elevated Building** means for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns. [Added by Ord. 14-02, passed April 9, 2014].

11. **Flood or Flooding means:**

(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 usual 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 tide surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition. [Amended by Ord. 18-03, passed August 8, 2018]

12. Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the areas of special flood hazards 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). [Amended by Ord. 18-03, passed August 8, 2018]
13. Flood Insurance Study means the official report provided by the Federal Insurance Administration that includes 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. [Amended by Ord. 18-03, passed August 8, 2018]
14. Lowest floor means 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 found at Section 3.065(2)(a).

15. **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 connected to the required utilities. The term “manufactured dwelling” does not include a

**“recreational vehicle.”** [Amended by Ord. 18-03, passed August 8, 2018]

16. **Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
17. **Mean Sea Level** means the average height of the sea for all stages of the tide.
18. **New Construction** means for floodplain management purposes structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. [Amended by Ord. 18-03, passed August 8, 2018]
19. **Recreational Vehicle** means a vehicle which is:
  - a. **Built on a single chassis;**
  - b. **400 square feet or less when measured at the largest horizontal projection;**
  - c. **Designed to be self-propelled or permanently towable by a light duty truck; and**
  - d. **Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping travel, or seasonal use.**[Amended by Ord. 18-03, passed August 8, 2018]
20. **Start of Construction.** Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, rehabilitation, addition or other improvement was within 180 days of the permit date. 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 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 the building, whether or not that alteration affects the external dimensions of the building. [Amended by Ord. 18-03, passed August 8, 2018]
21. **Structure** means, 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 home. [Amended by Ord. 18-03, passed August 8, 2018]
22. **Substantial Damage** means 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. [Amended

by Ord. 14-02, passed April 9, 2014].

23. **Substantial improvement means 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” or 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 or 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 alterations of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.**
- [Amended by Ord. 18-03, passed August 8, 2018]
24. **Variance means a grant of relief by the City of Manzanita from the terms of a floodplain management regulation. [Added by Ord. 18-03, passed August 8, 2018].**

### Section 3.063 General Provisions.

1. **Lands to which this Ordinance Applies. This ordinance shall apply to all areas of special flood hazards (FDO zone) in combination with present zoning requirements within the jurisdiction of the City of Manzanita.**
2. **Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administrator in a scientific and engineering report** entitled “The Flood Insurance Study for Tillamook County, Oregon and incorporated areas,” dated September 28, 2018, with accompanying Flood Insurance Rate Maps (FIRM) and any revision thereto is hereby adopted by reference and declared to be a part of this ordinance.  
**The Flood Insurance Study is on file at Manzanita City Hall. [Amended by Ord. 18-03, passed August 8, 2018]**
3. **Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. Abatement and penalty per Section 11.040. [Amended by Ord. 18-03, passed August 8, 2018]**
4. **Warning and Disclaimer of Liability. The degree of flood protection required by this**



ordinance 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 ordinance 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. This ordinance shall not create liability on the part

of the City of Manzanita, any officer or employee thereof, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

5. **Abrogation and Severability.** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. If any section clause, sentence, or phrase of the Ordinance 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 Ordinance. [Added by Ord. 18-03, passed August 8, 2018]

### Section 3.064 Administration.

1. **Establishment of Development Permit.** A Development Permit shall be obtained before construction or development begins within any area of special flood hazard establishment in Section 3.063(2). The permit shall be for all structures including manufactured homes as set forth in the "Definitions", and for all development including fill and other activities, also as set forth in the "Definitions". Application for a Development Permit shall be made on forms furnished by the City of Manzanita and shall specifically include the following information:
  - (a) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures.
  - (b) Elevation in relation to mean sea level to which any structure has been flood proofed.
  - (c) Certification by a registered professional engineer or architect that the floodproofing method for any nonresidential structure meets the floodproofing criteria in Section 3.065(2)(b).
  - (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.[Amended by Ord. 18-03, passed August 8, 2018]
2. **Designation of the local Floodplain Administrator.** The Manzanita City Manager is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. [Added by Ord. 18-03, passed August 8, 2018]
3. **Duties and Responsibilities of the Floodplain Administrator.** Duties of the Floodplain Administrator shall include, but not be limited to:

(a) **Permit Review.**

- (1) **Review all development permits to determine that the permit requirements of this ordinance have been satisfied.**
  - (2) **Review all development permits to require that all necessary permits have been obtained from those Federal, State or Local Governmental Agencies from which prior approval is required.**
  - (3) **Review all development permits in the area of special flood hazard to determine if the proposed development adversely affects the flood carrying capacity of the area.**
- (b) **Use of Other Base Flood Data.**
- (1) **When base flood elevation has been provided in accordance with Section 3.063(2), Basis for Establishing the Areas of Special Hazard, the Floodplain Administrator shall provide it to the Building Official along with any freeboard requirements established in Sections 3.065(2)(a), Specific Standards, Residential construction, and 3.065(2)(b), Specific Standards, Nonresidential Construction.**
  - (2) **When base flood elevation data has not been provided in accordance with Section 3.063(2), Basis for Establishing the Areas of Special Hazard, the 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 Sections 3.065(2)(a), Specific Standards, Residential construction, and 3.065(2)(b), Specific Standards, Nonresidential Construction.**
- (c) **Information to be Obtained and Maintained by the Floodplain Administrator. Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 3.064(2)(b).**
- (1) **Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement and below-grade crawlspaces) of all new or substantially improved structures, and whether or not the structure contains a basement.**
  - (2) **For all new or substantially improved flood proofed structures:**  
verify and record the actual elevation (in relation to mean sea level); and, maintain the floodproofing certifications required in Section 3.064(1)(c).
  - (3) **Maintain for public inspection all records pertaining to the provisions of this ordinance.**

- (4) **In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters.**

**(d) Alteration of Watercourses. The Floodplain Administrator shall:**

- (1) **Development shall not diminish the flood carrying capacity of a watercourse. If any watercourse will be altered or relocated as a result of the proposed development the applicant must submit certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.**
- (2) **Notify adjacent communities and the Oregon Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.**
- (3) **Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.**

**(e) Interpretation of FIRM Boundaries.**

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations as provided in Section 3.064(3).

**(f) Requirement to Submit New Technical Data.**

- (1) **Notify FEMA within six months of project completion when an applicant had obtained a Conditional Letter of Map Revision (CLOMR) from FEMA, or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).**
- (2) **The applicant shall be responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.**
- (3) **The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgment Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the**

**project will or has met the requirements of this code and all applicable State and Federal laws.**

**[Amended by Ord. 18-03, passed August 8, 2018]**

4 Appeals and Variance Procedures.

- (a) **An appeal of a ruling or interpretation regarding a requirement of this ordinance shall be established in Section 10.150(A).**
- (b) **The Planning Commission shall hear and decide appeals when it is alleged there is an error in any interpretation, requirement, decision or determination in the enforcement or administration of this ordinance.**
- (c) **An action or ruling of the Planning Commission may be appealed pursuant to Section 10.150(B).**
- (d) **Generally, the only condition under which a variance from the elevation standard may be issued is 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, providing the following have been fully considered.**
  - (i) **The danger that materials may be swept onto other lands to the injury of others;**
  - (ii) **The danger to life and property due to flooding or erosion damage;**
  - (iii) **The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;**
  - (iv) **The importance of the services provided by the proposed facility to the community;**
  - (v) **The necessity to the facility of a waterfront location, where applicable;**
  - (vi) **The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;**
  - (vii) **The compatibility of the proposed use with existing and anticipated development;**
  - (viii) **The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;**
  - (ix) **The safety of access to the property in times of flood for ordinary and emergency vehicles;**
  - (x) **The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,**
  - (xi) **The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.**

**As the lot size increases the technical justification required for issuing the variance increases. [Amended by Ord. 18-03, passed August 8, 2018]**

- (c) **Variances may be issued for the rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Statewide Inventory of Historic Properties, without regard to the procedures set forth in this section, provided that the alteration will not preclude the structure's continued designation as a "historic structure". [Added by Ord. 18-03, passed August 8, 2018]**
- (f) **Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result. [Added by Ord. 18-03, passed August 8, 2018]**
- (g) **Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief. [Added by Ord. 18-03, passed August 8, 2018]**
- (h) **Variances shall only be issued upon:**
  - (i) **A showing of good and sufficient cause;**
  - (ii) **A determination that failure to grant the variance would result in exceptional hardship to the applicant;**
  - (iii) **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 as identified in this section, or conflict with existing local laws or ordinances. [Added by Ord. 18-03, passed August 8, 2018]**
- (i) **Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare. [Added by Ord. 18-03, passed August 8, 2018]**
- (j) **Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (1), and otherwise complies with Sections 3.065(1) – 3.065(3). [Added by Ord. 18-03, passed August 8, 2018]**
- (k) **The administrative procedure for hearing a variance shall be as established in Section 8.030.**
- (l) **When a variance is granted, the City Recorder shall give written notice, within 5 days after the decision is required, that the structure or manufactured home will be allowed to be built or placed with the lowest floor**



elevation at or below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the lower floor elevation.

## Section 3.065 Provisions for Flood Hazard Protection.

1. **General Standards. In the Flood Damage Overlay Zone (FDO Zone) the following provisions are required:**
  - (a) **Anchoring.**
    - (1) All new construction and substantial improvement shall be anchored to prevent flotation, collapse or lateral movement of the structure.
    - (2) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. 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).
  - (b) **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 or substantial improvements shall be constructed by methods and practices that minimize flood damage.
    - (3) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - (c) **Utilities.**
    - (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 discharges from the systems into flood waters; and
    - (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(d) **Subdivision Proposals.**

- (1) **All subdivision proposals shall be consistent with the need to minimize flood damage.**
- (2) **All subdivision proposals shall have public utilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.**
- (3) **All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.**
- (4) **Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).**

(e) **Review of Building Permits.**

Where elevation data is not available either through the Flood Insurance Study or from another administrative source (Section 3.064(2)(b)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgement and includes use of historical data, high-water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

2. **Specific Standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 3.063(2), Basis for Establishing the Areas of Special Flood Hazards or Section 3.064(2)(b), Use of Other Base Flood Data, the following provisions are required:

(a) **Residential Construction.**

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot above the base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (2) The bottom of all openings shall be no higher than one foot above grade.
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

(b) **Nonresidential Construction.**

New Construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

- (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- (3) 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 subsection based on their development and/or review of the structural design, specification and plans. Such certification shall be provided to the official as set forth in Section 3.064(2)(c)(2).
- (4) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 3.065(2)(a).
- (5) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).
- (6) Applicants shall supply a Maintenance Plan for the entire structure to include but not limited to: exterior envelope of structure; all penetrations to the exterior of the structure; all shields, gates, barriers, or components designed to provide floodproofing protection to the structure; all seals or gaskets for shields, gates, barriers, or

**components; and, the location of all shields, gates, barriers, and components as well as all associated hardware, and any**

materials or specialized tools necessary to seal the structure. [Added by Ord. 18-03, passed August 8, 2018]

- (7) **Applicants shall supply an Emergency Action Plan (EAP) for the installation and sealing of the structure prior to a flooding event that clearly identifies what triggers the EAP and who is responsible for enacting the EAP.** [Added by Ord. 18-03, passed August 8, 2018]

(c) **Manufactured Dwellings.**

- (1) **Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with Section 3.065(2)(a), 3.065(2)(a)(1) - (3).**
- (2) **The bottom of the longitudinal chassis frame beam in A zones, shall be at or above BFE;**
- (3) **The manufactured dwelling 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;**
- (4) **Electrical crossover connections shall be a minimum of 12 inches above BFE.**

[Amended by Ord. 18-03, passed August 8, 2018]

(d) **Recreational Vehicles**

Recreational vehicles placed on sites within zones A1-30, AH, AO, and AE Zones are required to:

- (1) **Be on site for fewer than 180 consecutive days, and**
- (2) **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**
- (3) **Meet the requirements of Section 3.065(2) above and the elevation and anchoring requirements for manufactured homes.**

[Added by Ord. 18-03, passed August 8, 2018]

### 3. Coastal High Hazard Area.

Coastal high hazard areas (V zones) are located within the areas of special flood hazard established in Section 3.063. These areas have special flood hazards associated with high velocity waters from tidal surges and, therefore, in addition to meeting all provisions in this ordinance, the following provisions shall also apply:

- (a) **All new construction and substantial improvements in Zones V-1 to V-30 and VE (V if base flood elevation data is available) shall be elevated on pilings and columns so that:**
  - (1) **The bottom of the lowest horizontal structural member supporting the home (excluding the pilings or columns) is elevated a minimum of one foot or more above the base flood elevation; and**
  - (2) **The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent (1%) chance of being equaled or exceeded in any given year (100-year mean recurrence interval).** [Amended by Ord. 14-02, passed April 9, 2014].

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of (1) and (2) of this Section.

- (b) **Obtain the elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all new and substantially improved structures in zones V1-V30 and VE, and whether or not such structures contain a basement. The local administrator shall maintain a record of all such information.**
- (c) **All new construction shall be located landward of the reach of mean high tide.**
- (d) **Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either**



by design or when so required by local or state codes) may be

permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:

- (1) **Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and,**
  - (2) **The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval). [Amended by Ord. 01-03, passed 8/27/01]**
- (c) **If breakaway walls are utilized, such enclosed space shall be usable solely for parking of vehicles, building access, or storage. Such space shall not be used for human habitation.**
- (f) **Prohibit the use of fill for structural support of buildings.**
- (g) **Prohibit man-made alteration of sand dunes which would increase potential flood damage.**
- (h) **Require that manufactured dwellings placed or substantially improved on sites within Zones V1-V30, V, and VE on the community's FIRM meet the standards of Section 3.065(3)(a) through (g) (for manufactured dwellings the bottom of the lowest horizontal structural member supporting the home referenced in 3.065(3)(a) is the bottom of the chassis frame beam), and Section 3.065(2)(c)(3) and (4). [Added by Ord. 18-03, passed August 8, 2018]**
- (i) **Require that recreational vehicles placed on sites within Zones V1-30, V, and VE on the community's FIRM either**
- (i) **Be on the site for fewer than 180 consecutive days,**
  - (ii) **Be fully licensed and ready for highway use,**
- Or
- (iii) **Meet the requirements in paragraphs Section 3.064(1) and Section 3.065(3)(a) through (g) of this ordinance.**

A recreational vehicle is ready for highway use if it is 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.

[Added by Ord. 18-03, passed August 8, 2018]

#### 4. **Areas of Shallow Flooding (AO Zone).**

Shallow flooding areas appear on FIRM's as AO zones with depth designations. The base flood depths in these zones range from 1 to 3 feet 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. In these areas, the following provisions apply:

- (a) **New construction and substantial improvements of residential structures within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, to or above the depth number specified on the FIRM (at least two feet if no depth marker specified).**
- (b) **New construction and substantial improvement of nonresidential structures shall, either:**
  - (1) **Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site to or above the depth number specified in the FIRM (at least two feet if no depth number is specified, or**
  - (2) **Together with attendant utility and sanitary facilities be completely flood proofed to or above this level so that any space below this level is watertight with walls substantially impermeable to the passage of water and with structural components have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Section 3.065(2)(b)(3).**  
[Amended by Ord. 18-03, passed August 8, 2018]
- (c) **Require adequate drainage paths around structures on slopes to guide floodwater around and away from proposed structures.**

### Section 3.066 Restrictions and Prohibited Uses.

#### 1. **Restrictions.**

Restrictions regarding height, rear yards, side yards, front yard setback, minimum lot area, signs, vision clearance and parking space shall be the same as set forth in each specific zone located within the Flood Damage Overlay Zone area.

#### 2. **Prohibited Uses.**

It shall be unlawful to erect, alter, maintain or establish in a Flood Damage Overlay Zone any building, use or occupancy not permitted or allowed in the foregoing provisions, except existing nonconforming uses, which may continue as provided in Article 7.

**Section 3.080 Beaches and Dunes Overlay Zone.** Purpose: The intent of this zone is to regulate uses and activities in beach and dune areas in order to:

1. **Ensure the conservation and protection of beach resources.**
2. **Protect dune areas, consistent with the built and committed exception of Goal 18, Beaches and Dunes Implementation Requirement 2, taken by the City.**
3. **Minimize the hazards to property associated with development in dune areas.**

**Section 3.081 Areas Included.** The beaches and dunes overlay zone applies to beaches, active foredunes, other foredunes which are conditionally stable and which are subject to ocean undercutting or wave overtopping, interdune areas (deflation plains) which are subject to ocean flooding, and all other dune forms except for older stabilized dunes which are not subject to mass movement. The location of the beaches and dunes is based on the firm flood hazard map and on the report "A Field Investigation of Geologic Hazards in Manzanita, Oregon" by Martin E. Ross, PH.D., December 30, 1977.

**Section 3.082 Application of Overlay District.** The requirements imposed by the beaches and dunes overlay district shall be in addition to those imposed by the underlying zone district. Where the requirements of the beaches and dunes overlay district conflict with those of the underlying zoning district, the more restrictive requirements shall apply.

**Section 3.083 Uses and Activities Permitted Outright.** Any permitted use, and its accessory uses, allowed in the underlying zone, are permitted subject to the applicable standards of Section 3.085, the underlying zone, and the additional standards of Article 4. The following additional uses and activities are also permitted, subject to the standards of Article 4.

1. **Public or private beach access.**
2. **Foredune breaching on a temporary basis in an emergency (e.g. fire control, cleaning up oil spills, and alleviating a flood hazard).**
3. **Foredune grading**
4. **Vegetative sand stabilization**

**Section 3.084 Conditional Uses and Activities Permitted.** Any conditional use, and its accessory uses, allowed in the underlying zone, are permitted subject to the applicable standards

of Section 3.085, the underlying zone and the additional standards of Article 4. The following additional uses and activities are also permitted, subject to the standards of Article 4.

1. **Beachfront protective structure.**

**Section 3.085 Standards.** Uses and activities permitted outright or conditionally within the beaches and dunes overlay zone shall comply with the following applicable standards:

1. **Residential developments and industrial and commercial buildings shall not be allowed in the following areas, unless an exception to Goal 18 Implementation Requirement 2 has been adopted as part of the Comprehensive Plan and a site investigation report is prepared meeting the standards of Section 4.050:**

- (a) **Beaches.**
- (b) **Active foredunes.**
- (c) **Other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping.**
- (d) **Interdune areas (deflation plains) that are subject to ocean flooding.**

Other development in these areas shall be permitted only if the findings required in Goal 18 implementation requirement 1 are presented, and it is demonstrated that the proposed development:

- (a) **Is adequately protected from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves, or is of minimum value;**
- (b) **Is designed to minimize adverse environmental effects (Note: These findings shall be made through the site investigation report).**

2. **Beachfront protective structures**

Beachfront protective structures shall conform to the requirements of Section 4.050.

3. **Site Investigation.**

(a) **In the following cases, a site investigation by a registered geologist shall be required prior to the issuance of a building permit. The planning commission may also require a site investigation as part of the application for a conditional use, preliminary subdivisions, proposal, partition request, and preliminary planned development requests:**

(1) **Active foredunes. Conditionally stable foredunes which are located within coastal high hazard areas (V zones) as identified on Flood Insurance Rate Map (FIRM) maps, and interdune areas which are located within coastal high hazard areas (V zones) as identified on FIRM maps. [Amended by Ord. 14-02, passed April 9, 2014].**

(2) **Properties with a slope of 25% or greater.**

(b) **The building official shall not approve plans unless they are consistent with**

the

Comprehensive Plan and Zoning Ordinance requirements.

(c) **The building official may require a site investigation by a registered geologist in open sand areas or other sites where, in his opinion, there is a potential for wind erosion or other hazard.**

(d) **The site investigation reports shall address the pertinent elements contained in Section**

**4.050 of this Ordinance.**

(e) **The burden of proof shall be upon the applicant to show construction feasibility in potentially hazardous areas. a proposed use will only be permitted where:**

(1) **The site investigation indicates that there is not a hazard to the use proposed on the site or to other properties in the vicinity; or**

(2) **The site investigation specifies engineering or construction methods which will eliminate or minimize to an acceptable level the identified hazard.**

(f) **Where a site investigation report concludes that an engineering solution will solve an identified problem, the building official shall require that the additional standards and requirements set forth in the site investigation be a requirement of building permit issuance.**

(g) **The building official may have the site investigation reviewed by an independent expert, such a review may address either the adequacy or competence of the site investigation or the methods proposed to eliminate any identified hazard. The applicant shall pay for the cost of this review.**

(h) **The building official may require that the developer post a performance bond to ensure that recommendations in the site investigation are implemented.**

#### **4. Ocean Front Averaging**

a. **For lots abutting the oceanshore, the setback from the front (ocean side) lot line for buildings and additions to buildings hereafter constructed shall be on the direct line from the western foundation of the nearest existing building to the north to the western foundation of the nearest existing building to the south. For purposes of this section and associated policies, the western foundation of a building shall be part of the principal underlying support for the building, and shall not include the footings or foundation for a deck, porch, or patio. [Amended by Ord. 05-03, passed 5/13/05; and by Ord. 14-02, passed April 9, 2014].**

b. **In cases where the above method of setback determination requires development to be set back further from the westerly property line than is required for protection of the Foredune Management Area, the City Manager may determine the setback distance which**



shall apply. In making a determination, the City Manager shall consider: 1) the average front yard setback of buildings within 200 feet of both sides of the proposed building; 2) whether the front yard setback leaves at least 50% of the area of the lot for development; and 3) whether the proposed alignment

of buildings will not significantly worsen sand accretion in the immediate area. The intent of this provision is to limit this application to those rare and unusual circumstances where the above method of setback determination produces an unreasonable and inequitable result. In such instances, a public meeting for purposes of discussing the proposed setback shall be held and recorded. Notice shall be given to surrounding property owners and persons requesting notice pursuant to the notice requirements set forth in Section 10.010 of this ordinance. [Amended by Ord. 01-03, passed 8/27/01]

**5. Foredune Breaching.**

The areas affected by foredune beaching as allowed by Section 3.083 (uses permitted outright) shall be restored according to the approved restoration plan. To the maximum extent feasible, the contours and vegetative cover existing on the site prior to the breaching shall be restored.

**6. Foredune Grading**

Foredune grading refers to the alteration of the foredune area through sand transfer or removal of sand by mechanical means. Foredune grading may be permitted for the purpose of siting a permitted use, 'construction grading'; for the purpose of removing inundating sand, 'remedial grading'; or for the purpose of restoring ocean views, 'view grading'. Grading or sand movement necessary to maintain views may be allowed for structures in foredune areas only if the area is committed to development and only as part of a management unit subarea plan determined to be consistent with the Fore dune Management Plan. Transfer or removal of sand which is inundating structures or for the purpose of siting a permitted use may be permitted without a Fore dune Management Plan as provided in Subsections (a) and (b) of this Section. No person shall engage in foredune grading without first obtaining a permit from the City Manager.

**(a) Construction grading on vacant lots for site development purposes is permitted subject to the following standards:**

- i) **In order of priority, graded sand shall be transferred to low and narrow dune areas in the immediate vicinity of the area from which it has been removed, the fronting beach, other areas within and between management units. Sand transfer shall be limited to that required for building placement or other valid purposes. It shall be conducted in a manner that maintains the foredune area at a minimum elevation of 33 feet National Geodetic Vertical Datum (NGVD) and is otherwise consistent with measures prescribed in an approved management unit subarea plan and the Manzanita Fore dune Management Plan. [Amended by Ord. 14-02, passed April 9, 2014].**
- ii) **Removal of sand to alternative disposal areas may be permitted only if there is no reasonable alternative and then only as part of an approved construction grading plan. Sand removal shall be limited to that required for building placement or other valid purposes. It shall be conducted in a manner that maintains the foredune area at a minimum elevation of 33 feet NGVD and is otherwise consistent with measures prescribed in an approved management unit subarea plan and the Manzanita Fore dune Management Plan.**
- iii) **Removal of vegetation during construction shall be limited to that required for**

building placement or other valid purposes. Sand stabilization, in the form of mulching, matting, or other

similar techniques shall be required during construction. Replanting areas cleared of vegetation shall be required within the first planting season, October through April, following the completion of construction. It shall be conducted in a manner that is consistent with measures prescribed in an approved management unit subarea plan and the Manzanita Foredune Management Plan. Re-vegetation shall be closely monitored and replaced where needed.

- iv) **Construction grading and related site development activities shall not occur more than 30 days prior to the start of construction, unless otherwise approved by the City.**

**(b) Remedial Grading on developed lots to remove inundating sand is permitted subject to the following standards:**

i) **Inundating sand is defined as that which has piled up against exterior walls, windows, doors, or decks and thus interferes with access to or with the safe use or occupancy of existing structures. In rear and side yards inundating sand can be moved from areas between existing structures and property lines. In front yards the maximum distance seaward (west) of existing structures from which inundating sand can be moved through remedial grading is 30 feet including the 2:1 slope from the new grade to 33 feet NGVD.**

ii) **In order of priority, graded sand shall be transferred to low and narrow dune areas in the immediate vicinity of the area from which it has been removed, the fronting beach, other areas within and between management units. It shall be conducted in a manner that maintains the foredune area at a minimum elevation of 33 feet NGVD and is otherwise consistent with measures prescribed in an approved management unit subarea plan and the Manzanita Foredune Management Plan.**

iii) **For amounts greater than 20 cubic yards in any calendar year, removal of sand to alternative disposal areas may be permitted only if there is no reasonable alternative and then only as part of an approved remedial grading plan. It shall be conducted in a manner that is consistent with an approved management unit subarea plan and the Manzanita Foredune Management Plan.**

iv) **Sand stabilization, in the form of mulching, matting, or other similar techniques shall be required following remedial grading. Replanting areas cleared of vegetation shall be required within the first planting season, October through April, following the completion of the remedial grading. It shall be conducted in a manner that is consistent with an approved management unit subarea plan and the Manzanita Foredune Management Plan. Re-vegetation shall be closely monitored and replaced where needed.**

**(c) View grading on developed lots for the purpose of maintaining ocean views from oceanfront dwellings is only permitted in the Foredune Management Area and then only as part of an approved management unit subarea plan.**

- (d) **Construction and remedial grading plans shall contain the following elements:**
  - i) **Description of proposed work, include the scope and timing of activities to be carried**

- out under the plan;
- ii) **The individual(s) responsible for supervising the project.**

#### **7. Wells.**

The city shall require a technical report by qualified hydrologist to confirm that any proposed groundwater withdrawal will not result in the loss of stabilizing vegetation, loss of water quality, or intrusion of salt water into water supplies. Building permits for single family dwellings are exempt from this requirement if appropriate findings are provided in the Comprehensive Plan or at the time of subdivision approval.

#### **8. Beach and Dune Hazards Report.**

A hazards report shall be required prior to the approval of development within the beaches and dunes overlay zone, except for the following:

- (a) **Building permits for accessory structures;**
- (b) **Development in older stabilized dunes, unless the area is locally known hazard area based on evidence of past occurrences;**
- (c) **Building permits for residential structures where findings are provided in the Comprehensive Plan.**

The hazards report as described in Section 4.050 of this Ordinance shall include the results of preliminary site investigation and where recommended in the preliminary report, a detailed investigation.

[ Note: Sections 3.080 through 3.085 amended by Ord. 98-03, passed 3/4/98]

**Section 3.090 Wetlands Notification Overlay Zone.** The purpose of the Wetland Notification Overlay Zone is to establish a procedure that ensures that the permitting requirements of the Division of State Lands and the U.S. Army Corps of Engineers are met in the wetlands area of the City and its Urban Growth Area.

**Section 3.091 Zone Boundaries.** The boundaries of the Wetland Notification Overlay Zone shall conform to areas so designated in the Comprehensive Plan Map entitled "Wetland Areas of Manzanita".

### Section 3.092 General Provisions.

1. **No person shall do any site preparation work in the Wetland Notification Overlay Zone ("the zone") without first notifying the City of the proposed action. Site preparation work is defined as any grading, filling, drainage, excavation or vegetation removal on the subject property.**
2. **The required notification shall take the form of a description of the activity, the location of the property, and a sketch or map of the site.**
3. **Upon notification, the City shall inform the applicant that the subject property and proposed activity may be subject to the jurisdiction of the Division of State Lands and/or the U.S. Army Corps of Engineers. The applicant shall contact the Division of State Lands and the**  
U.S. Army Corps of Engineers and seek a determination of whether the subject property and proposed site preparation activities are subject to their jurisdiction.
4. **Where property is located in the unincorporated Urban Growth Area, the applicant shall be directed to contact the Tillamook County Community Development Department. If the U.S. Army Corps of Engineers and/or Division of State Lands determine that they do not have jurisdiction, the applicant may begin site preparation work upon presenting the City with a written confirmation of such a determination, subject to other applicable City requirements. [Sections 3.090 to 3.092 added by Ord. 95-4, passed March 6, 1996].**

**Section 3.095 Airport Overlay Zone.** The purpose of the airport Overlay Zone is intended to prevent the establishment of airspace obstructions in airport approaches and surrounding areas through height restrictions and other land use controls as deemed essential to protect the health, safety, and welfare of the people of the City of Manzanita and Tillamook County. This zone is established and includes all of the land lying beneath the Airport Imaginary Surfaces as they apply to Nehalem Bay State airport. Such zone is shown on the current Airport Airspace and runway Protection Zone drawing.

Definitions:

1. **Utility Runway.** A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.
2. **Visual Runway.** A runway that is intended solely for the operation of aircraft using visual approach procedures when no instrument approach procedures has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.
3. **Nonprecision Instrument Runway.** A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved, or planned, or indicated on an FAA or state planning document or military service airport planning document.
4. **Precision Instrument Runway.** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), Microwave Landing System (MILS), Global Positioning Satellite (GPS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is not indicated by an FAA approved airport layout plan, any other FAA or state planning document, or military service airport planning document.
5. **Airport Imaginary Surfaces.** Those imaginary areas in space which are defined by the Approach Surface, Transitional Surface, Horizontal Surface, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.
6. **Airport Hazard.** Any structure, tree, or use of land which exceeds height limits established by the Airport Imaginary Surfaces.
7. **Approach Surface.** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface. The inner edge of the approach surface is the same width as the Primary Surface and extends to a width of: 1250 feet for utility runway having only visual approaches; 1500 feet for a runway other



than a utility runway having only visual approaches; 2000 feet for a utility runway having a nonprecision instrument approach; 3500 feet for a nonprecision instrument runway other than utility, having visibility minimums greater than 3/4's of a statute mile; 4000 feet for a nonprecision instrument runway having visibility minimums as low as 3/4's statute mile; and 16000 feet for precision instrument runways. The Approach Surface extends for a horizontal distance of 5000 feet at a slope of 20 feet outward to each foot upward (20:1) for all utility and visual runways; 10000 feet at a slope of 34 feet outward for each foot upward (24:1) for all nonprecision instrument runways other than utility; and for all precision instrument runways extends for a horizontal distance of 10000 feet at a slope of 50 feet outward for each foot upward (50:1); thence slopes upward for each foot upward (40:1) an additional distance of 40000 feet.

8. **Primary Surface.** A surface longitudinally centered on a runway. When the runway has specially prepared hard surface, the Primary Surface extends 200 feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the Primary Surface ends at each end of that runway. The width of the Primary Surface is 250 feet for utility runways having only visual approaches, 500 feet for utility runways having nonprecision instrument approaches, 500 for other than utility runways having only visual approaches or nonprecision instrument approaches with visibility minimums of 3/4's of a mile or less and for precision instrument runways.
9. **Transition Surface.** Extend 7 feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface which point is the same elevation as the runway surface, and from the sides of the approach surfaces thence extending upward to a height of 150 feet above the airport elevation (Horizontal Surface).
10. **Horizontal Surface.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5000 feet from the center of each end of the Primary Surface of each visual or utility runway and 10000 feet from the center of each end of the Primary Surface of all other runways and connecting the adjacent arcs by lines tangent to those arcs.
11. **Conical Surface.** Extends 20 feet outward for each one foot upward (20:1) for 4000 feet beginning at the edge of the horizontal surface (5000 feet from the center of each end of the Primary Surface of each visual and utility runway or 10000 feet for all nonprecision instrument runways other than utility at 150 feet above the airport elevation) and upward extending to a height of 350 feet above the airport elevation.
12. **Runway Protection Zone (RPZ).** An area off the runway end (formerly the clear zone) used to enhance the protection of people and property on the ground. The RPA is trapezoidal in shape and centered about the extended runway centerline. It begins 200 feet (60 m) beyond the end of the arcs usable for takeoff or landing. The RPZ dimensions are functions of the type of aircraft and operations to be conducted on the runway.

13. **Airport Approach Safety Zone.** The land that underlies the approach surface, excluding the RPZ.
14. **Noise Sensitive Areas.** Within 1500 feet of the airport or within established noise contour boundaries exceeding 55 DNL.
15. **Place of Public Assembly.** Structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, awaiting transportation, or similar activity.

**Section 3.096 Permitted Uses Within the Runway Protection Zone (RPZ).** While it is desirable to clear all objects from the RPZ, some uses are permitted, provided they do not attract wildlife, are below the approach surface and do not interfere with navigational aids.

1. **Golf courses.**
2. **Parks and open space.**
3. **Single family dwellings, mobile homes, duplexes, and multifamily dwellings, when authorized in the primary zoning district, provided the landowner signs and records in the deed and mortgage records of Tillamook County a Hold Harmless Agreement and Aviation and Hazard Easement and submits them to the airport sponsor and the City of Manzanita.**
4. **Commercial and communication uses, when authorized in the underlying zone, provided the use does not result in:**
  - a. **Creating electrical interference with navigational signals or motels**
  - b. **communication between the airport and aircraft.**
  - c. **Making it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.**
  - d. **Impairing visibility.**
  - e. **Creating bird strike hazards.**
  - f. **Endangering interfering with the landing, taking off or maneuvering of aircraft intending to use airport.**
  - g. **Attracting a large number of people.**
5. **Buildings and uses of public works, public service, or public utility nature.**

## Section 3.097 Standards.

1. To meet the standards established in FAA regulations, Part 77 and OAR Chapter 738, Division 70, no structure shall penetrate into the Airport Imaginary Surfaces as defined above under Section 3.095.
2. No place of public assembly shall be permitted in the airport Approach Safety Zone or RPZ.
3. No structure or building shall be allowed within the RPZ.
4. Whenever there is a conflict in height limitations prescribed by this overlay zone and the primary zoning district, the lowest height limitation fixed shall govern; provided, however, that the height limitations here imposed shall not apply to such structures customarily employed for aeronautical purposes.
5. No glare producing materials shall be used on the exterior of any structure located within the Airport Approach Safety Zone.
6. In noise sensitive areas (within 1500 feet of an airport or within established noise contour boundaries of 55 DNL and above for identified airports) where noise levels are a concern, a declaration of anticipated noise levels shall be attached to any building permit, land division appeal, deed and mortgage records. In areas where the noise level is anticipated to be 55 DNL and above, prior to issuance of a building permit for construction of noise sensitive land use (real property normally used for sleeping or normally used as schools, churches, hospitals, or public libraries) the permit applicant shall be required to demonstrate that a noise abatement strategy will be incorporated into the building design which will achieve an indoor noise level equal to or less than 55 DNL. The planning and building departments will review building permits or noise sensitive developments.
7. No development that attracts or sustains hazardous bird movements from feeding, watering, or roosting across the runways and/or approach and departure patterns of aircraft. The City shall notify Oregon Aeronautics of such development (e.g., waste disposal sites and wetland enhancements) within the airport overlay zone so as to provide Oregon Aeronautics Section an opportunity to review and comment on the site in accordance with FAA AC 150/5200-

33. [Sections 3.095 - 3.098 added by Ord. 95-4, passed March 6, 1996].

## ARTICLE 4. SUPPLEMENTARY PROVISIONS

**Section 4.010 Access.** Every lot shall abut a street, other than an alley, for at least 25 feet, except that lots created in the rear of street fronting lots (flag lots), shall have accesses with a length to width ratio of not greater than 3 to 1.

**Section 4.020 Clear Vision Areas.** A clear-vision area shall be maintained on the corners of all property at the intersection of two streets.

1. A clear-vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of each is a line across the corner of the lot joining the non-intersecting ends of the other two sides.
2. A clear-vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 2.5 feet in height, measured from the top of the curb, or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of 8 feet above the grade.
3. The following measurements shall establish clear-vision areas:
  - (a) In a residential zone the minimum distance shall be 25 feet or, at intersections including an alley, 10 feet.
  - (b) In all other zones where yards are required, the minimum distance shall be 15 feet or, at intersections including an alley, 10 feet, except that when the angle of intersection between streets, other than an alley, is less than 30 degrees, the distance shall be 25 feet.

**Section 4.030 Maintenance of Minimum Ordinance Requirements.** No lot area, yards, other open space, or off-street parking or loading area existing on or after the effective date of this Zoning Ordinance (Ord. 95-4) shall be reduced below the minimum required. No conveyance of any portion of a lot, for other than a public use, shall leave a structure on the remainder of the lot with less than minimum ordinance requirements. [Amended by Ord. 95-4, passed March 6, 1996].

**Section 4.040 Dual Use of Required Open Space.** No lot area, yard, or other open space, or off-street parking or loading area which is required by this Ordinance for one use shall be required lot area, yard, or other open space or off-street parking or loading area for another use.

**Section 4.050 Dune Construction Requirements. Shoreline stabilization.**

1. **Beachfront protective structures seaward of the state zone line require a permit from the Oregon Department of Transportation, Oregon Division of State Lands, and the City of Manzanita. Beachfront protective structures landward of the state zone line, requiring more than 50 cubic yards of material, require a permit from the Oregon Division of State Lands and the City of Manzanita.**
2. **The City's review of beachfront protective structures, both east and west of the state zone line, shall be coordinated with the Oregon Department of Transportation and the Oregon Division of State Lands.**
3. **The priorities for shoreline stabilization for erosion control are, from highest to lowest:**
  - (a) **Proper maintenance of existing riparian vegetation.**
  - (b) **Planting of riparian vegetation.**
  - (c) **Vegetate rip-rap.**
  - (d) **Non-vegetated rip-rap.**
  - (e) **Bulkhead or seawall.**

Where rip-rap, bulkheads, or seawalls are proposed as protective measures, evidence shall be provided that higher priority methods of erosion control will not work.

**Preliminary Site Investigation.**

1. **The purpose of the preliminary site report is to identify and describe existing or potential hazards in areas proposed for development. The report shall be based on site inspections conducted by a qualified person, such as a geologist, engineering geologist, soil scientist, or coastal oceanographer with demonstrated experiences in coastal development.**
2. **The preliminary site report shall either recommend that a more detailed site investigation report is needed to fully disclose the nature of on-site hazards or it shall conclude that known hazards were adequately investigated, and recommend development standards for buildable areas.**
3. **The preliminary site report shall include plan diagrams of the general area, including legal descriptions and property boundaries, and geographic information as required below:**
  - (a) **Identification of each dune landform (according to either the Goal 18 or SCS system of classification);**
  - (b) **History of dune stabilization in the area;**

- (c) **History of erosion or accretion in the area, including long-term trends;**

- (d) **General topography including spot elevations;**
- (e) **Base flood elevation and areas subject to flooding, including flood areas shown on the flood insurance rate maps;**
- (f) **Location of perennial streams or springs in the vicinity;**
- (g) **Location of the state beach zone line;**
- (h) **Location of beachfront protective structures in the vicinity;**
- (i) **Elevation and width of the foredune crest;**
- (j) **Land grading practices, including standards for cuts and fills and the proposed use and placement of excavated material.**

Elevations shall relate to the National Geodetic Vertical Datum of 1929, NGVD.

**4. As part of the preliminary site investigation report, the applicant and consulting geologist or engineer shall make the following findings:**

- (a) **That the use will not have an adverse effect on the site or adjacent areas;**
- (b) **That permanent and temporary stabilization programs and maintenance of new and existing vegetation will be carried out;**
- (c) **That hazards to life, public land, private property and the natural environment will be avoided;**
- (d) **That methods for protecting the surrounding area from any adverse effects of the development shall be addressed.**

Detailed Site Investigation.

- 1. The purpose of detailed site investigation is to fully describe the extent and severity of identified hazards. Such investigation shall be required either where recommended in a preliminary site report or when building plans, including grading plans for site preparation, were not available for review as part of the preliminary site investigation. The detailed site report shall be based on site inspections or other available information and shall be prepared by a qualified person, such as a registered civil engineer or geologist.**
- 2. The report of a detailed site investigation shall recommend development standards to assure that proposed alterations and structures are properly designed so as to avoid or recognize hazards described in the preliminary report or as a result of separate investigations.**

3. **The report shall include standards for:**
  - (a) **Development density and design;**
  - (b) **Location and design of roads and driveways;**
  - (c) **Special foundation design (for example spread footings with post and piers), if required;**
  - (d) **Management of storm water runoff during and after construction.**
4. **Structural Shoreline Stabilization methods for beachfront protection shall be permitted only if:**
  - (a) **There is a need to protect property that is threatened by erosion hazard.**
  - (b) **Impacts on adjacent property are minimized.**
  - (c) **Visual impacts are minimized.**
  - (d) **Access to beach is maintained.**
  - (e) **Long-term or recurring costs to the public are avoided.**
  - (f) **Riparian vegetation is preserved as much as possible; and**
  - (g) **Structural shoreline stabilization for beach and dune areas shall be permitted only where development existed as of January 1, 1977. Development means houses, commercial and industrial buildings, and vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lots, and includes areas where a goal of 18 implementation requirements 2 has been approved.**

These criteria shall apply to structural shoreline stabilization both east and west of the state zone line.

5. **The shoreline protection structure shall be the minimum necessary to provide the level of protection required.**
6. **The emergency placement of rip-rap to protect buildings from an imminent threat shall be permitted without a permit. However, the City, Oregon Department of Transportation, and the Oregon Division of State Lands shall be notified when rip-rap is placed along the beachfront. Measures taken as a result of emergency conditions will be inspected. Alteration or removal of material placed to conform to state standards may be required.**



7. **Proposals to repair existing rip-rap shall be reviewed by the building official. If the building official determines the proposed repair involves a major change in the extent of rip-rap, the proposal shall be reviewed by the Planning Commission as a conditional use. Major changes shall be considered repair projects involving more than 50 cubic yards or a westward extension of the rip-rap seawall.**

**Section 4.055 Maintenance of Public Access.** The City shall review, under ORS 368.326 - 368. 66, proposals for the vacation of public easements or rights-of-way which provide access to coastal waters. Existing rights-of-way and similar public easements which provide access to coastal waters shall be retained or replaced if they are sold, exchanged or transferred. Rights-of-way may be vacated so long as equal or improved access is provided as part of a development project.

**~~Section 4.060 Multifamily or Apartment Siting Criteria. In any zone where a multifamily dwelling, condominium or apartment structure is proposed, the Planning Commission shall review the plans under the following criteria:~~**

- ~~1. At least 50% of the required open space area is usable by the residents. This can be in the form of lawns, outdoor play areas, swimming pools, patios or decks, or where the Planning Commission permits, indoor areas such as recreation rooms, meeting areas, or indoor swimming pool.~~
- ~~2. Parking and storage areas are covered if possible, or are located in unobtrusive location, and are buffered from surrounding residences if any, with trees, hedges, fences or other types of screening.~~
- ~~3. Parking and traffic circulation must be adequately designed to afford access to dwellings to provide loading zones, and sufficient maneuvering space. Safety of ingress and egress from adjacent streets must be considered.~~

## Section 4.070 Sign Requirements.

The purpose of this section is to:

- i. **Preserve and protect the public health, safety and welfare of the citizens and visitors of Manzanita.**
- ii. **To promote and accomplish the goals, policies and objectives of the Manzanita Comprehensive Plan (Ordinance 95-3).**
- iii. **To balance public and private objectives by allowing adequate signage for business identification.**
- iv. **To promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be partially attributable to cluttered, distracting and/or illegal signage.**
- v. **To prevent property damage and personal injury from signs which are improperly constructed or poorly maintained.**
- vi. **To promote the use of signs which are of appropriate scale and integrated with the surrounding buildings and landscape, in order to meet the community's expressed desire for quality development.**
- vii. **To protect the property values, the local economy and the quality of life by preserving and enhancing the appearance of the streetscape which affects the image of the City of Manzanita.**

The City of Manzanita's sign regulations are not intended to, and do not, restrict speech on the basis of its content, viewpoint, or message. Any classification of signs in Section 4.070 that permits speech by reason of the type of sign, identity of the sign user, or otherwise, shall permit any type of speech on the sign. No part of this Section shall be construed to favor commercial speech over noncommercial speech. To the extent any provision of this Section 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.

### 1. Permit Required.

- a. **A sign permit and fee determined by City Council resolution is required for:**
  - (1) **The erection or placement of any new sign or signs, except those that are Exempted Signs in this Ordinance. Permits shall be obtained from City Hall.**
  - (2) **Alteration of any permitted sign that results in a change of size or shape or the relocation or modification of the structure of an existing permanent sign. Maintenance may be performed without a permit or fee.**
- b. **Required information for a permit.**
  - (1) **A drawing to scale of the proposed sign or signs indicating dimension, materials, lighting, structural elements, and location on building or**

**property.**

- (2) **Location and size of any existing signs that are not intended to be removed.**

## 2. General. The following apply to all zones and all uses:

- a. No sign shall be placed on public property or extend over a sidewalk/street right-of-way except where specifically allowed by this Ordinance.
- b. There shall be no flashing elements, including but not limited to moving, rotating, handheld, projected and/or laser projected or otherwise animated parts. Light from a sign shall be directed away from a residential use or zone, shall not create or reflect glare on any adjacent building and shall be located so as not to distract from a motorist's view of a traffic sign and/or vehicular or pedestrian traffic.
- c. **Sign Height.** Maximum 24 feet except where otherwise noted.
- d. No sign may be attached to trees, shrubs, utility poles, traffic control or directional sign posts except for Public Signs.
- e. When multiple signs are used, the sum of the face area of all signs may not exceed the maximum square footage permitted in this ordinance, except where otherwise noted.
- f. All signs shall meet the material and construction methods requirements of the latest Uniform Sign Code, and Oregon Structural Specialty Code.
- g. Placement on the property must be consistent with the location shown on the Sign Permit.
- h. A temporary sign shall be attached firmly to the site or constructed in a manner that prevents it from being easily blown away from its location.
- i. No temporary sign shall be erected or maintained which, by reason of its size, location or construction constitutes a hazard or impediment to the public.
- j. Temporary signs may be placed within the public right-of-way no more than one (1) day prior to an event and must be removed within one (1) day after the event. Such signs may not be placed on the paved portion of a street or sidewalk and may not be greater than fifteen (15) square feet in size. The liability risk belongs to the sign owner.

## 3. Sign Requirements – Commercial Zones

- a. **General requirements.** The following types of signs are allowed in the commercial zones:
  - (1) Permanent, free-standing, and awning signs shall be allowed subject to

**the total area limitation specified in paragraph 3.b.(Total Square Foot Restrictions for Commercial Businesses) below**

- (2) A-Frame/sandwich board or portable-type signs are permitted providing:**

- (a) A business premises has no more than one A-Frame or portable sign.
  - (b) Signs are located entirely on private property.
  - (c) Sign area is limited to no more than eight (8) square feet per face.
  - (d) Signs are displayed only during normal business hours or while event is open to the public.
- (3) Second story businesses shall be allowed in addition to ground level signage an eight (8) square foot sign erected at the second story level. No signage shall be allowed above the second story.
- (4) Window sign/signs not to exceed four (4) square feet per window, subject to the total area limitation specified in paragraph (b) below. More than one such sign is allowed per window as long as the square foot area restriction is not exceeded. In no case shall more than 35% of any window be covered with signs that are opaque or translucent.
- (5) The following temporary signs are permitted on any lot without issuance of a permit. The signage shall not be restricted by content, but is usually and customarily used to advertise real estate sales, garage sales, home construction or remodeling and similar activities.
- (a) One non-rigid canvas (or similar material) sign per activity may be attached to a wall, fence or between poles, limited to a maximum of twelve (12) square feet unless another size is approved by the Planning Commission. This sign must be anchored to prevent hazardous movement due to changing environmental conditions.
  - (b) One (1) sign not exceeding fifteen (15) square feet in area or eight (8) feet in height provided said sign is removed within fifteen (15) days from the sale, lease or rental of the property or within seven (7) days of completion of any construction or remodeling or, in the case of a special event, are erected no more than four (4) days prior to the event and removed within one (1) day after the event.
- (6) Exterior reader-board/bulletin boards shall be limited to (1) one sign per premises and not to exceed twelve (12) square feet not subject to the total area limitation specified in paragraph 3.b.(Total Square Foot Restrictions for Commercial Businesses) below.

**b. Total Square Foot Restrictions for Commercial Businesses**

- (1) Businesses abutting Highway 101 will be allowed 32 square feet of signs not including Incidental Signs, Temporary Signs, one exterior reader board/bulletin**

board, and not more than one (1) A-Frame/sandwich board or portable sign meeting the requirements of Section 3.a.(2).

- (2) **Businesses not abutting Highway 101 will be allowed 24 square feet of signs not including Incidental Signs, Temporary Signs, one exterior reader board/bulletin board, and not more than one (1) A-Frame/sandwich board or portable-type sign meeting the requirements of Section 3.a.(2).**

#### 4. Sign Requirements – Residential Zones

- a. **For multi-family dwellings and non-residential uses within the Residential Zones, one (1) permanent sign is permitted on any lot provided the sign does not exceed twelve (12) square feet in area and is no higher than eight (8) feet above grade. For single-family residences, duplexes and short term rentals, one (1) permanent sign is allowed without issuance of a permit for each dwelling unit provided the sign does not exceed 10 square feet and is attached to the side of the building.**
- b. **The following temporary signs are permitted on any lot without issuance of a permit. The signage shall not be restricted by content, but is usually and customarily used to advertise real estate sales, garage sales, home construction or remodeling and similar activities.**
  - (1). Two (2) signs each not exceeding fifteen (15) square feet in area nor higher than eight (8) feet above grade provided said signs are removed within fifteen (15) days from the sale, lease or rental of the property or within seven (7) days of completion of any construction or remodeling or, in the case of a special event, are erected no more than four (4) days prior to the event and removed within one (1) day after the event. [Amended by Ord. 14-02, passed April 9, 2014].

#### 5. Exempted signs: The following signs are permitted and exempt from the requirements of subsection 1 of Section 4.070:

- a. **Public signs placed by the City of Manzanita or other governmental entity.**
- b. **Signs within a building that are not permanently attached or affixed to exterior windows or doors and do not obstruct emergency entry or exit through exterior doors and windows.**
- c. **Signs not restricted by content, but usually and customarily used to advertise political and ideological positions.**
- d. **Incidental signs not to exceed two (2) square feet displayed strictly for direction, safety or convenience of the public.**



- e. **Flags and insignias.**

- f. Seasonal and holiday decorations, meaning every type of decoration displayed during and around a holiday recognized by the City, State, or federal government, or by custom or tradition, or on a seasonal basis, whether illuminated or not.
- g. Anything painted on the siding of a building.

## 6. Prohibited Signs:

- a. Permanent signs on undeveloped sites, except where necessary to address trespass by vehicles or persons on property and in such case no larger than twelve (12) square feet.
- b. Roof signs
- c. Signs that contain luminescent paint or fluorescent or phosphorescent elements, including day-glow or neon.
- d. Internally illuminated signs, except on properties within 100 feet of the edge of the Highway 101 right-of-way.
- e. Signs other than small incidental signs attached to parking structures or to portions of buildings that serve as parking facilities.
- f. Any sign prohibited by Oregon Department of Transportation, Oregon Revised Statutes or Federal Government.
- g. Any sign that through the use of moving structural elements, flashing or sequential lights, lighting elements, or other automated method, results in movement, the appearance of movement or change of sign image or message.

[Subsection 6. amended by Ord. 14-02, passed April 9, 2014].

## 7. Nonconforming signs

- a. A permanent nonconforming sign must be brought into conformance with this ordinance prior to any expansion or change in use that requires Design Review or a Conditional Use permit, or no later than February 4, 2014, whichever occurs first. When required to be brought into conformance with this Ordinance prior to February 4, 2014, a permanent nonconforming sign may remain as follows: Signs valued at \$1000 - Two years. Each additional \$1000 increment over \$1000 - six months; maximum to February 4, 2014.
- b. Nonconforming signs may not be enlarged in any way.

- c. **Temporary and portable nonconforming signs will not be permitted after February 4, 2010.**

## **8. Administration and Enforcement.**

- a. A business license must be obtained before any sign for a business may be erected.**
- b. Permits for signs conforming to the sign ordinance in effect at time of transfer may be transferred if the ownership of a business is changed.**
- c. The City Manager or designated Code Enforcement Officer is hereby authorized to enforce all provisions of this code. Abatement and penalty per Section 11.040.**
- d. Abandoned signs or signs in disrepair must be removed or repaired by the owner within 30 days of notice by the city.**
- e. Any sign on any public right-of-way, utility pole, traffic control post, tree or shrub may be collected by the City and stored for 30 days. The owner may retrieve the sign by presenting proof of ownership and payment of a sign retrieval fee. The City may destroy the sign after 30 days.**

(Section 4.070 amended by Ord. 09-02, passed February 4, 2009)

**Section 4.080 Off-Street Parking and Off-Street Loading Requirements.** At the time a new structure is erected or the use of an existing structure is changed or enlarged, off-street parking spaces, loading areas and access thereto shall be provided as set forth in this section unless greater requirements are otherwise established. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this Ordinance.

1. **Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission, based upon the requirements of comparable uses listed.**
2. **In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the requirements of the several uses computed separately.**
3. **Owners of 2 or more uses, structures, or parcels of land may agree to utilize the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Commission in the form of deeds, leases, or contracts to establish the joint use.**
4. ~~Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other parking spaces required by this Section may be located on another parcel of land, provided that the furthest parking space is no more than 500 feet from an entrance of a use it serves, measured by following a sidewalk or other pedestrian route. The right to use the offsite parking must be evidenced by a recorded deed, lease, easement or similar written instrument. Any use of offsite parking spaces may not decrease the parking spaces of any other use below the requirements of Sections 4.080 or 4.090. [Amended by Ord. 11-04, passed November 9, 2011]~~
5. **Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons, and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting business or use.**
6. **Areas used for standing and maneuvering of vehicles shall have durable and dustless surfaces maintained adequately for all-weather use and drained so as to avoid flow of water across public sidewalks or adjacent property.**
7. **Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbances of residents by the erection between the uses of a sight-obstructing fence of not less than 5 or more than 6 feet in height except where vision clearance is required.**
8. ~~Except for parking to serve dwelling uses, p~~**Parking spaces along the outer boundaries of a lot shall be contained by a curb or bumper rail at least 4 inches high**

**and set back a minimum of 4 1/2 feet from the property line.**

9. **Artificial lighting which may be provided shall not create or reflect glare in a residential zone or on any adjacent dwelling.**
10. **Groups of more than 4 parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.**
11. **Loading of merchandise, materials, or supplies, buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this ordinance may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.**
12. **Groups of 4 or more parking spaces shall be required within the Commercial and Limited Commercial zones to be clearly marked and shall not be less than 9 feet by 18 feet in size for each space required. An information sign of 4 square feet, visible from the street, road or highway will be used to identify the location of off-street parking areas.**
13. **For corner lots on Laneda Avenue, access to parking areas for new structures shall not be from Laneda Avenue. [Added by Ord. 06-04, passed September 18, 2006]**
14. **When a use in the commercial zone existing as of November 9, 2011 does not have the number of off-street parking spaces required by this ordinance and the use or size changes, the total number of parking spaces required for the new use or size shall be reduced by the deficient number of spaces for the existing use or size. [Added by Ord. 11-04, passed November 9, 2011]**
15. **For development on lots adjacent to Laneda Avenue, offsite parking for commercial uses may be located further away than outlined in Section 4.080(4) above if the following conditions are met:**
  - a) **The parcel on which the parking is located shall be deeded to the City after the required number of parking spaces is developed to City specifications.**
  - b) **The entrance to this remote, offsite parking must be clearly visible to the flow of traffic on Laneda Avenue.**
  - c) **This parking will be available for the general public to use.**

[Item 15 added by Ord. 11-04, passed November 9, 2011]

16. **Parking spaces within a structure shall be on no more than one level. [Added by Ord.**

11-04, passed November 9, 2011]



## Section 4.090 Off-Street Parking Requirements.

1. In determining the number of parking spaces required by this section, all fractions shall be rounded to the nearest whole number. [Added by Ord. 11-04, passed November 9, 2011]
2. Development of no more than two (2) retail, restaurant or office spaces on lots of 5,000 square feet or less in the C-1 or L-C zones will require no parking spaces in excess of that required by the Americans with Disabilities Act [ADA] or required by Section 4.090(3)(b) below. [Added by Ord. 11-04, passed November 9, 2011]
3. Requirements for specific uses [Amended by Ord. 11-04, passed November 9, 2011]

USE	REQUIREMENTS
(a) Dwelling	<del>Two spaces</del> One space for each dwelling unit. No spaces required for units under 500 square feet or ADUs
(b) Dwelling on lots 5000 square feet or smaller in the C-1 or L-C zones	One space for each dwelling the first dwelling, two spaces for each additional dwelling unit
(c) Motel, hotel or group cottages	One space for each unit of 400 square feet or less, if that unit has only one bedroom; One and a half spaces per unit for all other units; and 2 spaces for a manager's unit.
(d) Hospital, nursing home, beds, assisted living facility, or similar institution	One space for each 3
(e) Church, club, or similar area place of assembly	1 space for each 50 square feet of floor used for assembly
(f) Retail, restaurant gross and library	One space for each 400 square feet of floor area.
(g) Service or retail shop,	One space for each 600 square feet of gross

**floor retail store handling bulky area.**  
merchandise such as auto- mobiles  
and furniture

- (h) **Bank, office and medical gross clinic**      **One space for each 400 square feet of floor area.**

**Section 4.096 Manufactured Dwelling Parks.** A manufactured home park shall be built to state standards in effect at the time of construction and shall comply with the following additional provisions:

1. **Evidence shall be provided that the park will be eligible for a certificate of sanitation as required by state law.**
2. **The space provided for each manufactured home shall be provided with City water and sewage connections.**
3. **The park shall abut and have direct access to an arterial or collector street and shall not have access to minor residential streets.**
4. **A centralized storage area for boats, campers, camping trailers shall be provided. Such storage area shall contain a minimum of 160 square feet for each manufactured home space and be enclosed by a sight-obscuring fence.**
5. **Manufactured homes shall be located not less than 20 feet from side or rear property lines and 25 feet from a street providing access to the park.**
6. **Streets which are to be dedicated to the City, if any, shall be dimensioned and improved in accordance with the Subdivision Ordinance. For streets, required right-of-way shall be as follows:**

Minor 1-way street serving fewer than 20 spaces	25 feet
Minor 2-way street serving fewer than 40 spaces	30 feet
Street serving 40 or more spaces	40 feet

For other streets, required pavement width shall be as follows:

Minor 1-way street serving fewer than 20 spaces	15 feet
Minor 2-way street serving fewer than 40 spaces	22 feet
Street serving 40 or more spaces	28 feet

A minimum connection to a public street shall be provided by a minor, 2-way street. Aside from the pavement widths set forth above, private streets shall conform to the design and improvement standards of the Subdivision Ordinance.

7. **Walkways, not less than 4 feet in width, shall be provided from each manufactured home space to serve buildings and along one side of all streets.**
8. **Sight-obscuring fences or evergreen plantings, at least 6 feet in height, surrounding the manufactured home park, except at entry and exit points, shall be provided.**

9. **Signs are limited to one identification sign with a maximum area on one side of 24 square feet and limited to 8 feet in height above the ground. Such signs may be indirectly illuminated.**
10. **Manufactured homes placed in the park shall conform to the provisions of Section 4.135.**
11. **Applications for manufactured home parks shall be accompanied by complete plans and specifications of the proposed park and all permanent buildings indicating the proposed method of compliance with the requirements. Such plans shall be to a scale of not less than a inch to 50 feet. A performance bond may be required, in an amount to be determined by the building official, to insure that a development proposal is completed as approved and within the time limit agreed to.**

**Section 4.100 Home Occupations.** Home occupations may be allowed in order to promote a local economic base consistent with the character of the City. Allowable uses include crafts, small scale services, and other uses which have little impact on the neighborhoods in terms of traffic generation noise, appearance, operating hours or other factors. Activities are to be allowed in all zones with the primary conditions that the use can be disallowed for violation of the standards. It is intended that full scale or intensive uses be located in the C-1 zone. [Amended by Ord. 95-4, passed March 6, 1996].

1. **Standards: Standards of the zone and conditional use standards shall apply to home occupations. In addition, the following specific standards shall apply:**
  - (a) **Signs shall be no larger than 4 square feet, and shall be no more than 8 feet in height above grade.**
  - (b) **Delivery of materials shall take place only between 8 a.m. and 6 p.m.**
  - (c) **There shall be no storage of materials or equipment in excess of the lot coverage allowance of the zone, except for plant materials, such as nursery stock.**
  - (d) **Recreational vehicle or trailer parks, amusement or gaming operations are not allowed as home occupations.**

**Section 4.110 Complaint Procedure.** The Planning Commission shall review home occupations upon receipt of 3 written complaints from 3 separate households within 250 feet of the boundary of the affected property, or a complaint from the building official. The City Manager shall schedule a public hearing to review the complaints.

**Section 4.120 Action by the Planning Commission.** The Planning Commission shall hear the evidence presented, and may, with adequate findings of fact: 1. Approve the use as it exists; 2. require that it be terminated; 3. impose restrictions, such as limiting hours of operation or requiring construction of a fence. Decisions of the Planning Commission may be appealed to the City Council.

**Section 4.130 Permits Required for Siting of Recreation Vehicles.** No recreation vehicles shall be placed on a lot for a period of more than 30 days, nor for more than 60 days within a 90 day period, in zones approved for such use without the issuance of a permit by the City Manager. Such recreational vehicles shall conform to all the requirements of this Ordinance, including the applicable criterion in Section 5.077 or 5.098.

## Section 4.135 Standards for Manufactured Dwellings.

1. **The manufactured dwelling shall be multi-sectional and enclose a space of not less than 1,000 square feet.**
2. **The manufactured dwelling shall have a pitched roof with a nominal pitch of at least 3 feet in 12 feet.**
3. **The manufactured dwelling shall be placed on an excavated and backfilled foundation and enclosed at the perimeter such that the manufactured dwelling is located not more than 18 inches above grade, and has a foundation system in conformance with the applicable state standards or manufacturers specification, and with the City's Flood Hazard overlay Zone.**
4. **The manufactured dwelling shall have exterior siding and roofing material commonly used on residential dwellings within the community.**
5. **The manufactured dwelling shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single family dwelling constructed under the state building code as defined in ORS 455.010.**

Evidence demonstrating that the manufactured home meets energy efficiency standards as established by energy or fuel providers is deemed to satisfy the exterior thermal envelope certification requirement.

6. **If the manufactured dwelling has a garage or carport it shall be constructed of like materials to the manufactured dwelling itself.**
7. **These standards shall be applicable to all manufactured dwellings located in the R-2, R-3, R-4, SR-R and C-1 zones. [Section 4.135 added by Ord. 95-4, passed March 6, 1996].**

**Section 4.136 Planned Unit Development (PD).** In a planned development the following regulations shall apply:

1. **Purpose.** The purpose of "planned development" is to permit the application of greater freedom of design in land development than may be possible under a strict interpretation of the provisions of this Ordinance. The use of these provisions is dependent upon the submission of an acceptable plan and satisfactory assurance it will be carried out. Such plan should accomplish substantially the same general objectives as proposed by the Comprehensive Plan for the area.
2. **Standards and Requirements.** The following standards and requirements shall govern the application of a planned development in an area in which it is permitted.
  - (a) A planned development may include any uses and conditional uses permitted in any underlying zone. Standards governing area, density, yards, off-street parking, or other requirements shall be guided by the standards that most nearly portray the character of the zone in which the greatest percentage of the planned development is proposed.
  - (b) The developer may aggregate the dwellings in this zone in "cluster" or multiple-dwelling structures so long as it does not exceed the density limits of the Comprehensive Plan.
  - (c) Assurances such as a bond or work agreement with the City may be required to insure that a development proposal as submitted is completed within the time limit agreed upon by the developer and the commission.
3. **Planned Development Procedure.** The following procedures shall be observed in applying for and acting on a planned development:
  - (a) An applicant shall submit 10 copies of a preliminary development plan to the Planning Commission for study at least 10 days prior to the public hearing at which it will be discussed. In addition to publicizing the public hearing, the City Manager shall notify all property owners within 250 feet of the proposed development by mail. The preliminary plan shall include the following information:
    - (1) A map of existing conditions showing contour lines, major vegetation, natural drainage, streams, water bodies and wetlands.
    - (2) Proposed land uses, lot overages, building locations and housing unit densities.
    - (3) Proposed circulation pattern indicating the status of street ownership.

- (4) **Proposed open space uses.**
- (5) **Proposed grading and drainage pattern.**
- (6) **Geologic hazards study where required.**
- (7) **Proposed method of water supply and sewage disposal.**
- (8) **Relation of the proposed development to the surrounding area and the Comprehensive Plan.**
- (b) **Prior to discussion of the plan at a public hearing, the City Manager shall distribute copies of the proposal to appropriate City agencies or staff for study and comment.**
- (c) **The Planning Commission shall consider the preliminary development plan at a meeting, at which time the comments of persons receiving the plan for study shall be reviewed. In considering the plan, the Planning Commission shall seek to determine that:**
  - (1) **There are special physical conditions of objectives of development which the proposal will satisfy to warrant a departure from the standard ordinance requirements.**
  - (2) **Resulting development will not be inconsistent with the Comprehensive Plan provisions or zoning objectives of the area, particularly with regard to dune stabilization, geologic hazards and storm drainage.**
  - (3) **The area around the development can be planned to be in substantial harmony with the proposed plan.**
  - (4) **The plan can be completed within a reasonable period of time.**
  - (5) **The streets are adequate to support the anticipated traffic and the development will not overload the streets outside the planned area.**
  - (6) **Proposed utility and drainage facilities are adequate for the population densities and type of development proposed.**
- (d) **The Planning Commission shall notify the applicant whether, in its opinion, the foregoing provisions have been satisfied and, if not, whether they can be satisfied with further plan revision.**
- (e) **Following this preliminary meeting, the applicant may proceed with his request**



for approval of the planned development by filing an application for an amendment to this Ordinance.

- (f) **In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purposes of this Ordinance.**
- (g) **An approved planned development shall be identified on the zoning map with the letters PD in addition to the abbreviated designation of the existing zoning.**
- (h) **Building permits in a planned development shall be issued only on a basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission for processing as an amendment to this Ordinance.**

**Section 4.137 Site Plan Approval.** All commercial and residential development proposals shall be reviewed for conformance to the standards established by this Ordinance. Site plan approval shall be a condition of issuance of a building permit.

Condition of issuance of a building permit:

1. **A site plan shall be to scale and shall contain:**
  - (a) **The exterior outline of all structures.**
  - (b) **Required on-site parking areas.**
  - (c) **Required yard setbacks and building height.**
  - (d) **Existing trees and proposed trees.**
2. **[Deleted by Ord. 16-04, passed November 9, 2016]**
3. **[Deleted by Ord. 16-04, passed November 9, 2016]**

**Section 4.138 Filling of Lots.** The introduction of fill to a lot to obtain height for building purposes is prohibited except in those cases where a lot lies below street grade. Fill may be used to bring the lot grade up to street level abutting front lot line. The applicant shall provide a plan prepared by a registered civil engineer which prevents the diversion of water onto adjoining properties. [Section 4.138 amended by Ord. 95-4, passed March 6, 1996].

**[Section 4.140 added by Ord. 95-4, passed March 6, 1996; repealed by Ord. 01-03, passed 8/27/01]**

**Section 4.141 Parking Structure within front yard.** On lots that slope downhill from the street with an average slope of 20 percent or greater, an uncovered parking structure may be located within the front yard. Such a parking structure must be constructed at no higher than the grade of the street. The parking structure may not have a roof or side walls of any materials, but a railing of the minimum height required by the building code is permitted. [Added by Ord. 01-03, passed 8/27/01]

## Section 4.142 Trees

1. **Removal of trees. The City encourages retention of existing trees wherever feasible and prohibits clear cutting of lots prior to review and approval of a site plan or tree replacement plan.**
  - (a) **Removal of a tree(s) from a lot which is not associated with a development proposal may be permitted subject to City approval of a tree replacement plan.**

2. **Replanting of trees.** Trees that have been removed from the building site shall be replaced by trees of a species native to the area or by a species that has demonstrated an ability to adapt to this area. The number and location of such trees shall be shown on the site plan.

**Prior to final building inspection, all trees noted on the tree replacement plan shall be planted. Replanted trees which die shall be replaced within 90 days of the death of the trees. [Amended by Ord. 06-04, passed September 18, 2006]**

3. **Planting trees near utility lines.** Trees planted within 25 feet of overhead utility lines shall not be a species of tree which grows taller than 25 feet and/or has a crown greater than 25 feet in diameter. Trees planted between 25 feet and 40 feet of overhead utility lines shall not be a species of tree which grows taller than 40 feet and/or has a crown greater than 40 feet in diameter. Trees planted further than 40 feet from overhead utility lines must be a species of tree which grows no taller nor has a crown wider than the distance of the tree from any overhead utility lines. Trees existing as of November 9, 2016 are allowed to stay, but if removed must be replaced by a species of tree meeting the requirements of this section.
4. **Vegetation around service drops and pad mounted equipment.** Property owners may not plant trees or vegetation under service drop lines running from the utility poles to private residences or commercial facilities, if such trees or vegetation will interfere with or potentially damage the service drop lines. Property owners must maintain clear space that is absent of all objects, plants, shrubbery, trees and other items within (1) 10 feet of all pad mounted equipment that opens, (2) 3 feet of all non-opening parts of pad mounted equipment, and (3) 5 feet of all utility pedestals.

**[Section 4.142 added by Ord. 16-04, passed November 9, 2016].**

**Section 4.150 Design Review.** The purpose of Sections 4.150 through 4.158 is to provide design standards for commercial and mixed use development in Manzanita's commercial zones and in the High Density Residential/Limited Commercial zone. Design review provides aesthetic judgment over development projects in order to maintain the unique character of the community by keeping buildings to human scale and reflecting the natural beauty of the city's setting, to encourage the traditional style of the Pacific Northwest, and to protect the viability of the commercial zones. The standards provide for originality, flexibility and innovation in site planning and development and encourage development where structures, use areas, artistic expression and site elements are integrated in a manner that is harmonious within the site and with adjacent properties. Design review criteria shall be applicable to all new construction, alteration of site improvements, or exterior alteration of commercial and mixed use development in the C-1, LC, and R-4 zones. [Amended by Ord. 06-04, passed September 18, 2006; and amended by Ord. 14-02, passed April 9, 2014].

**Section 4.151 Definitions.** [Amended by Ord. 06-04, passed September 18, 2006; and amended by Ord. 14-02, passed April 9, 2014].

- a. **New construction:** New building, public improvements such as sidewalks, benches, lighting and/or landscaping.

- b. **Alteration of site improvements: The removal of landscaping of an area of 100 square feet or more.**

- c. **Exterior alteration:** The addition of more than 100 square feet of interior building space.
- d. **Minor alteration:** Modification of a building or improvement which is (a) not a Major Revision to an approved design review plan, (b) does not significantly alter or move an exterior wall or roof or change the height of a portion of a building, (c) does not relocate an existing building on its lot, (d) creates no new driveways, and (e) adds no additional uses to the building.
- e. **Major revision:** Modifications to an approved design review plan which result in a significant change to the plan; including but not limited to changes to the siting of a building or improvements, the modification of the areas to be landscaped, the placement of mechanical or electrical equipment not shown on the approved design review plan, or modifications to a plan element that was the subject of a Design Review Board condition.
- f. **Minor revision:** Minor modifications to an approved design review plan which result in an insignificant change to the plan; including but not limited to minor changes to the dimension or placement of windows or doors, changes in building materials where only a limited area is affected and which do not affect the overall architectural design, or the substitution of landscape materials which do not affect the overall landscape design.
- g. **Design Review Board:** The Planning Commission or a separate board designated by the City Council.

**Section 4.152 Design Review Plan - When Approval is Required.** Design review plan approval shall be required prior to:

- 1. **Site clearance activities** such as tree removal, grading, excavation or filling.
- 2. **The issuance of a building permit for new construction or alteration.** This shall include reconstruction of a nonconforming structure. The plan for which a building permit is issued shall conform in all aspects to the plan approved through the design review process. [Amended by Ord. 14-02, passed April 9, 2014].
- 3. **Alteration of site improvements.**
- 4. **Design review approval is not required for minor alterations as defined in Section 4.151.**

[Section 4.152 amended by Ord. 06-04, passed September 18, 2006]

## Section 4.153 Design Review Plan - Review Procedures.

1. **Pre Application Conference.** Prior to applying for design review approval, applicants shall meet with the City Manager or designee, and present a plan which shall contain, in



preliminary form, the information required on a design review plan application. The City will advise the applicant of the intent, standards, criteria and provision of the ordinance, other City ordinances, variance requirements, conditional uses, etc. Preliminary information presented shall be considered confidential.

2. **Property owners, or their designated representatives, shall file a design review application and submit site plans, elevations, renderings, landscape plans, models, or other materials to insure a clear understanding by the Design Review Board. The materials submitted must include at least one rendering or model showing the proposed development and the adjacent properties so that the Design Review Board can evaluate the project's harmony relative to adjacent structures. The applicant bears the responsibility or burden of proof that the proposed development complies with the design review criteria.**
3. **The design plan must identify:**
  - a. **Natural and man-made features, including trees and structures onsite and on adjacent properties having a visual or other significant relationship with or that may affect the development.**
  - b. **The location and external dimensions of proposed buildings and structures, and of existing buildings and structures to be retained.**
  - c. **The location of fences, retaining walls, mechanical equipment, garbage disposal areas, utility appurtenances and similar structures.**
  - d. **Pedestrian, parking and vehicular circulation areas including service areas for the loading and delivery of goods.**
  - e. **Private and shared outdoor areas, including walkways, plazas, courtyards, seating areas, street furniture and permanent outdoor features including sculptures and artwork.**
  - f. **Exterior lighting on all buildings and in landscape areas, including type, intensity and area to be illuminated.**
  - g. **Location, size and method of illuminating signs.**
  - h. **Points of access and interior floor plans on architectural plans to the extent required to clarify access functions and the relationship to decks, porches, balconies, stairs or other exterior features.**
  - i. **The color and texture of finish materials, window and door placement and materials, light fixtures, stairways, unique architectural elements, especially in development plans that are unique or innovative.**
  - j. **Location and proposed living plant material for landscaped areas, including type, number and size of living plant materials and including visual representations of the living plant materials relative to building elevations. [Added by Ord. 14-02, passed April 9, 2014].**

4. The City Manager or designee shall prepare a report to the Design Review Board on

conformance with pertinent zoning ordinance requirements. The report shall be available to the public, at reasonable cost, at least 7 days prior to the date set for the hearing.

**5. Design Review Board Meeting and Decision**

- a. **Before the Design Review Board may act on a design review plan, written notice must be sent to all property owners within 150 feet of the proposed development or alteration informing them of the date, time and location of the Board meeting in which the design plan will be reviewed.**
- b. **The Design Review Board shall determine whether the proposed development meets all applicable design review criteria. The Board may request additional materials from the applicant prior to reaching a decision. The Board may approve, approve with conditions, or deny a design review plan.**

[Section 4.153 amended by Ord. 06-04, passed September 18, 2006]

## **Section 4.154 Design Review Criteria**

1. **The design review criteria are intended to provide a frame of reference for the applicant in the development of site, building and landscape plans and to provide the city with a means of reviewing proposed plans. These criteria are not intended to be inflexible requirements nor are they intended to discourage creativity or innovation. The criteria do not intend to specify a particular architectural style.**
2. **The Design Review Board is not authorized to approve projects which do not adhere to specific development standards provided by this ordinance (e.g. building height or setbacks.)**

[Section 4.154 added by Ord. 06-04, passed September 18, 2006]

## **Section 4.155 Site Design Evaluation Criteria.**

1. **In terms of setback from street or sidewalk, the design creates a visually interesting and compatible relationship between the proposed structure and the surrounding area.**
2. **The design incorporates existing features such as rocks, slopes and vegetation.**
3. **Where appropriate, the design relates or integrates the proposed landscaping/open space to the adjoining space in order to create pedestrian pathways and/or open system that connects other properties.**
4. **The design gives attention to the placement of storage or mechanical equipment so as to screen it from view.**

5. **All functions, uses and improvements are arranged to reflect and harmonize with the natural characteristics and limitations of the site and adjacent properties.**

[Section 4.155 renumbered and amended by Ord. 06-04, passed September 18, 2006]

## Section 4.156 Architectural and Landscape Design Evaluation Criteria.

1. **The design integrates and harmonizes the existing and proposed development with the existing surroundings and future allowed uses. This standard shall be applied in a manner that encourages village design and visual diversity within development projects and the surrounding area.**

**Corrugated siding is prohibited as it does not harmonize with siding used on most existing buildings.** [Amended by Ord. 14-02, passed April 9, 2014].

2. **The landscape design acknowledges the growing conditions for the climatic zone, and provisions are made for the survival and continuous maintenance. The landscape design shall include the use of local native species of trees and shrubs.**
3. **The minimum lot area required to be landscaped under Section 3.040(3)(d) for commercial, mixed use, or non-residential uses shall be located in the front and side yards and the portion of the lot adjacent to the front or street side yards and not within the foundation footprint or rear yard. Living plant material shall cover at least 50% of this required minimum landscape area. For corner lots, at least 25% of the living plant material required by this section shall face each street frontage.**

This paragraph addresses only the landscape requirements of Section 3.040(3)(d). Additional living plant material may be required to meet screening requirements specified elsewhere in this Ordinance. [Amended by Ord. 16-04, passed November 9, 2016].

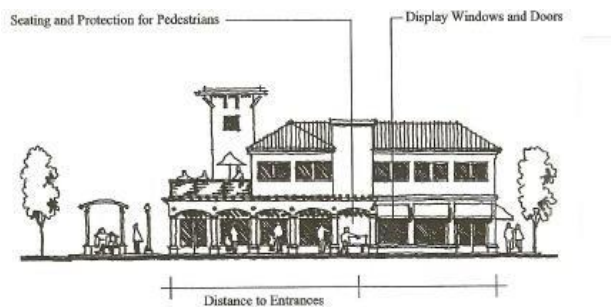
4. **[Reserved]** [Amended by Ord. 16-04, passed November 9, 2016].
5. **The grading and contouring of the site, and on site drainage facilities, shall be designed so there is no adverse affect on neighboring properties or public rights-of-way.**
6. **The design avoids monotony and provides visual interest by giving sufficient attention to architectural details and to design elements.**
7. **The design adequately addresses the pedestrian nature of the commercial area and places structures in relation to sidewalks and open areas to foster human interaction.**
8. **Lighting is non-industrial and non-invasive in character, and contributes to the village character.**

9. **Compatibility.** All new commercial and mixed use buildings and exterior alterations shall be designed consistent with the architectural context in which they are located. This standard is met when the Design Review Board finds that all of the criteria in a.- c., below, are met.

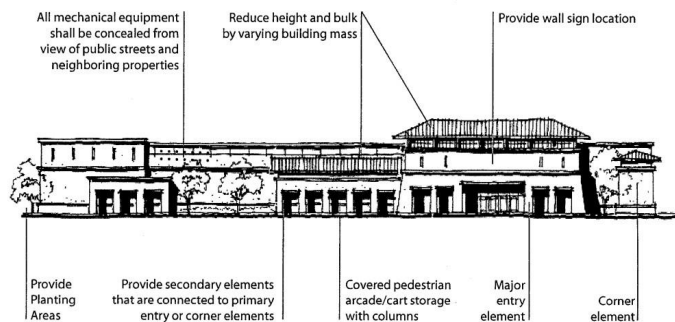
- a. There is compatibility in building sizes between new and existing commercial and mixed use buildings;
- b. The size, shape and scale of the structures are architecturally compatible with the site and with the village character of the surrounding neighborhood. Particular attention will be paid to addressing the visual impact of the structures on residential uses that are adjacent or on the opposite side of the same street. [Amended by Ord. 16-04, passed November 9, 2016].
- c. All buildings and developments shall provide human scale design. The design avoids a monolithic expanse of frontages and roof lines, diminishes the massing of buildings by breaking up building sections, and/or by use of such elements as visual planes, projections, bays, dormers, second floor setbacks or changes in the roof line, and/or similar features generally shown in the following figure (Note: The examples shown below are meant to illustrate these building design elements, and should not be interpreted as a required architectural style). 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 will not independently satisfy this criterion. [Amended by Ord. 16-04, passed November 9, 2016]

[Section 4.156 renumbered and amended by Ord. 06-04, passed September 18, 2006]

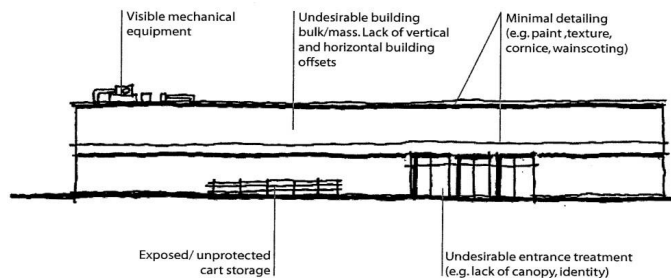
Figure 4.156(A). Examples of design elements



(Continued next page)



### Large Commercial Massing - Acceptable



### Large Commercial Massing - Unacceptable

## Section 4.157 Revision of Approved Plans.

Building permits and construction documents shall conform to all aspects of the approved design review plan. Where circumstances, unknown or unforeseen at the time the design review plans are approved, make it undesirable or unfeasible to comply with some particular aspect of the approved plan, the applicant shall request in writing that the city review the modification. The City Manager and the Design Review Board Chair shall review the proposed modification to determine whether it constitutes a major or minor revision of the approved plans. Major revisions require approval of the Design Review Board in the same manner as a new application. Minor revisions may be approved by the City Manager and do not require a new approval by the Design Review Board.

[Section 4.157 added by Ord. 06-04, passed September 18, 2006]

## Section 4.158 Performance Assurance.

### 1. Site, building and landscape improvements required pursuant to an approved design

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**review plan shall be installed prior to the issuance of certificate of occupancy or final inspection, unless the property owner submits a performance assurance agreement committing to the**

installation of landscaping or other site improvements within 6 months. In no case shall the property owner delay performance for more than 6 months.

2. **The final approval of a design review plan shall be void after one year of the date of approval unless a building permit has been obtained.** [Sections 4.150 - 4.157 added by Ord. 95-4, passed March 6, 1996; Section 4.158 renumbered by Ord. 06-04, passed September 18, 2006]

## ARTICLE 5. CONDITIONAL USES

**Section 5.010 Purpose.** In certain districts, conditional uses may be permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics or potential disruption of the area in which they are to be located, conditional uses require special considerations, so they may be properly located with respect to the Comprehensive Plan and to the Objectives of this Ordinance.

**Section 5.020 Planning Commission Authority.** The Planning Commission shall have the authority to approve, approve with conditions, or disapprove Conditional Use Permits in accordance with the standards and procedures set forth in Section 5.025 through 5.039 of the goals and policies of the Comprehensive Plan.

**Section 5.025 Findings.** The Planning Commission, in reviewing a request for a Conditional Use Permit, shall find as follows:

- (a) **That the site for the proposed use is adequate in size and shape to accommodate said use and meets all other development and lot requirements of the subject zoning district;**
- (b) **That the site has adequate access to a public street or highway and that the street or highway is adequate in size and condition to effectively accommodate the traffic that is expected to be generated by the proposed use;**
- (c) **For uses other than a needed housing type, the proposed use will have no adverse effect on abutting property or the permitted use thereof. In making this determination, the Commission shall consider the proposed location of improvements on site; vehicular ingress, egress and internal circulation; setbacks; height of buildings; walls and fences; landscaping; outdoor lighting and signs. [Amended by Ord. 01-03, passed 8/27/01]**

### Section 5.030 Standards Governing Conditional Uses.

**Section 5.031** In permitting a new conditional use or the alteration of an existing Conditional Use for uses other than a needed housing type, the Planning Commission may impose, in addition to those standards and requirements expressly specified by this Ordinance, additional conditions which the Planning Commission considers necessary to protect the best interest of the surrounding area to the City as a whole. These conditions may include but are not limited :

- (a) **Adjustments to lot size or yard areas as needed to best accommodate the proposed use provided the lots or yard areas conform to the stated minimum dimensions for the subject zoning district.**

- (b) **Limiting the height of buildings.**

- (c) **Controlling the location and number of vehicle access points.**
- (d) **Increasing the street width.**
- (e) **Adjustments to off-street parking requirements in accordance with any unique characteristics of the proposed use.**
- (f) **Limiting the number, size, location and lighting of signs.**
- (g) **Requiring diking, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.**
- (h) **Designating sites for open space.**
- (i) **Regulation of time for certain types of uses when their operation may adversely affect privacy or sleep of persons residing nearby or otherwise conflict with other community or neighboring functions.**

**Section 5.032** In case of a use existing prior to the effective date of this Ordinance and classified in the Ordinance as a conditional use, any change in use or in lot area or an alteration of structure shall conform with the requirements for conditional use.

**Section 5.033** The Planning Commission may require an applicant to furnish the City with a performance bond or such other form of assurance that the Planning Commission deems necessary to guarantee development in accordance with the standards established and conditions attached in granting a conditional use.

**Section 5.034** In addition to the standards of the zone in which the conditional use is located and the general standards of this Ordinance, specific conditional uses shall meet the standards listed in Section 5.030 through 5.098.

**Section 5.035 Conditional Use Procedure. The following procedures shall be followed in applying for action on a conditional use.**

**Section 5.036** A property owner may initiate a request for a conditional use or the modification of a conditional use by filing an application with the City Manager. The Planning Commission may require other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties.

**Section 5.037** Before the Planning Commission may act on a request for a conditional use, it shall hold a public hearing.

**Section 5.038** Within 5 days after a decision has been rendered with reference to a request for a conditional use, the City Manager shall provide the applicant with written notice of the decisions of the Planning Commission.

**Section 5.039 Time Limit on a Permit for a Conditional Use. Authorization of a conditional use shall be void after 1 year unless substantial construction pursuant thereto has taken place.**

However, the Planning Commission may, at its discretion, extend authorization for an additional 6 months upon request, provided such request is submitted in writing at least 10 days prior to expiration of the permit.

**Section 5.040 Church, Meeting Hall, Community Center, Health Facility or Retirement Home.** A church, meeting hall, community center, health facility, or retirement home may be authorized as a conditional use after consideration of the following factors: Sufficient area provided for the building, required yards, off-street parking; site location of the site relative to the service growth needs; site location relative to land uses in the vicinity; and adequacy of access from principal streets, together with the probable affect on traffic volumes of abutting and nearby streets. The primary structure or related buildings shall be at least 30 feet from a side or rear lot line.

## **Section 5.050 Schools.**

**Section 5.051** Nursery schools shall provide and maintain at least 100 square feet of outdoor play area per child. A sight-obscurer fence, at least 4 feet but not more than 6 feet high, shall separate the play area from abutting lots and from a street.

**Section 5.052** Elementary schools shall provide a basic site area of 5 acre plus one additional acre for each 100 pupils of predicted ultimate enrollment.

**Section 5.053** Secondary schools shall provide a basic site area of 10 acre plus one additional acre for each 100 pupils of predicted ultimate enrollment.

**Section 5.060 Public Utility or Communication Facility.** In considering a conditional use application for such facilities as a utility substation, water storage tank, radio or television transmitter, etc., the Planning Commission shall determine that the site is located as to best serve the intended area with a minimum effect on surrounding property. As far as possible, towers, tanks, poles, overhead wires, pumping stations, and similar gear shall be located, designed, and installed with suitable regard for aesthetic values. This includes fencing and landscaping, and in residential zones, all equipment storage on the site shall be within an enclosed building. In addition, the minimum lot size for a public utility facility may be waived on finding that the waiver will not result in noise or other detrimental effect to adjacent property.

**Section 5.065 Cottage Industries.** Cottage industries may be allowed in conjunction with residential uses in the R-2, R-3, R-4, RMD and SR-R zones in order to promote local economic activities which may be more intensive than home occupations. Businesses anticipated under this section are small scale office based activities, professional offices, consultants, sales representatives, crafts, and similar activities which may need to have occasional client visits or an outside employee. Standards are as follows:

- (a) **Activities may be carried out in an accessory structure.**

- (b) **No more than one full time employee may be allowed. A parking space shall be provided on the property.**
- (c) **Where regular client visits are anticipated, the Planning Commission may require a parking space on the property.**
- (d) **There shall be no noise, outdoor storage, fumes, dust or other emissions associated with the use.**
- (e) **Signs shall be no larger than 4 square feet, and shall be attached to the building no more than 8 feet above grade.**
- (f) **Hours of operation for clients and employee, and delivery of materials, shall be between 8 a.m. and 6 p.m. [Section 5.065 added by Ord. 95-4, passed March 6, 1996].**

## **Section 5.070 Mining, Quarrying or Other Extractive Activity or Solid Waste Sites.**

**Section 5.071** Plans and specifications submitted to the Planning Commission for approval must contain sufficient information to allow the Planning Commission to consider and set standards pertaining to the following:

- (a) **The most appropriate use of the land.**
- (b) **Setback from the property line.**
- (c) **The protection of pedestrians and vehicles through the use of fencing.**
- (d) **The prevention of the collection and the stagnation of water at all stages of the operation.**
- (e) **The rehabilitation of the operation including sand re-vegetation.**

**Section 5.072** Surface mining equipment and necessary access roads shall be constructed, maintained, and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which are injurious or substantially annoying to persons or other uses in the vicinity.

**Section 5.073** Open pit or sand and gravel excavating or processing shall not be permitted nearer than 50 feet to the boundary of an adjoining property line, unless written consent of the owner of such property is first obtained. Excavating or processing shall not be permitted closer than 30 feet to the right-of-way line of an existing or platted street or an existing public utility right-of-way.

**Section 5.074** Production from an open pit or the removal of sand and gravel shall not leave a slope exceeding 1 foot horizontal for 1 foot vertical.



**Section 5.075** An open pit or sand and gravel operation shall be enclosed by a fence suitable to prevent unauthorized access.

**Section 5.076** A rock crusher, washer or sorter shall not be allowed. Surface mining equipment and necessary access roads shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noise, vibration, or dust which is injurious or substantially annoying to persons living in the vicinity.

**Section 5.077 Recreational Vehicle Park.** A recreational vehicle park shall be built to the standards of the Oregon Department of Health in effect at the time of construction and shall comply with the following additional provisions:

1. **The space provided for each recreational vehicle shall be at least 2100 square feet.**
2. **All recreation vehicles and structures shall be located at least 25 feet from all park property lines.**
3. **Except for access roadways into the park, the park shall be screened on all sides by a sight obscuring hedge or fence not less than 6 feet in height.**
4. **Streets which are to be dedicated to the City, if any, shall be dimensioned and improved in accordance with the subdivision Ordinance. For other streets, required rights-of-way shall be as follows:**

Minor, 1-way street serving fewer than 20 spaces	25 feet
Minor, 2-way street serving fewer than 40 spaces	30 feet
Street serving 40 or more spaces	40 feet

For other streets, required pavement widths shall be as follows:

Minor, 1-way street serving fewer than 20 spaces	15 feet
Minor, 2-way street serving fewer than 40 spaces	22 feet
Street serving 40 or more spaces	28 feet

At a minimum, connection to a public street shall be provided by a minor, 2-way street. Aside from the standards set forth above, private streets shall conform to the design and improvement standards of the Subdivision Ordinance.

5. **The recreational vehicle pad shall be covered with crushed gravel or paved with asphalt, concrete or similar material and be designed to provide runoff of surface water.**
6. **No recreation vehicle shall remain in the park for more than 30 days in a 60 day period.**
7. **Signs are limited to one identification sign with a maximum area on one side of 24 square feet and limited 8 feet in height above the ground. Such signs may only be indirectly illuminated.**
8. **Applications for a recreational vehicle park shall be accompanied by complete plans and specifications of the proposed park and all permanent buildings indicating the proposed method of compliance with the requirements. Such plans shall be to a scale of not less than one inch to 50 feet. A performance bond may be required, in an amount to be determined by the Planning Commission, to insure that a development proposal is completed as approved and within the time limit agreed to.**

**Section 5.098 Recreational Vehicle Subdivision.** A recreational vehicle subdivision, defined as subdivision designed and intended for the sale of lots or occupancy by recreational vehicles, shall comply with the following provisions:

1. **A location permit shall be obtained from the planning official prior to the moving in and location of a recreational vehicle on any lot. Building permits are required for any on site construction of foundation and other site constructed buildings or structures.**
2. **Each recreational vehicle shall be placed upon a separate lot which conforms to the size requirements of the zone in which it is located.**
3. **The space provided for each recreational vehicle shall be at least 2,100 square feet.**
4. **All recreational vehicles and structures shall be located at least 25 feet from all subdivision property lines.**
5. **Except for access roadways into the park, the park shall be screened on all sides by a sight obscuring hedge or fence not less than 6 feet in height.**
6. **Streets which are to be dedicated to the City, if any, shall be dimensioned and improved in accordance with the Subdivision Ordinance. For other streets, required rights-of-way shall be as follows:**

Minor, 1-way street serving fewer than 20 spaces	25 feet
Minor, 2-way street serving fewer than 40 spaces	30 feet
Street serving 40 or more spaces	40 feet

For other streets, required pavement widths shall be as follows:

Minor, 1-way street serving fewer than 20 spaces	15 feet
Minor, 2-way street serving fewer than 40 spaces	22 feet
Streets serving 40 or more spaces	28 feet

At a minimum, connection to the public street shall be provided by a minor, 2-way street. Aside from the standards set forth above, private streets shall conform to the design and improvement standards of the Subdivision Ordinance.

7. **Each lot shall be provided with sewer and water service and storm drainage facilities in accordance with this Ordinance and the City's Subdivision Ordinance.**
8. **The recreational vehicle pad shall be covered with crushed gravel or paved with asphalt, concrete or similar material and be designed to provide runoff of surface water.**

9. **A storage space having an area of at least 75 square feet shall be provided in an accessory building. The building shall be for the purpose of storing outdoor equipment, be structurally compatible with the recreational vehicle, and shall be completed within 30 days after placement of the vehicle.**
10. **Off-street parking sufficient to park two automobiles shall be provided for each vehicle installation. The construction for the off-street parking facilities shall be completed within 30 days following placement of the unit upon the site.**
11. **Additions may be attached to the vehicle, provided such additions are structurally compatible with the vehicle. Such additions are subject to other applicable requirements of this Ordinance.**
12. **Cabanas and awnings compatible with the vehicle may be added at any time, subject to obtaining a building permit and complying with other applicable requirements of this Ordinance.**
13. **Signs are limited to one identification sign with a maximum area on one side of 24 square feet and limited to 8 feet in height above the ground. Such signs may only be indirectly illuminated.**
14. **Recreational vehicles shall comply with all state regulations regarding construction.**
15. **Applications for a recreational vehicle subdivision shall be accompanied by complete plans and specifications of the proposed subdivision and all permanent buildings indicating the proposed method of compliance with the requirements. Such plans shall be to a scale of not less than one inch to 50 feet. A performance bond may be required, in an amount to be determined by the Planning Commission, to insure that a development proposal is completed as approved and within the time limit agreed to.**

## ARTICLE 6. EXCEPTIONS

**Section 6.010 Zone Boundaries.** If a zone boundary, as shown on the official zoning map, divides a lot between two zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot lies, provided that this adjustment involves a distance not to exceed 20 feet from the mapped zone boundary. Except as otherwise described, zone boundaries follow property lines, street rights-of-way, or City limits lines.

**Section 6.020 Authorization of Similar Uses.** The Planning Commission may permit in a particular zone, a use not listed in this Ordinance, provided the use is of the same general type as the uses permitted there-by this Ordinance, or provided the use is required by State or Federal law, such as pollution control equipment.

**Section 6.030 General Provisions Regarding Accessory Use.** An accessory use shall comply with all requirements for a principal use, except as this Ordinance specifically allows to the contrary, and shall comply with the following limitations:

1. **A guest house may be maintained accessory to a dwelling, provided there are no cooking facilities in the guest house.**
2.
  - a. **An accessory structure separated from the main building may be located in the required rear and side yard not closer than 5 feet to any interior lot line for the portion of the building at the setback line up to 10 feet in height as measured vertically from average finished grade to the highest point of that portion of the accessory structure and not closer than 8 feet for any portion of the accessory structure where this height is exceeded; except that a roof with a pitch of less than or equal to 8 in 12 may extend upward from the 5 foot setback line to the 8 foot setback line. Accessory structures may be located in the rear yard of a corner lot but no closer than 12 feet to the street.**  
[Amended by Ord. 14-02, passed April 9, 2014; Amended by Ord. 16-04, passed November 9, 2016].
  - b. **Cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not permitted to be used as accessory structures or for accessory storage purposes on any property within the city.**

Notwithstanding the provisions of this section, the placement of cargo containers and/or portable site storage containers shall be allowed for the following purposes:

- i) **the temporary placement of cargo containers and/or portable site storage containers for the limited purpose of loading and unloading household or business contents for a period of time not exceeding 30 days in any one**

**calendar year;**

**ii) use of trailers and/or portable site storage containers by licensed contractors for temporary location of an office, equipment, or materials storage during**

construction which is taking place on the property where the trailer and/or portable site storage containers are located if there is an active building permit for such construction; and,

**iii) placement of cargo containers and/or portable site storage containers for storage of disaster relief supplies meant for the general public such as food, medical supplies, and blankets, provided that visibility of the cargo containers and portable site storage containers from the street or adjacent properties shall be minimal as determined by the Planning Commission.**

[Added by Ord. 16-04, passed November 9, 2016]

c. **No commercial or mixed use development may have more than 100 square feet of accessory structures unless a design review plan that includes the accessory structures has been approved by the Design Review Board.** [Added by Ord. 16-04, passed November 9, 2016]

3. **Short Term Rental. A short term rental operated according to the following standards and procedures:**

- a) **A cap shall be placed on short term rentals in the R-2, R-3 and the SR-R zones. This cap shall be 17.5% of the dwelling units within these zones. This percentage cap is based on the ratio of registered short term rentals to the total number of dwelling units in the R-2 and R-3 zones as of January 5, 1994, the date this cap was initially established for the R-2 and R-3 zones.** [Amended by Ord. 06-03, passed 9/18/06]
- b) **Any property owner proposes to operate a short term rental shall make application to the City upon suitable forms furnished by the City. The application shall be signed by all persons shown as owners of the property by the most recent Tillamook County Assessor's tax records. A property owner shall have only one short term rental permit. Where a property owner held more than one permit prior to January 5, 1994, those permits shall remain valid until sale or conveyance of the property. Where a property owner within the SR-R zone held a permit prior to September 18, 2006 that permit shall remain valid until sale or conveyance of the property, and that property shall not be included in the calculation of the percentage cap on short term rentals under subsection (a) of this section until such time as the permit is no longer valid.** [Amended by Ord. 06-03, passed 9/18/06; amended by Ord. 10-02, passed 5/5/10]
- c) [Deleted by Ord. 10-02, passed 5/5/10]
- d) [Deleted by Ord. 10-02, passed 5/5/10]
- e) [Deleted by Ord. 10-02, passed 5/5/10]



f) [Deleted by Ord. 10-02, passed 5/5/10]

- g) **Owners and guests of short term rentals shall obey all applicable Ordinances and regulations of the City. Any individual found in violation of a City Ordinance shall be subject to the enforcement and penalty provisions contained in the applicable Ordinance.** [Amended by Ord. 10-02, passed 5/5/10]

**Section 6.040 Projections from Buildings.** Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys and flues, shall not project more than 18 inches into a required yard.

**Section 6.050 General Exceptions to Lot Size Requirements.** If the aggregate of contiguous lots held in a single ownership as recorded in the office of the County Clerk at the time of the passage of Ordinance No. 74-2 has an area or dimensions which does not meet the lot size requirements of the zone in which the property is located, the holdings may be occupied by a use permitted in the zone subject to the other requirements of the zone, provided that, if there is an area deficiency, residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone.

**Section 6.060 General Exceptions to Yard Requirements.** The following exceptions to the front yard requirements for a dwelling are authorized for a lot in any zone:

1. **Buildings hereafter constructed shall be placed at least 20 feet from the street line to the nearest part of the building, or the average setback of buildings within 100 feet of both sides of the proposed building on the same side of the street, whichever is less. For purposes of determining the average setback of buildings, vacant lots within 100 feet of both sides of the proposed building on the same side of the street shall be included and shall be assumed to have a building placed 20 feet from the front lot line to the nearest part of the building. In no case shall front yard setbacks be less than 12 feet.** [Amended by Ord. 95-4, passed March 6, 1996; Amended by Ord. 01-03, passed 8/27/01]

## **Section 6.070 General Exceptions to Building Height Limitations.**

- (a) **Projections allowed.** Chimneys, flagpoles, satellite receiving dishes and other similar items with a width, depth, or diameter of 3 feet or less may extend above the height limit, as long as they do not exceed 3 feet above the top of the highest point of the roof. If they are greater than 3 feet in width, depth or diameter, they are subject to the height limit. [Amended by Ord. 95-4, passed March 6, 1996].
- (b) [Amended by Ord. 97-01, passed 1/8/97; repealed by Ord. 01-03, passed 8/27/01]

## **Section 6.080 Decks Extending into Setbacks.**

(a) In all zones with yard or setback requirements, uncovered and unenclosed flat decks at ground and/or main living level may be constructed into required yards or setbacks provided the deck does not extend more than 1/2 the distance of the required front yard setback or 10 feet, whichever is less, or not within 5 feet of the side or rear lot lines. The main living level is defined as that level on which the living room, dining room, and/or kitchen are located. A ground level

**deck under a second story is not considered a covered deck. [Section 6.080(a) amended by Ord. 95-4, passed March 6, 1996; amended by Ord. 05-03, passed 5/13/05]**

**(b) Outside steps or stairs leading to a raised deck may be constructed with the above requirements, but in no case may they exceed 36 inches above the ground level at point of contact with the deck.**

**(c) A flat deck is defined as an outside floored extension to a building. The deck may not have a roof or side walls of any materials, but a railing of the minimum height required by the building code is permitted.**

## ARTICLE 7. NONCONFORMING USES

**Section 7.010 Continuation of Nonconforming Use.** Subject to the provisions of ORS 215.130 and subsequent provisions of this article, a nonconforming use or structure may be continued. The extension of a nonconforming use to a portion of a structure which was arranged or designed for the nonconforming use at the time of passage of Ordinance No. 74-2 is not considered an enlargement or expansion of a nonconforming use under Section 7.020 of this Ordinance.

**Section 7.020 Enlargement or Expansion of a Nonconforming Use.** In case of practical difficulty and unnecessary hardship, the Planning Commission may grant a variance for the enlargement or expansion of a nonconforming use up to 20% in floor area or in those cases not involving structures, up to 10% in land area as existing on the effective date of this Ordinance. The Planning Commission shall grant expansion or enlargement where required to conform to another law, such as a pollution control requirement.

### Section 7.030 Discontinuance of Nonconforming Use.

1. **If a nonconforming use involving a structure is discontinued for a period of one year, further use of the property shall conform to this Ordinance.**
2. **If a nonconforming use involving a structure is replaced by another use, the new use shall conform to this Ordinance unless the Planning Commission determines that such structure is suitable only for another nonconforming use no more detrimental to surrounding properties than the one to be replaced.**

**Section 7.040 Change of a Nonconforming Structure.** A structure conforming as to use but nonconforming as to height, yard requirements, lot coverage, equipment, its location on the lot or other requirements concerning the structure may be altered or enlarged provided the alteration or enlargement conforms to the current requirements of this Ordinance and the altered or enlarged building or buildings do not result in additional nonconformity. [Amended by Ord. 06-03, passed 9/18/06; and amended by Ord. 14-02, passed April 9, 2014].

**Section 7.050 Destruction of Nonconforming Use or Structure.** If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 80% of its fair market value as indicated by the records of the County Assessor and is not returned to use within one year from the date of destruction, a future structure or use on the site shall conform to this Ordinance. For any nonconforming structure so rebuilt within one year of the date of destruction, any part of the structure which is outside of the original foundation footprint shall conform to the current standards of this Ordinance and the resulting building or buildings shall not result in additional nonconformity. Such rebuilt buildings on corner lots shall conform to the clear vision area requirements specified in Section 4.020 of this Ordinance. [Amended by Ord. 14-02, passed April 9, 2014].

**Section 7.060 Public Hearing Required.** Alteration, restoration, replacement or resumptions of a nonconforming use shall only be done after a public hearing and determination by the Planning Commission that the action is not detrimental to the City or the neighborhood, or the policies of the Comprehensive Plan.

## ARTICLE 8. VARIANCES

**Section 8.010 Authorization to Grant or Deny Variances.** The Planning Commission may authorize variances from the requirements of this Ordinance where it can be shown that owing to special and unusual circumstances related to a specific lot, strict application of the Ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use would be located. In granting a variance, the Planning Commission may attach conditions which it finds necessary to protect the best interests of the surrounding property or vicinity and other wise achieve the purposes of this Ordinance.

**Section 8.020 Circumstances for Granting a Variance.** A variance may be granted only in the event that all of the following circumstances exist:

1. **Exceptional or extraordinary circumstances apply to the property and result from lot size or shape, topography, or other circumstances over which the owners of the property have no control.**
2. **The variance is necessary for the preservation of a property right of applicant substantially the same as owners of other property in the same zone or vicinity possess.**
3. **The variance would not be materially detrimental to the purposes of the Ordinance, the Comprehensive Plan, or to property in the same zone or vicinity in which the property is located, or otherwise conflict with the objectives of any City policy.**
4. **Variance request is the minimum variance which would alleviate the hardship.**

### Section 8.030 Procedure for Taking Action on a Variance or Conditional Use Application.

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

1. **A property owner may initiate a request for a variance or conditional use by filing an application with the City Manager, using forms prescribed pursuant to Article 10, Section 10.030.**
2. **Before the Planning Commission may act on a variance or conditional use application, it shall hold a public hearing thereon, following procedure as established in Article 10, Section 10.070.**

3. **Within 5 days after a decision as been rendered with reference to the application, the City Manager shall provide the applicant with written notice of the decision of the Commission.**

**Section 8.040 Time Limit on a Permit.** Authorization of a variance or conditional use shall be void after one year unless substantial construction has taken place. However, the Planning Commission may extend authorization for an additional year, on request.



## ARTICLE 9. AMENDMENTS

**Section 9.010 Authorization to Initiate Amendments.** An amendment to the text of this Ordinance or to the zoning map may be initiated by the City Council, the Planning Commission or by application of a property owner. The request by a property owner for an amendment shall be accomplished by filing an application with the City Manager.

**Section 9.020 Public Hearings on Amendments.** The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after the amendment is proposed and shall, within 40 days after the hearing, recommend to the City Council approval, disapproval, or modified approval of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment, and approve, disapprove or modify the proposed amendment.

**Section 9.030 Record of Amendments.** The City Manager shall maintain records of amendments to the text and zoning map of the Ordinance.

**Section 9.040 Limitations on Reapplication.** No application of a property owner for an amendment to the text of this Ordinance or to the zoning map shall be considered by the Planning Commission within the one year period immediately following a previous denial of such request, except the Planning Commission may permit a new application if, in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

**Section 9.050 Amendments Affecting Manufactured Dwelling Parks.** If an application would change the zone of property which includes all or part of a manufactured dwelling park as defined by ORS 446.003, the governing body shall give written notice by first class mail to each existing mailing address for tenants of the manufactured dwelling park at least 20 days but not more than 40 days before the date of the first hearing on the application. The failure of a tenant to receive a notice which was mailed shall not invalidate any zone change. [Sections 9.010, 9.020 and 9.050 amended by Ord. 95-4, passed March 6, 1996].

## ARTICLE 10. PUBLIC DELIBERATIONS AND HEARINGS

### Section 10.010 Procedure for Mailed Notice.

- A. **Mailed notice shall be sent to property owners within the following distances from the exterior boundary of the subject property:**
  - 1. **Legislative change to the zoning ordinance. No mailed notice required.**
  - 2. **Quasi-judicial change to the zoning ordinance: 250 feet.**
  - 3. **Conditional use: 250 feet.**
  - 4. **Variance and setback reduction: 150 feet.**
  - 5. **Design review plans: 150 feet.**
- B. **Mailed notice shall be sent to the applicant.**
- C. **Addresses for a mailed notice required by this title shall be obtained from the county assessor's Real Property Tax records. The failure of a property owner to receive notice shall not invalidate an action if a good faith attempt was made to comply with the requirements of this title for notice.**
- D. **Mailed notice shall contain the information contained in subsection A of Section 10.030.**

### Section 10.020 Procedure for Published Notice.

- A. **Notice shall be given for the proposed actions described below by publication in a newspaper of general circulation in the City:**
  - 1. **Legislative change to this title.**
- B. **Published notice shall contain the information contained in Section 10.030.**

### Section 10.030 Notice of Hearing.

- A. **Notice of a hearing shall contain the following information:**
  - 1. **The name of the property owner and applicant, if different from the property**

**owner, and the City's case file number;**

- 2. The date, time, place of the hearing, and who is holding the public hearing.**

3. **A description of the location of the property for which a permit or other action is pending, including the street address and a subdivision lot and block designation, or the tax map designation of the county assessor;**
4. **A concise description of the proposed action;**
5. **A listing of the applicable criteria from the title and the Comprehensive Plan known to apply to the application at issue;**
6. **A statement that a failure, by the applicant or other parties to the hearing, to raise an issue in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision makers an opportunity to respond to the issue precludes appeal based on that issue;**
7. **A statement that a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided by reasonable cost;**
8. **A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;**
9. **The name of a City representative to contact and the telephone number where additional information may be obtained; and**
10. **A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings.**

**Section 10.040 Time of Notice.** Where required, notice shall be mailed, published, and posted 20 days prior to the hearing requiring the notice.

**Section 10.050 Date of Public Hearing.** A public hearing shall be held within 40 days of the filing of a complete application.

**Section 10.060 Availability of Staff Reports.** Any staff report to be used at a public hearing shall be available at least 7 days prior to the hearing. If additional documents of evidence are provided in support of the application, any party shall be entitled to a continuance of the hearing. This continuance period shall not be counted as part of the 120 day time limit in Section 10.220.

**Section 10.070 Public Hearing Procedure and Requirements.** Public hearings conducted under this title shall follow the procedures and requirements of Sections 10.080 through 10.220.

**Section 10.080 Procedural Rights.** The following procedural entitlements shall be provided at the public hearing:

- A. **An impartial review as free from potential conflicts of interest and pre-hearing ex-parte contacts as is reasonable possible:**
1. **No member of a hearing body shall participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:**
    - a. **Any of the following have a direct or substantial financial interest in the proposal: The hearing body member or the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served with in the previous 2 years, or any business which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.**
    - b. **The member owns property within the area entitled to receive notice of the public hearing.**
    - c. **The member has a direct private interest in the proposal.**
    - d. **For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.**
  2. **Disqualifications due to a conflict of interest or personal bias may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion.**
  3. **Hearing body members shall reveal any pre-hearing or ex-parte contacts with regard to any matter at the commencement of the first public hearing following the pre-hearing or ex-parte contact where action will be considered or taken on the matter. If such contacts have not impaired the member's impartiality or ability to vote on the matter, the member shall so state and shall participate in the public hearing. If the member determines that such contact has affected his impartiality or ability to vote on the matter, the member shall remove himself from the deliberations. Disqualifications due to ex-parte contact may be ordered by a majority of the members present. The person who is the subject of the motion may not vote on the motion.**
  4. **A party to a hearing may challenge the qualifications of a member of the hearing body to participate in the hearing and decision regarding the matter. The challenge shall state the facts relied upon by the challenger relating to a person's bias, prejudice, personal interest, ex-parte contact, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner. The hearing body**

shall deliberate and vote on such a challenge. The person who is the subject of the challenge may not vote on the motion.

5. **A party to a hearing may rebut the substance of the communication that formed the basis for an ex-parte contact declared by a member of the hearing body.**
6. **No officer or employee of the City who has a financial or other private interest in a proposal shall participate in discussion with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of each interest.**

- B. **A reasonable opportunity for the persons potentially affected by the proposal to present evidence.**
- C. **A reasonable opportunity for rebuttal of new material.**

**Section 10.090 Rights of Disqualified Member of the Hearing Body.** A disqualified member of the hearing body shall have the following rights:

- A. **An abstaining or disqualified member of the hearing body may be counted for purposes of forming a quorum. A member who represents personal interests at a hearing may do so only by abstaining from voting on the proposal, physically joining the audience and vacating the seat on the hearing body, and making full disclosure of his or her status and position at the time of addressing the hearing body.**
- B. **A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.**

**Section 10.100 Burden and Nature of Proof.** Except for the determination of the applicability of Article provisions, the burden of proof is upon the proponent. The proposal must be supported by proof that it conforms to the applicable provisions of this Article, especially the specific criteria set forth in the particular type of decision under consideration.

**Section 10.110 Nature of Proceedings.** An order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate.

- A. **Before receiving information of the issue, the following will be addressed.**
  1. **Any objections on jurisdictional grounds shall be noted in the record and if there is objection, the person presiding has the discretion to proceed or determined.**
  2. **Any abstentions of disqualifications, based on conflicts of interest, personal bias, or ex-parte contacts, shall be terminated.**



3. **A statement by the person presiding that:**
  - a. **Describes the applicable substantive criteria against which the application will be reviewed;**
  - b. **Testimony and evidence must be directed toward the criteria described in paragraph (a) above or other criteria in the Comprehensive Plan or Zoning Ordinance which a party believes to apply to the land use action;**
  - c. **Failure to raise an issue or address a criterion with sufficient specificity to afford the decision makers and parties to the hearing an opportunity to respond to the issue precludes an appeal based on that issue or criterion;**
  - d. **Describes the review and appeal process provided for by this Ordinance.**

**B. Presentations and Evidence.**

1. **The presiding officer shall preserve order at the public hearing and shall decide questions of order subject to a majority vote.**
2. **The presiding officer may set reasonable time limits for oral presentations. The presiding officer may determine not to receive cumulative, repetitious, immaterial or derogatory testimony.**
3. **Evidence shall be received from the staff and from proponents and opponents.**
  - a. **Evidence shall be admissible if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of serious affairs. Erroneous evidence shall not invalidate or preclude action unless shown to have prejudiced the substantial rights of a party to the hearing.**
  - b. **Members of the hearing body may take official notice of judicially cognizable facts of a general, technical or scientific nature within their specialized knowledge. Such notice shall be stated and may be rebutted.**
  - c. **The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specified otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.**

4. **The hearing body may view the area in dispute with notification to the parties to the hearing, of the time, manner and circumstances of such a visit.**

5. **The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposal being considered. The time and date when the hearing is to resume shall be announced.**
6. **When the hearing has been closed, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff, if opportunity for rebuttal is provided. No testimony shall be accepted after the close of the public hearing unless the hearing body provides an opportunity for review and rebuttal of that testimony.**
7. **At the conclusion of the public hearing, a participant in the public hearing may request that the record remain open for at least 7 days for the purpose of submitting additional evidence. Such a request may only be made at the first de-novo hearing held in conjunction with a permit application or zoning ordinance text or map amendment.**

Whenever the record is supplemented in this manner, any person may raise new issues which relate to the new evidence, testimony or criteria for decision making which apply to the matter at issue. This extension of time shall not be counted as part of the 120 day limit in Section 10.220.

## **Section 10.120 Decision.**

Following the procedure described in Section 10.110, the hearing body shall approve, approve with conditions, or deny the application or if the hearing is in the nature of an appeal, affirm, affirm with modifications or additional conditions, reverse, or remand the decision that is on appeal.

- A. **The decision of the hearing body shall be by a written order signed by the chair or his designee.**
- B. **The order shall incorporate finding of facts and conclusions that include:**
  1. **A statement of the applicable criteria and standards against which the proposal was tested.**
  2. **A statement of the facts which the hearing body relied upon in establishing compliance or noncompliance with each applicable criteria or standards and briefly state how those facts support the decision.**
  3. **In the case of a denial, it shall be sufficient to address only those criteria upon which the applicant failed to carry the burden of proof or, when appropriate the facts in the record that support denial.**

C. **The written order is the final decision on the matter and the date of the order is the date that it is signed. The order becomes affective on the expiration of the appeal period, unless an appeal has been filed.**

## Section 10.130 Record of Proceedings.

The secretary to the hearing body shall be present at each hearing and shall cause the proceedings to be recorded stenographically or electronically.

- A. **Testimony shall be transcribed if required for judicial review or if ordered by the hearing body.**
- B. **The hearing body shall, where practicable, retain as part of the hearing records each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, at which time the exhibits may be released to the person identified thereon, or otherwise disposed of.**
- C. **The findings shall be included in the record.**
- D. **A personal shall have access to the record of proceedings at reasonable times, places and circumstances. A person shall be entitled to make copies of the record at the person's own expense.**

## Section 10.140 Notice of Decision.

Notice of a decision by a hearing body shall be provided to all parties to the hearing within 5 working days of the date that the final order was signed. The notice of the decision shall include:

- A. **A brief description of the decision reached.**
- B. **A statement that the decision may be appealed by filing an appeal within 20 calendar days of the date that the final order was signed.**
- C. **A description of the requirements for an appeal, including the type of appeal that may be requested.**
- D. **A statement that an appeal may only be filed concerning criteria that were addressed at the initial public hearing.**
- E. **A statement that the complete case, including the final order is available for review at the City.**

## Section 10.150 Request for Review of a Decision.

- A. **A decision on the issuance of a permit concerning a land use matter may be appealed to the Planning Commission by an affected party by filing an appeal with the City Manager within 20 days of the date that written notice of the decision was mailed. The notice of appeal that is filed with the City shall indicate the nature of the interpretation that is being appealed. The matter at issue will be a determination of the appropriateness of the interpretation of the requirements of this ordinance.**
- B. **A decision of the Planning Commission may be appealed to the City Council by a party to the hearing by filing an appeal within 20 calendar days of the date the final order is signed. The notice of the appeal filed with the City shall contain the information outlined in Section 10.030.**

## Section 10.160 Requirements of a Request for Appeal of a Planning Commission Decision.

An appeal of a Design Review Board or Planning Commission decision shall contain the following:

- A. **An identification of the decision sought to be reviewed, including the date of the decision.**
- B. **A statement of the interest of the person seeking review and that he/she was a party to the initial proceedings.**
- C. **The specific grounds relied upon for review, including a statement that the criteria against which review is being requested were addressed at the Design Review Board or Planning Commission hearing.**
- D. **If de novo review or review by additional testimony and other evidence is requested, a statement relating the request to the factors listed Section 10.190.**

## Section 10.170 Scope of Review.

The reviewing body may determine, as a non-public hearing item, that the scope of review, on appeal, will be one of the following:

- A. **Restricted to the record made on the decision being appealed.**
- B. **Limited to the admission of additional evidence on such issues as the reviewing body determines necessary for a proper resolution of the matter.**

- C. **Remand the matter to the hearing body for additional consideration.**
- D. **A de novo hearing on the merits.**

## Section 10.180 Review on the Record.

- A. **Unless otherwise provided for by the reviewing body, review of the decision on appeal shall be confined to the record of the proceeding as specified in this section. The record shall include the following:**
  - 1. **A factual report prepared by the City Manager.**
  - 2. **All exhibits, materials, pleadings, memoranda, stipulations and motions submitted by any party and received or considered in reaching the decision under review.**
  - 3. **The final order and findings of fact adopted in support of the decision being appealed.**
  - 4. **The request for an appeal filed by the appellant.**
  - 5. **The minutes of the public hearing. The reviewing body may request that a transcript of the hearing be prepared.**
- B. **All parties to the initial hearing shall receive a notice of the proposed review of the record. The notice shall indicate the date, time, and place of the review and the issue(s) that are the subject of the review.**
- C. **The reviewing body shall make its decision based upon the record after first granting the right of argument but not the introduction of additional evidence to parties to the hearing.**
- D. **In considering the appeal, the reviewing body need only consider those matters specifically raised by the appellant. The reviewing body may consider other matters if it so desires.**
- E. **The appellant shall bear the burden of proof.**

## Section 10.190 Review Considering of Additional Evidence of De Novo Review.

- A. **The reviewing body may hear the entire matter de novo; or it may admit additional testimony and other evidence without holding a de novo hearing. The reviewing body shall grant a request for a new hearing only where it finds that:**
  - 1. **The additional testimony or other evidence could not reasonably have been presented at the prior hearing; or**

2. **A hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action; and**
3. **The hearing is not necessitated by improper or unreasonable conduct of the**



requesting party or by a failure to present evidence that was available at the time of the previous review.

- B. **Hearings of appeal, either de novo or limited to additional evidence on specific issue(s), shall be conducted in accordance with the requirements of Section 10.070 through 10.140.**
- C. **All testimony, evidence and other material from the record of the previous consideration shall be included in the record of the review.**

## Section 10.200 Review Body Decision.

- A. **Upon review, the Planning Commission or City Council may affirm, reverse, or modify in whole or part, a determination or requirement of the decision that is under review.**

When the Planning Commission modifies or renders a decision that reverses a decision of the Design Review Board, the Planning Commission shall set forth its findings and state its reasons for taking the action and shall be in conformance with the requirements of Section 10.120. When the City Council modifies or renders a decision that reverses a decision of the Planning Commission, the City Council shall set forth its findings and state its reasons for taking the action and shall be in conformance with the requirements of Section 10.120. When the City Council elects to remand the matter back to the Planning Commission for further consideration as it deems necessary, it shall include a statement explaining the error found to have materially affected the outcome of the original decision and the action necessary to rectify such.

- B. Notice of the City Council decision shall be provided to all parties to the hearing within 5 working days of the date that the final order was signed. The notice of decision shall include:
  - 1. **A brief description of the decision reached;**
  - 2. **A statement that the decision may be appealed to the Land Use Board of Appeals by filing a notice of intent to appeal a land use decision within 21 days after the date the decision sought to be reviewed becomes final; and**
  - 3. **A statement that the complete case, including the final order is available for review at the City.**

## Section 10.210 Notification of State and Federal Agencies.

The City shall forward a copy of the final decision, including the findings and required conditions,

within 7 working days, to the appropriate state and/or federal agencies where a use or activity involves a state or federal permit which requires a determination of consistency with the local Comprehensive Plan. The response shall contain a statement of whether or not approval of the permit would be consistent with the Comprehensive Plan, the reasons the development is or is not

so considered, and standards and conditions which should apply if a state or federal permit is granted.

## **Section 10.220 Final Action on Application for Permit or Zone Change Request.**

The City shall take final action on an application for a permit or zone change within 120 days of the receipt of a complete application. The 120 day period does not apply to an amendment to the Comprehensive Plan or Zoning Ordinance, or the adoption of a new land use regulation. At the request of the applicant, the 120 period may be extended for a reasonable period of time. [Sections 10.010 through 10.220 added by Ord. 95-4, passed March 6, 1996].

## ARTICLE 11. GENERAL PROVISIONS

### Section 11.010 Filing Fees and Applications.

The City Council shall establish by resolution all filing fees for planning applications and appeals. The City Manager shall provide forms for applications, petitions, and appeals to the City. [Added by Ord. 95-4, passed March 6, 1996].

### Section 11.020 Interpretation.

Where the conditions imposed by the provision of this Ordinance are less restrictive than comparable conditions imposed by any other provision of this Ordinance or any other Ordinance, the provisions which are more restrictive shall govern.

### Section 11.030 Severability.

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

### Section 11.040 Abatement and Penalty.

1. **A person violating a provision of this Ordinance shall, upon conviction, be punished by a fine of not more than \$250. A violation of this Ordinance shall be considered a separate offense for each day the violation continues.**
2. **In case a building or other structure is, or is proposed to be, located, constructed, maintained, repaired, altered or used, or land is or is proposed to be used in violation of this Ordinance, the building, or land thus in violation shall constitute a nuisance, and the City may, as an alternative to other remedies that are legally available for enforcing this Ordinance, institute injunction proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.**

## ORDINANCE NO. 95-5

### AN ORDINANCE PROVIDING FOR SUBDIVISION AND LAND PARTITIONING STANDARDS AND PROCEDURES AND REPEALING ORDINANCE NO. 79-2

THE CITY OF MANZANITA DOES ORDAIN AS FOLLOWS:

#### SECTION 1 - SHORT TITLE

This ordinance shall be known and may be cited as the “Subdivision and Land Partitioning Ordinance” of the City of Manzanita, Oregon.

#### SECTION 2 - PURPOSE

The purpose of this ordinance is to enact subdivision and land partitioning regulations for the City which will provide for better living conditions within new land divisions; assure necessary streets, utilities and public areas and provide for their installation or improvement; enhance and secure property values in land divisions and adjacent land; simplify and make land descriptions more certain and in general to promote the health, safety, convenience and general welfare of the people of Manzanita.

#### SECTION 3 - COMPLIANCE REQUIRED

No person shall subdivide or partition an area or tract of land without complying with the provisions of this ordinance.

1. No person shall sell any lot in a subdivision or a parcel in a partition until the plat of the subdivision or partition has approval and is recorded with the recording officer of Tillamook County.
2. No person shall negotiate to sell any lot in a subdivision or a parcel in a partition until a tentative plan has been approved.
3. No person subdividing or partitioning a parcel of land shall lay out, construct open or dedicate thereon a street, waste disposal system, storm sewer, water supply or other improvements for public or common use unless the partitioning has received preliminary and construction plan approval pursuant to the provisions of this Ordinance.

#### SECTION 4 - DEFINITIONS

As used in this ordinance, unless the context otherwise requires, the following words and phrases shall mean:

1. Building line. A line on a plat or map indicating the limit beyond which buildings or structures may not be erected.

2. City. The City of Manzanita, a municipal corporation of the State of Oregon, where the provision involves a duty owed the City in either its governmental or its corporate capacity; otherwise, that officer, department or agency of the City indicated by the context, or, where the context does not clearly indicate a specific officer, department or agency, then the City Manager.
3. City Manager. The duly appointed administrative officer of the City of Manzanita or a person designated by the City Council to fulfill the obligations set forth in this ordinance.
4. City Public Works Director. The duly appointed City Public Works Director of the City of Manzanita.
5. City Planner. The duly appointed city planner of the City of Manzanita.
6. Comprehensive Plan. Plans, maps, reports, or any combination thereof, adopted by the City Council for the guidance of, growth and improvement of the City, including modifications or refinements which may be made from time to time.
7. Easement. A grant of the right to use a strip of land for specific purpose.
8. Lot. A designated parcel, tract or area of land established by lot line adjustment, partition or subdivision.
  - a. Corner Lot. A lot of which at least two adjacent sides abut intersecting streets for their full length.
  - b. Through Lot. A lot which abuts two or more streets. The streets do not intersect at boundaries of the lot.
9. ORS. Oregon Revised Statutes - (State Law).
10. Parcel. A unit of land that is created by a partitioning of land.
11. Partition. Either an act of partitioning land or an area or tract of land partitioned as defined in this section.
12. Partition Land. To divide land into two or three parcels of land within a calendar year, but does not include:
  - a. A division of land resulting from a lien foreclosure, foreclosures of a recorded contract for the sale of real property or the creation of cemetery lots.
  - b. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance requirements; or
  - c. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of purposes provided such road or right-of-way conforms with the Comprehensive Plan and ORS 215.213(2)(g) to (s) and 215.283(2)(p) to (r). However, any property divided by the sale or grant of property for State Highway, County Road, City Street, or other right of way

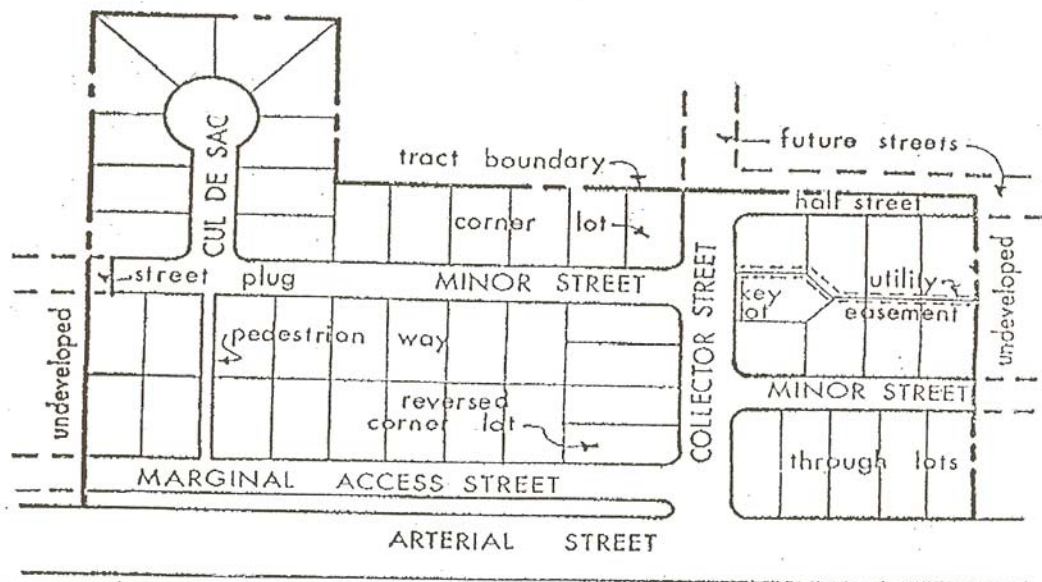
purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned.

13. Partition Plat. A final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.
14. Pedestrian Way. A right-of-way for pedestrian traffic.
15. Person. A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.
16. Planning Commission. The City Planning Commission of the City of Manzanita.
17. Plat. A final subdivision plat, re-plat or partition plat.
18. Re-plat. The act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.
19. Right-of-way. The area between boundary lines of a street or other easement.
20. Road. 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.
21. Roadway. The portion of a street right-of-way developed for vehicular traffic.
22. Sidewalk. A pedestrian walkway with permanent surfacing.
23. Street. A public or private way being the entire width from lot line to lot line that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land and including the term "road", "highway", "land", "avenue", "alley", or similar designations.
  - a. Alley. A narrow street through a block which affords only secondary means of access to abutting property at the rear or sides thereof.
  - b. Arterial street. A street classification which identifies roadways that form the primary roadway network within a region, providing a road system that distributes traffic between cities and neighborhoods. (Amended by Ord. 03-05; passed July 9, 2003)
  - c. Collector street: A street classification which identifies roadways that serve traffic within commercial, industrial and residential neighborhood areas. Collectors connect local neighborhoods to the arterial network. (Amended by Ord. 03-05; passed July 9, 2003)
  - d. Cul-de-sac. (Dead end street) A short street having one end open to traffic and being terminated by a vehicle turn-around.
  - e. Half Street. The dedication of a portion only of the width of a street, usually along the edge of a subdivision where the remaining portion of a street has been or could later be dedicated in another subdivision.

- f. Marginal Access Street. A minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.
  - g. Minor Street. A street intended primarily for access to abutting properties.
- 24. Subdivided Land. To divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.
  - 25. Subdivider. Any individual, partnership, firm or group which undertakes the subdividing of a lot, tract, or parcel of land for the purpose of transfer of ownership or development and including changes.
  - 26. Subdivision. Either an act of subdividing land or an area or tract of land subdivided as defined in this section.
  - 27. Subdivision Plat. A final map and other writing containing all the descriptions, locations, specifications, dedications provisions and information concerning a subdivision.
  - 28. Waste Disposal System. Means the combination of a building sewer and cesspool or a building sewer and septic tank or other treatment facility and effluent sewer and absorption facility.
  - 29. Wastewater Agency. The Nehalem Bay Wastewater Agency (NBWA), the authorized sewage collection and treatment entity for the City of Manzanita.



## DIAGRAM OF DEFINITIONS



## SECTION 5 - APPEAL OR REVIEW PROCEDURE

A review of an administrative decision by the City Manager on a land partition request may be made to the Planning Commission by any person receiving notice of the City Manager's decision. The request for review shall be in writing and filed within 10 days of the date the notice was postmarked.

Notice of an administrative approval shall be given by mailing notice of the decision to the applicant and the property owners within an area enclosed by lines parallel to and 250 feet from the exterior boundary of the property about which the decision was made and by a method approved by the City Manager to residents within an area enclosed by lines parallel to and 250 feet from the exterior boundary of the property about which the decision is made.

The notice shall include the following information:

1. The name of the applicant and location of the property.
2. The nature of the request.
3. The decision and reason therefore
4. Explanation of the noticed recipient's right to a hearing before the Planning Commission.

To be effective, the request for review shall contain:

1. A reference to the matter sought to be reviewed and the date the City Manager made the decision.
2. If the person is not the applicant, a statement of why the appellant is an "aggrieved person."
3. The specific grounds including ordinance and section numbers relied on for the request for review. The request for review must relate to the criteria on which the decision is based. The City Manager may reject the request if it does not meet the requirements of this ordinance.

When the City Manager deems the application complete, then the Planning Commission shall hold a hearing as set out in Section 53.

Appeal may be made to the City Council for any decision, determination or requirement of the Planning Commission, City Manager, Public Works Director, Planner, Engineer or Building Official issued pursuant to the provisions of this ordinance. The appeal and hearing procedure shall be as follows:

1. Appeal may be made to the City Council from any decision or requirement of the Planning Commission, or City Official. Written notice of the appeal and accompanying non-refundable filing fee as determined by the Land Use Fee Schedule established by City Council must be filed with the City Manager within 20 days after the decision or

requirement is made. The notice of appeal shall state the nature of the decision or requirement and the grounds for the appeal.

2. The City Manager, following the filing of an appeal, shall set a time for a hearing on the appeal and shall give notice to the Planning Commission, applicant, or other affected party. The hearing shall be conducted in accordance with the requirement of Sections 53. Following the hearing, the Council may uphold, overrule or modify the decision or requirement made by the Planning Commission if the decision of the City Council complies with the intent and purpose of these requirements. The disposition of the appeal shall be final.
3. The City Council may also consider any action or ruling of the Planning Commission on its own initiative provided a majority of the members of the City Council file a written request for such consideration with the City Manager within 20 days after the Planning Commission has rendered its decision. Such request shall be treated as an appeal in Section 5 (2).

## SUBDIVISION OF LAND

### TENTATIVE PLAN

#### SECTION 6 - INITIAL SUBMISSION

A subdivider shall prepare a tentative plan together with improvement plans and other supplementary material as may be required to indicate the general program and objectives of the project, and shall submit 10 copies and one reproducible copy of the tentative plan to the City Manager at least 30 days prior to the Planning Commission meeting at which consideration of the plan is desired. A filing fee as determined by the Land Use Fee Schedule established by the City Council shall be paid. The subdivision filing fee must be paid at the time of submission and in no way assures approval of the request and cannot be refunded.

#### SECTION 7 - PRELIMINARY REVIEW

1. Tentative Plan. Ten (10) copies of the tentative plan which have been submitted to the City Manager shall be transmitted to the Planning Commission, Planner, Public Works Director, Fire Chief, Police Chief, and other city departments and agencies as deemed necessary. Each city department upon receipt of a copy of the tentative plan, shall examine the plan for conformance with requirements coming within the authoritative scope of the department. Within a reasonable time after receipt of the plan, and at least seven days prior to the public hearing, each department shall submit a written report to the Planning Commission concerning applicable policies, standards, criteria, and recommendations concerning the proposal.
2. Public Hearing on Tentative Plan. The Planning Commission shall conduct a public hearing on the proposed tentative plan at its earliest practical meeting after the plan is filed, as determined by the City Manager. After the hearing, the Planning Commission shall approve, deny or modify the proposed tentative plan. The Planning Commission decision shall be based on the tentative plan's conformity with the provisions of this ordinance, the Comprehensive Plan, Zoning Ordinance, and any other policies, standards or criteria of the City. The action of the Planning Commission shall be noted on four (4) copies of the tentative plan, including reference to any attached documents describing any conditions. One (1) copy shall be returned to the subdivider, one (1) shall be transmitted to the Public Works Director and the other two (2) copies retained by the City Manager for official records.

#### SECTION 8 - TENTATIVE PLAN SCALE

Tentative Plans shall be to a scale of 1" = 50 ft., and shall be clearly and legibly reproducible. Map size shall not exceed 24 inches by 36 inches. Any variance of map scale or map size requires the consent of the Planning Commission.

#### SECTION 9 - INFORMATION ON TENTATIVE PLAN

The tentative plan shall contain the following information:

1. Proposed name, date, north point and scale of drawing.
2. Location of the subdivision sufficient to define its location and boundaries and a legal description of the tract boundaries.
3. Name and address of the subdivider.
4. Appropriate identification of the drawing as a tentative plan.
5. Name, business address and number of the registered engineer and licensed surveyor who prepared the plan of the proposed subdivision.
6. The locations, names, widths, approximate radii of curves and grades of all existing and proposed streets and easements in the proposed subdivision and along the boundaries thereof, and the names of adjoining platted subdivisions and portions of the subdivisions as shall be necessary to show the alignment of streets and alleys therein with the streets and alleys in the proposed subdivision.
7. Names of the record owners of all contiguous land.
8. The approximate location and character of all existing and proposed easements and public utility facilities except water and sewer lines in the subdivision or adjacent thereto.
9. The location and approximate dimensions of each lot and each to be numbered.
10. Setback lines, if any, proposed by the subdivider.
11. The outline of any existing buildings and their use showing those which will remain.
12. Contour lines having the following minimum intervals:
  - a. Grades of 1% or less will require not less than 6 spot elevations per acre.
  - b. Two foot contour intervals for ground slopes 5% or less.
  - c. Five foot contour intervals for ground slopes over 5%.
13. The location of at least one temporary bench mark within the subdivision boundaries.
14. City boundary lines crossing or bounding the subdivision.
15. Approximate location of all areas subject to inundation of storm water overflow and the location, width, known high water elevation flood flow and direction of flow of water courses.
16. Location of any wetlands.
17. If impractical to show on the tentative plan, a key map showing the location of the tract in relationship to section and township lines and to adjacent property and major physical features such as streets, railroads and water courses.

18. A grading plan showing all areas to be cut or filled, along with soil profile information.
19. Utility lines, including water, sewer, underground electricity, telephone, cable, and storm drainage. If impractical to show on the tentative plan, a key map for services may be provided.
20. Proposals for storm water drainage and flood control.
21. An erosion and sedimentation control plan during and after construction adequate to meet DEQ requirements if applicable.
22. A geologic hazards report in areas with slopes greater than 15%.

## SECTION 10 - PARTIAL DEVELOPMENT OR PHASING

If the subdivision proposal pertains to only part of the tract owned or controlled by a subdivider, the Planning Commission may require a sketch of a tentative layout for streets in the subdivided portion. The subdivider may elect to subdivide the property in phases, in which case the Planning Commission shall review the phases as they are proposed to insure that they are consistent with the original proposal.

## SECTION 11 - INFORMATION IN STATEMENT

The statement to accompany the tentative plan shall contain the following information:

1. A general explanation of the improvements and public utilities including street, drainage, water supply and waste disposal systems proposed to be installed, and how they meet City, County and/or NBWA standards.
2. Deviations from City, County or NBWA standards, if any.
3. Public or common areas proposed, if any.
4. Tree planting proposed, if any.
5. A preliminary draft of restrictive covenants proposed, if any.
6. The copies of a tentative plan and a statement of any proposed subdivision shall be submitted to the City Manager at least 30 days prior to the meeting of the Planning Commission at which consideration is desired, together with an initial fee as established in the City Land Use Fee Schedule
  - a. The Planning Commission shall not consider any preliminary plat until the total filing fee is paid.
  - b. Regardless of Planning Commission action, the filing fee is non-refundable.

7. Optional Preliminary Procedure. Prior to the filing of a tentative plan, a subdivider may submit to the City Manager plans and other information concerning a proposed or contemplated development. The City Manager shall then, within 15 days, schedule a conference with the subdivider on such plans and other data, and shall recommend consultation by the subdivider with other public or private agencies whose interest might be affected. This subdivision conference is an optional procedure which may be elected by the subdivider and is not required by this Ordinance.

## SECTION 12 - SUPPLEMENTAL PROPOSALS WITH TENTATIVE PLAN

Any of the following may be required by the City Manager to supplement the tentative plan.

1. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed subdivision showing the finished grade of streets and the nature and extent of street construction and utilities.
2. Geologic hazard report prepared by a registered geologist and civil engineering firm.
3. Wetlands delineation prepared by a competent firm.

## SECTION 13 - PLANNING COMMISSION DETERMINATION

The Planning Commission shall determine whether the tentative plan is in conformity with the provisions of law and of City ordinances and standards. The Planning Commission may approve the tentative plan as submitted or as it may be modified. If the Planning Commission does not approve the plan, it shall deny the plan and its reasons for the denial. The action of the Planning Commission shall be noted on four (4) copies of the tentative plan, including reference to any attached documents describing any conditions and shall be retained by the City.

## SUBDIVISION PLAT

### SECTION 14 - SUBMISSION OF SUBDIVISION PLAT

Within one year after approval of the tentative plan, the subdivider shall cause the proposed subdivision, or any part thereof, to be surveyed and a plat thereof prepared in conformance with the tentative plan as approved or conditionally approved. An original reproducible drawing and five (5) blueline or blackline prints of the plat shall be submitted to the City Manager within one year after approval or conditional approval. The tracing and prints are in addition to those required by Oregon statutes. If the subdivider wishes to proceed with the subdivision after the expiration of the one year period following the approval of the tentative plan, he or she must request an extension of the tentative plan approval from the Planning Commission. The Planning Commission may grant a one year extension where it finds conditions have not changed from the time of the initial approval.

### SECTION 15 - FORM OF PLAT

The subdivision plat shall be prepared in accordance with the provisions of this ordinance and state laws, including but not limited to ORS 92.080. All tracings required shall be in accordance with the state standards, including but not limited to ORS 92.120.

### SECTION 16 - INFORMATION ON FINAL PLAT

1. The name of the subdivision, the date the plat was prepared, the scale, north point, legend and existing features such as highways and streets.
2. Legal description of the subdivision boundaries.
3. Reference and bearings, to adjoining surveys.
4. The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the property courses and instances of all boundary lines shall be shown.
5. Exact location and width of streets and easements intersecting the boundary of the subdivision.
6. Subdivision block and lot boundary lines.  
Numbering of lots and blocks as follows:
  - a. Lot numbers beginning with the number "1" and numbered consecutively in each block. Number sequence to generally follow the same system as sections are numbered in a township.
  - b. Block numbers beginning with the number "1" and continuing consecutively without omission or duplication throughout the subdivision. The numbers shall be solid, of sufficient size and thickness to stand out and so placed not to



obliterate any figure, block and lot numbers, in addition to a subdivision of the same name, shall be a continuation of the numbering in the original subdivision.

7. Acreage of each parcel.
8. Street right-of-way center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Subdivision boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds.
9. The name and width of the streets being dedicated, the width of any existing right-of-way, and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center line dimensions, the radius and central angle shall be indicated.
10. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision must be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificate of dedication.
11. Locations and widths of drainage channels, railroad rights-of-ways, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the subdivision.
12. Parcels to be dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated.
13. Any conditions specified by the City upon granting preliminary approval.
14. A statement of water rights noted on the subdivision plat.
15. Location of any dedicated open space or protected wetlands.

## SECTION 17 - CERTIFICATIONS

The following certificates shall appear on the plat as submitted. The certificates may be combined where appropriate.

1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and the recording of the plat.
2. A certificate signed and acknowledged as above, offering for dedication all parcels of land shown on the final plat and intended for any public use except those parcels other than streets, which are intended for the exclusive use of the lot owners in the subdivision, their licenses, visitors, tenants and servants.

3. A certificate signed and acknowledged by the engineer or surveyor responsible for the survey and plat, the signature of such engineer or surveyor, to be accompanied by his seal.
4. Provisions for additional certificates and acknowledgements required by law.

## SECTION 18 - SUPPLEMENTAL DATA

At the time of the submission of the final plat, the subdivider shall also submit to the following:

1. A preliminary title report issued not more than 30 days in advance by a recognized title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises.
2. Sheets and drawings showing the following:
  - a. Traverse data including the coordinates of the boundary of the subdivision and ties to section corners, donation land claim corners, if any, or triangulation systems, and showing the error of closure, if any.
  - b. The computation of all distances, angles and courses shown on the final plat.
  - c. Ties to existing monuments, proposed monuments, adjacent subdivision, street corners, and state highway stationing.
  - d. Coordinates of all block corners and all street center points.
  - e. All areas subject to flooding.
3. A copy of any deed restrictions applicable to the subdivision.
4. A list of all taxes and assessments on the tract which have become a lien on the tract.
5. A copy of the acknowledgement from the State Water Resources Department under ORS 97.122, if the person offering the subdivision or partition plat for filing indicates on the statement of water rights that a water right is appurtenant to the subdivision.

## SECTION 19 - TECHNICAL REVIEW

1. Upon receipt of the final plat and accompanying data, the staff of the City shall review the plat and pertinent documents to determine that it conforms with the approved tentative plan, and that there has been compliance with provisions of the law and of this ordinance.
2. The City may contract with an independent engineer or surveyor to examine the plat for compliance with City and State requirements for accuracy and completeness. He may make checks in the field to verify that the map is sufficiently correct on the ground, and he may enter the property for this purpose. If he determines that there has not been full conformity, he shall advise the City Manager of the changes or additions that must be made and afford the subdivider an opportunity to make such changes or additions.

3. If the engineer or surveyor determines that full conformity has been made, he shall so certify and transmit the plat to the Planning Commission.

## SECTION 20 - FINAL APPROVAL OF PLANNING COMMISSION

The Planning Commission shall examine the plat to determine whether it conforms with the tentative plan and with all changes permitted and all requirements imposed as a condition of its acceptance. If the Planning Commission does not approve the plat, it shall advise the subdivider of the changes or additions that must be made for this purpose, and shall afford him an opportunity to make the same. If the Planning Commission determines that the plat conforms to all requirements, it shall approve the same, but before certifying its approval thereon, it shall require the subdivider to file the agreement and bond, or make the deposit, required in Sections 21 and 22, and when the agreement and bond have been filed and approved as prescribed, the Planning Commission's approval shall be endorsed upon the plat by execution of the appropriate certificate as prescribed by law. The approval of the plat does not constitute or effect an acceptance by the public of the dedication of any street or other easement shown on the plat.

## SECTION 21 - AGREEMENT FOR IMPROVEMENTS

Before Planning Commission approval of a final plat, the subdivider shall either install required improvements and repair existing streets and other existing public facilities damaged in the development of the property or execute and file with the City an agreement between himself and the City, specifying the period within which required improvements and repairs shall be completed and providing that, if the work is not completed within the period specified, the City may complete the work and recover the full cost and expense, together with court costs and attorney fees necessary to collect said amounts from the land divider. The agreement shall also provide for the construction of the required improvements in units and for an extension of time under the conditions therein specified.

## SECTION 22 - BOND

1. The subdivider shall file with the agreement, to assure his full and faithful performance thereof, one of the following approved by the City Council:
  - a. A personal bond co-signed by at least one additional person who shall not be related to the subdivider. The subdivider and cosigner shall submit evidence of financial responsibility and resources of those signing the bond sufficient to provide reasonable assurance of the ability of the subdivider to proceed in accordance with the agreement.
  - b. Cash.
2. The assurance of full and faithful performance shall be for a sum approved by the Planning Commission sufficient to cover the cost of the improvements, engineering, inspection and incidental expenses, and to cover replacement and repair of existing streets and other public improvements damaged in the development of the subdivision and must be approved by the city attorney as to form.

3. In the event the subdivider fails to complete all improvement work in accordance with the provisions of this ordinance, and the city has to complete same, or if the subdivider fails to reimburse the city for the cost of inspections, engineering and incidental expenses, and to cover cost of replacement and repair of existing street or other improvements damaged in the development of the subdivision, the city shall call on the bond for reimbursement, or shall appropriate from any cash deposit funds for reimbursements. The city shall release the remainder of the personal bond or cash deposit. If the bond or cash deposit is less than the cost and expense incurred by the city, the subdivider shall be liable to the city for the difference.

## SECTION 23 - FILING OF FINAL PLAT

A subdivider shall, without delay, submit the plat for signatures of other public officials required by law.

1. The applicant shall deliver the final plat to the County Surveyor for review and recording according to the requirements of ORS 92.100. Approval of the plat shall be null and void if the plat is not recorded within 90 days after the date the last required approving signature has been obtained.
2. The subdivision is considered complete after the final plat is recorded by the County clerk.
3. The County Surveyor shall furnish the city with a copy of the recorded plat.

## LAND PARTITIONING

### SECTION 24 - MINIMUM STANDARDS

The minimum standards for design and improvements in a land partitioning shall conform to Sections 43 through 55. The Planning Commission may approve the creation of a street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:

1. The establishment of the public street is initiated by the City council or board of county commissioners and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
2. The tract in which the street is to be dedicated is a partition under single ownership either of not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.
3. The street is the only reasonable access to the rear portion of an extraordinarily deep land parcel which should be divided into not more than two parcels.

### SECTION 25 - SUBMISSION OF TENTATIVE MAP FOR PARTITIONING

A tentative partition plan for the partitioning of land shall be reviewed in conformance with these procedures.

1. Administrative Review of a Land Partition. At the discretion of the City Manager, a land partition request may be approved administratively. The review of a land partition under this option shall be subject to all applicable criteria and requirements for a review held by the Planning Commission. Applicants requesting an administrative approval for a land partition shall submit four (4) copies of the tentative plan for staff review.
2. Tentative Partition Plan. Ten (10) copies of the tentative partition plan, which have been submitted to the City Manager, shall be transmitted to the City Public Works Director, Consulting Engineer, Planner, and additional copies to the City departments and agencies as deemed necessary. Each City department upon receipt of a copy of the tentative plan, shall examine the plan for conformance with requirements coming within the authoritative scope of the department; and shall make a written report to the City Planning Commission.
3. Public Hearing on Tentative Partition Plan. Where referred by the City Manager, the Planning Commission shall conduct a public hearing on the proposed tentative partition plan at its earliest practicable meeting after the tentative partition plan is filed with the City Manager after the hearing, the Planning Commission shall approve, disapprove or modify the proposed tentative partition plan. The Planning Commission decision shall be based on the tentative partition plans conformity with the provisions of this ordinance. (See Section 53 for Public hearing Procedures.) The action of the Planning Commission

shall be noted on four (4) copies of the tentative plan, including reference to any attached documents describing any conditions. One copy shall be returned to the subdivider, one shall be transmitted to the Public Works Director and the other two (2) copies retained by the City Manager.

## SECTION 26 - SCALE

The tentative partition plan shall be drawn to a scale of 1" = 50 ft., and shall be clearly and legibly reproducible. Map size shall not exceed 24 inches by 36 inches. Any variance of map scale or map size requires the consent of the Planning Commission.

## SECTION 27 - INFORMATION ON TENTATIVE MAP

The tentative partition plan shall contain the following information:

1. Date, north point, scale and sufficient description to define the location and boundaries of the tract to be partitioned and its location.
2. Names and addresses of the owner, partitioner, engineer and/or a surveyor, if any, or any other professional person employed in the preparation of the partition.
3. Approximate acreage of the land under a single ownership or, if more than one ownership is involved, the total contiguous acreage of the landowners directly involved in the partitioning.
4. The locations, names, widths, approximate radii of curves and grades of all existing and proposed streets and easement in the proposed partition and along the boundaries thereof, and the names of adjoining platted subdivisions and portions of the subdivision and partitions as shall be necessary to show the alignment of streets and alleys therein with the streets and alleys in the proposed partition.
5. Location of water bodies and wetlands.
6. Contour lines where the data is made available by the City.
7. Outline and location of existing buildings to remain in place.
8. For land adjacent to and within the tract to be partitioned, the location and size of the waste disposal systems, water lines, storm sewer and natural drainage ways.
9. Names of record owners of all contiguous land.
10. Parcel layout, showing size and relationship to existing or proposed streets and utility easements, and any proposed lot numbers.

11. If impractical to show on the tentative map, a key map showing the location of the tract in relationship to section and township lines and to adjacent property and major physical features such as streets, railroads and water courses.
12. A grading plan showing the nature of cuts and fills and information on the character of the soil.
13. A geologic hazards report prepared by a registered geologist in areas with slopes greater than 15%, or other known geologic hazards.
14. An erosion and sedimentation control plan.

#### SECTION 28 - SUPPLEMENTAL DATA WITH TENTATIVE PARTITION PLAN

The following may be required by the Planning Commission to supplement the partition plan of a partition.

1. Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed partition showing the finished grade of streets and the nature and extent of street construction.
2. A wetlands delineation performed by a qualified person.

#### SECTION 29 - PARTITION FILING FEE

The person making application for a partition shall pay to the City a partitioning filing as determined by the Land Use Fee Schedule established by the City Council. The partition filing fee must be paid at the time of submission and in no way assures approval of the request and cannot be refunded.

#### SECTION 30 - SUBMISSION OF FINAL PARTITION PLAN

1. Not more than one year following approval of the tentative partition plan, the partitioned shall prepare a final partition plan in conformance with the tentative partition plan as approved.
2. If the final partition plan is not submitted within one year of approval of the tentative partition plan, the tentative partition plan must be resubmitted for approval in accordance with these regulations.

#### SECTION 31 - FORM OF PLAT

1. The partition plat shall be prepared in accordance with the requirements of Section 55 and state laws, including but not limited to ORS 92.080 and 92.120.

2. The format of the plat shall be as follows:

Permanent black India type ink or silver halide permanent photocopy, upon material that is 18 inches by 24 inches in size with an additional three-inch binding edge on the left side when required by the County Clerk or the County Surveyor, that is suitable for binding and copying purposes, and that has such characteristics of strength and permanency as may be required by the County surveyor. The partition plat shall be of such a scale as required by the County surveyor. The lettering of the approvals, the dedication, the affidavit of the surveyor, and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than one inch. The partition plat may be placed on as many sheets as necessary, but a face sheet and index page shall be included for partition plats upon three or more sheets.

3. The plat shall contain the information contained in Section 33 and 34.

#### SECTION 32 - INFORMATION ON FINAL PARTITION PLAT

1. The name of the partition, the date the plat was prepared, the scale, north point, legend and existing features such as highways and railroads.
- 2., Legal description of the partition boundaries.
3. Reference and bearings, to adjoining surveys.
4. The locations and descriptions of all monuments found or set shall be carefully recorded upon all plats and the property courses and distances of all boundary lines shall be shown.
5. Exact location and width of streets and easements intersecting the boundary of the subdivision, if applicable.
6. Partition and lot boundary lines

Numbering of lots as follows:

- a. Lot number beginning with the number "1" and numbered consecutively in each block. Number sequence to generally follow the same system as sections are numbered in a township.
7. Acreage of each parcel.
8. Street right-of-way center lines with dimensions to the nearest 1/100th of a foot, bearings or deflection angles, radii, arc, points of curvature, chord bearings and distances, and tangent bearings. Partition boundaries, lot boundaries, and street bearings shall be shown to the nearest 30 seconds.



9. The name and width of the streets being dedicated, if applicable, the width of any existing right-of-way, and the width on each side of the center line. In addition to the center line dimensions, the radius and central angle shall be indicated.
10. Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement is not of record, there shall be written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to be shown. If the easement is being dedicated by the map, it shall be properly reference in the owner's certificate of dedication.
11. Locations and widths of drainage channels, railroad rights-of-way, reserve strips at the end of stubbed streets or along the edge of partial width streets on the boundary of the partition.
12. Parcels to dedicated shall be distinguished from lots intended for sale with acreage and alphabetical symbols for each parcel indicated.
13. Any conditions specified by the Commission or Council upon granting preliminary approval.
14. A statement of water rights noted on the partition plat.

#### SECTION 33 - SUPPLEMENTAL DATA

Such supplemental data shall be submitted with the final map as is required by Section 18.

#### SECTION 34 - TECHNICAL REVIEW

Review of the Final Map shall conform to the requirements of Section 19.

#### SECTION 35 - FINAL APPROVAL OF PLANNING COMMISSION

Final approval of a Partition by the Planning Commission shall be pursuant to the provisions of Section 20.

#### SECTION 36 - AGREEMENT FOR IMPROVEMENTS AND BONDING REQUIREMENTS

Prior to approval of the final map the developer shall complete improvements as proposed or enter into an agreement for improvements together with a bond pursuant to the provisions of Sections 21 and 22.

#### SECTION 37 - FILING OF FINAL MAP

Approval of the final map shall be null and void if the map is not recorded within 90 days after approval is obtained.

## GENERAL REGULATIONS AND DESIGN STANDARDS

### SECTION 38 - PRINCIPALS OF ACCEPTABILITY

A land division, whether by a subdivision, creation of a street, or a partitioning, shall conform to any development plans, shall take into consideration any preliminary plans made in anticipation thereof, and shall conform to the design standards established by this ordinance.

### SECTION 39 - STREETS

1. General. The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. Where location is not shown in a development plan, the arrangement of streets shall either:
  - a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  - b. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
2. Street Widths. Unless otherwise indicated on any master plan, or by proceedings initiated by the City Council, or approved by the City Council upon initiation by other legally constituted governmental bodies, widths shall conform to city or county standards as appropriate, except where it can be shown by the land divider, that the number of lots or parcels served and the probable future traffic development are such as to unquestionably justify a narrower width. Increased widths may be required where streets are to serve commercial property, or where probable traffic conditions warrant such width. Approval or determination of street classification shall be made by the Planning Commission taking into consideration the zoning designations imposed by the zoning ordinance, the present use and development of the property in the area, the logical and reasonable prospective development of the area based upon public needs and trends, and the public safety and welfare.
3. Alignment. As far as is practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction, and in no case, shall be less than 100 feet.
4. Future Street Extension. Where necessary to give access to, or permit a satisfactory future division of adjoining land, streets shall extend to the boundary of the subdivision or partition, and the resulting dead-end streets may be approved without a turn-around. Reserve strips including street plugs may be required to preserve the objectives of street extensions.

5. Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 80 degrees unless there is a special intersection design or the corner radius is increased to allow for safe turning. An arterial or collector street intersecting with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography or other unusual circumstances requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography or other unusual circumstances requires a lesser distance. Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line. Ordinarily, the intersection of more than two (2) streets at any one point will not be approved.
6. Existing Streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of the land division.
7. Reserved Strips. No reserved strips controlling the access to public ways will be approved unless the strips are necessary for the protection of the public welfare, and in these cases they may be required. The control and disposal of the land comprising the strips shall be placed within the jurisdiction of the city under conditions approved by the Planning Commission.
8. Half Streets. Half streets only may be approved where essential to the reasonable development of the subdivision or partitions when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is divided. Whenever a half street is adjacent to a tract to be divided, the other half of the street shall be platted within the tract. Reserve strips may be required to preserve the objectives of half streets.
9. Cul-de-sac. A cul-de-sac shall terminate in a circular turnaround with a minimum radius of 40 feet, or a hammerhead with a length of at least 40 feet. Wherever possible, cul-de-sacs or dead end hammerhead streets shall be connected with walking or bicycle paths to other streets or developments, or with public or private open space.
10. Alleys. When any lots or parcels are proposed for commercial or industrial usage, alleys at least 20 feet in width may be required at the rear thereof with adequate ingress and egress for truck traffic unless alternative commitments for off-street service truck facilities without alleys are approved. Intersecting alleys shall not be permitted.
11. Grades and Curves. Grades shall not exceed six per cent on arterials, ten per cent on collector streets, or twelve percent on other streets. Grades in excess of these requirements require approval of the Planning Commission. Center line radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even ten feet. Where existing conditions, particularly the topography, make it otherwise impractical to provide buildable sites, the Planning Commission may accept steeper grades and sharper curves. In flat areas,

allowance shall be made for finished street grades having a minimum slope, preferably, of at least 0.5 per cent.

12. **Marginal Access Streets.** Where a land division abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.
13. **Street Names.** All street names shall be approved by the Planning Commission for conformance with the established pattern and to avoid duplication and confusion.
14. **Private Streets.** The Planning Commission shall approve or deny the dedication of private streets. The design and improvement of any private street shall be subject to all requirements prescribed by the City for public streets. The land divider shall provide for the permanent maintenance of any street required for access to property in a private street subdivision or a partition.

#### SECTION 40 - UTILITY EASEMENTS

Easements for sewers, drainage, water mains, public utility installations, and other similar public purposes shall be dedicated, reserved or granted by the land divider in widths not less than ten feet on each side of rear lot or parcel lines, alongside lot or parcel lines and in planting strips wherever necessary, provided that easement of lesser width, such as for anchorage, may be allowed when the purposes of easements may be accomplished by easements of lesser width as approved by the city.

#### SECTION 41 - BUILDING SITES

1. **Size and Shape.** The size, width, shape and orientation of building sites shall be appropriate for the location of the land division considering all environmental features and for the type of development and use contemplated, and conform to the standards of the zone in which they are located. Each lot shall have an identifiable building site.
2. **Access.** Each lot and parcel shall abut upon a street other than an alley for a width of at least 25 feet.
3. **Through Lots and Parcels.** Through lots and parcels shall be avoided except where they are essential to provide separation of residential development from major traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation.
4. **Lot and Parcel Side Lines.** The lines of lots and parcels, as far as is practicable, shall run at right angles to the street upon which they face, except that on curved streets they shall be radial to the curve.
5. **Character of the Land.** Land which the Planning Commission finds to be unsuitable for subdivision or partitioning due to geologic hazard, flooding, improper drainage, steep

slopes, adverse soil conditions or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or partition and/or its surrounding areas, shall not be subdivided or partitioned unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the city staff, to solve the problems created by the unsuitable land conditions.

## SECTION 42 - BLOCKS

The length, width and shape of blocks shall take into account the need for adequate lot size and street width, circulation patterns and conformity with the topography of the site.

## SECTION 43 - LARGE BUILDING SITES

In dividing tracts into large lots or parcels which at some future time are likely to be redivided, the Planning Commission may require that the blocks be of such size and shape, to be so divided into building sites and contain such site restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any tract into lots or parcels of smaller size.

## SECTION 44 - WATER COURSES

The land divider shall, subject to riparian rights, dedicate a right-of-way for storm drainage purposes, conforming substantially with the lines of any natural water course or channel, stream or creek that traverses the subdivision or partitions, or, at the option of the land divider, provide, by dedication, further and sufficient easement or construction, or both to dispose of the surface and storm waters.

## SECTION 45 - LAND FOR PUBLIC PURPOSES

The Planning Commission may require the reservation for public acquisition, at a cost not to exceed acreage values in the area prior to subdivision, of appropriate areas within the subdivision for a period not to exceed one year, providing the city or another public agency has expressed an interest in acquiring those areas for a public purpose, and has given substantial assurance that positive steps will be taken in the reasonable future for the acquisition .

## SECTION 46 - UNSUITABLE LAND

The Planning Commission may refuse to approve a subdivision or partition when the only practical use which can be made of the property proposed to be subdivided or partitioned is a use prohibited by this code or law.

## SECTION 47 - WETLANDS AND AREAS SUBJECT TO INUNDATION

The Planning Commission may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to conservation of water quality, drainage, and sanitary facilities, prohibit the subdivision or partition of any portion of the property which lies within the flood plain or wetlands of any stream, creek, estuary or drainage course. These areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste materials, or stumps, except as may be permitted by state or federal agencies with appropriate mitigation.

## IMPROVEMENTS

### SECTION 48 - IMPROVEMENT STANDARDS AND APPROVAL

In addition to other requirements, all improvements shall conform to the requirements of this ordinance and any other improvement standards or specifications adopted by the city, and shall be installed in accordance with the following procedure:

1. Improvement work shall not be commenced until plans have been checked for adequacy and approved by the city. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the tentative plan of a subdivision or partition. All plans shall be prepared in accordance with requirements of the city.
2. Improvement work shall not be commenced until the city has been notified and if work has been discontinued for any reason it shall not be resumed until the city has been notified.
3. All required improvements shall be constructed under the inspection, and to the satisfaction, of the city. The city may require changes in typical section and details if unusual conditions arise during construction to warrant such changes.
4. All underground utilities and storm drains installed in streets shall be constructed prior to the surfacing of such streets. Stubs for service connections for all underground utilities and sanitary sewers shall be placed to such length as will obviate the necessity for disturbing the street improvements when service connections are made.
5. A map showing all public improvements as built shall be filed with the City Manager upon completion of the improvements.

### SECTION 49 - IMPROVEMENT REQUIREMENTS

Improvements to be installed at the expense of the subdivider or partitioner and at the time of subdivision or partition:

1. Streets. Public streets or portions of public streets including alleys, within the subdivision shall be improved. Upon completion of the street improvement, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature.
2. Structures. Structures specified as necessary by the City, for drainage, access and public safety shall be installed.
3. Storm Water Facilities. Storm water facilities, or ground water recharge facilities of design, layout and location approved by the city shall be installed.
4. Water. Water mains and fire hydrants of design, layout and locations approved by the City shall be installed.

5. Underground Utilities. All utilities shall be installed underground.
6. Street Lighting. Street lighting of an approved type shall be installed on all streets at locations approved by the city.
7. Street Name Signs. All streets shall be legibly marked with street name signs, not less than two (2) in number at each intersection, according to specifications furnished by the Public Works Director.
8. Improvement of Easements. Whenever the safety of adjoining property may demand, any easement for drainage or flood control purposes shall be improved in a manner approved by the city.
9. Off-site Street Repair. Damage to public streets related to the development of the subdivision or partition, as determined by the public works superintendent, shall be repaired.
10. Water Quality Measures. Facilities such as storm water detention areas, bioswales, drywells, ditches, ponds, man-made wetlands, and similar water quality measures shall be incorporated into the development to meet Federal or State storm water quality standards.

## SECTION 50 - MONUMENTS

1. All monuments shall be set according to the provisions of ORS 92.060. In making the survey for the subdivision or partition, the surveyor shall set sufficient permanent monuments prior to recording so that the survey or any part thereof may be retraced according to Oregon Revised Statutes.
2. Interior boundary and lot monuments for the subdivision or partition shall be marked by a registered land surveyor in accordance with ORS 92.060, and referenced in the plat. If the monuments are in place at the time the subdivision or partition is recorded, no performance bond is necessary. If monumentation is delayed beyond the date on which the subdivision is recorded, a bond must be posted to assure that the monuments will be set by a certain date, in accordance with ORS 92.065. The City shall determine the length of time and estimated amount of bond or cash deposit to guarantee payment of the cost of setting the interior monuments in the subdivision or partition.

## SECTION 51 - SURVEY REQUIREMENTS

1. The survey and plat of the subdivision or partition shall be made by a registered professional land surveyor, in accordance with ORS Chapter 92 and other applicable State statutes.
2. The plat of the subdivision or partition shall be of such scale that all survey and mathematical information, and all other details may be clearly and legibly shown thereon.



3. The survey for the plat of the subdivision or partition shall be of such accuracy that the linear error of closure shall not exceed one foot in 10,000 feet.
4. All dimensions to be in feet and decimals of a foot, to the nearest 1/100th of a foot.
5. In addition to showing bearing in degree, minutes and seconds of a degree and distances in feet and hundredths of a foot, the following curve information shall be shown on the subdivision or partition plat either on the face of the map or in a separate table:
  - a. Arch length;
  - b. Chord length;
  - c. Chord bearing;
  - d. Radius; and
  - e. Central angle.
6. The surveyor submitting any subdivision, condominium or partition plat that is within one-half mile of an established geodetic control monument, that has been approved by the National Geodetic Survey or has been approved by and filed with the County Surveyor, shall by field survey according to Federal Geodetic Control Committee guidelines for third order class II, show the measured angles and distances from the geodetic control monument to the initial point of a subdivision or condominium or to a monumented boundary corner of a partition. If there is an azimuth mark for the geodetic control monument or if there is another geodetic control monument that is intervisible to the primary geodetic control monument, the bearing shall be based, if practicable, on the bearings between the geodetic control monument and the azimuth mark or the intervisible geodetic control monument.
7. Notwithstanding the provisions of subsection (6) of this section, the County Surveyor may waive the requirement of a distance and bearing to a geodetic control monument if the subdivision or condominium, or partition thereof, has previously furnished the required information.

## VARIANCES, PUBLIC HEARINGS AND ENFORCEMENT

### SECTION 52 - VARIANCE APPLICATION

The Planning Commission may after a public hearing approve variances to requirements and regulations of this ordinance. Application for a variance shall be made by a petition of the subdivider or partitioner stating fully the grounds of the application and the facts relied upon by the petitioner. The petition and accompanying non-refundable filing fee of \$150.00 shall be filed with the tentative plan of the subdivision or tentative partition plan of the partition. In order for the property referred to in the petition to come within the provisions of this section, it shall be necessary for the Planning Commission to find the following facts with respect thereto:

1. The request is necessary to prevent a hardship to the applicant; and
2. The proposed development that will result from the granting of the variance will not be injurious to the adjacent area in which the property is located; and
3. The request is necessary to enable reasonable use of the property. In evaluating whether a request meets the above criteria, the Planning Commission shall consider the following. The considerations listed below are not standards and are not intended to be an exclusive list of considerations. The considerations are to be used as a guide in Planning Commission evaluation of an application.

Relevant factors to be considered in determining whether a hardship exists include:

- a. Physical circumstances related to the property involved;
- b. Whether reasonable use can be made of the property without the variance;
- c. Whether the hardship was created by the person requesting the variance.

Relevant factors to be considered in determining whether the proposed development will be injurious to the adjacent area include:

- a. The physical impacts such development will have such as potential for geologic hazard;
- b. Ability to provide and maintain public improvements such as streets, utilities and drainage;
- c. Privacy available to adjacent property.

### SECTION 53 - PUBLIC HEARINGS

1. A property owner may initiate a tentative plan for subdivision, or partition, or a request for a variance from the requirements of this ordinance by filing an application with the city pursuant to Section 11.010 of the Zoning Ordinance.
2. The application for a variance shall be submitted at the same time as the application for a tentative plan for a subdivision or partition.

3. Public notice shall be mailed to property owners within 250 feet of the boundary of a proposed subdivision or partition. The content of the public notice shall be in accordance with Section 10.010 of the Zoning Ordinance.
4. The Planning Commission shall hold a public hearings accordance with Section 10.010 of the Zoning Ordinance.
5. A decision of the Planning Commission may be appealed to the City Council in accordance with Section 10.150 of the Zoning Ordinance.

#### SECTION 54 - SEVERABILITY

The provisions of this ordinance are severable. Should any Section, Clause, or Provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

#### SECTION 55 - PENALTIES AND REMEDIES

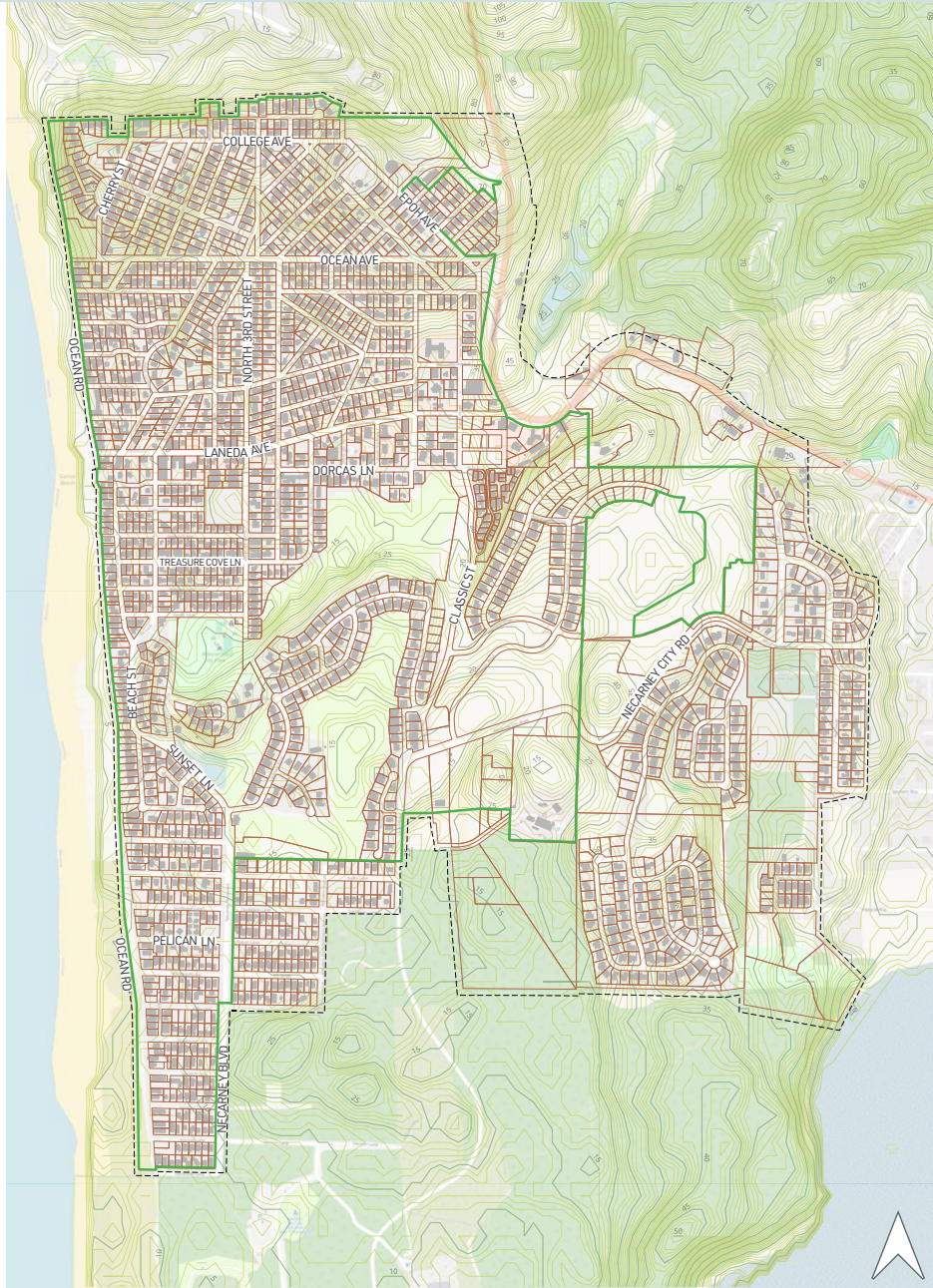
Penalties and remedies shall be in accordance with Section 11.040 of the Manzanita Zoning Ordinance.

#### SECTION 56 - ADOPTION

These regulations shall be and are hereby declared to be in full force and effect from the date of passage.

Signed and approved by the Mayor of the City of Manzanita on March 6, 1996.

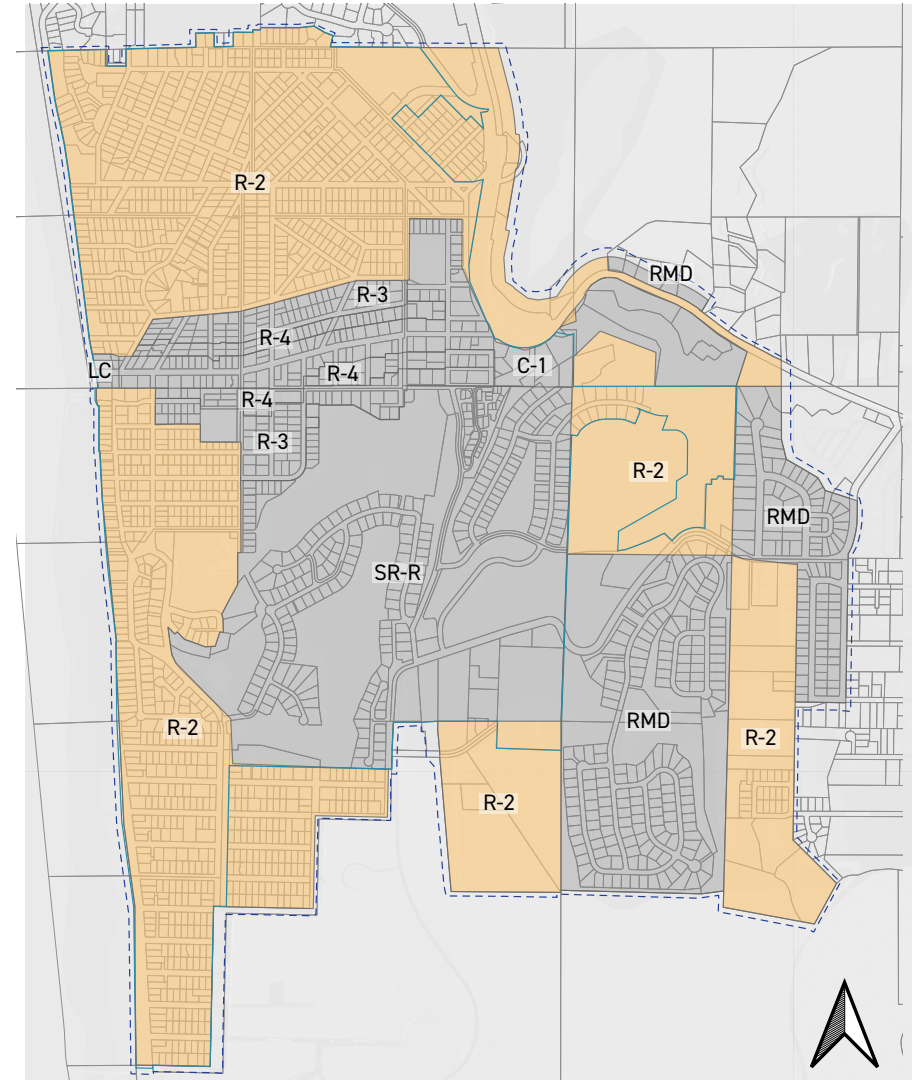
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Manzanita Building Form Study  
with Topography

Contours - 5  
Contours - 1  
Building Footprints  
CityLimits\_Manzanita  
UGB\_Manzanita  
Taxlots\_Manzanita [3522]

Base Map for reference

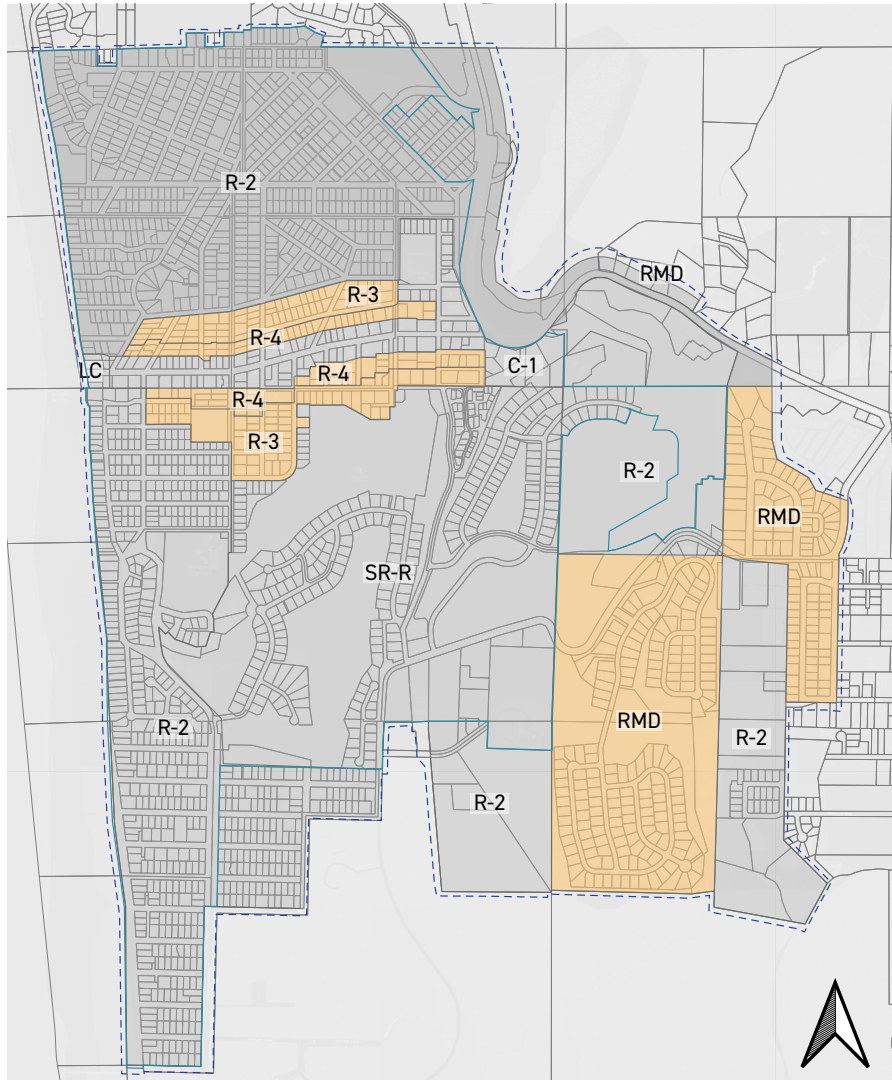


Manzanita Zoning Map

CityLimits Manzanita  
UGB Manzanita  
MH-1 (Middle Housing 1)

Middle Housing 1 Zone Map  
(MH-1 = R-2)

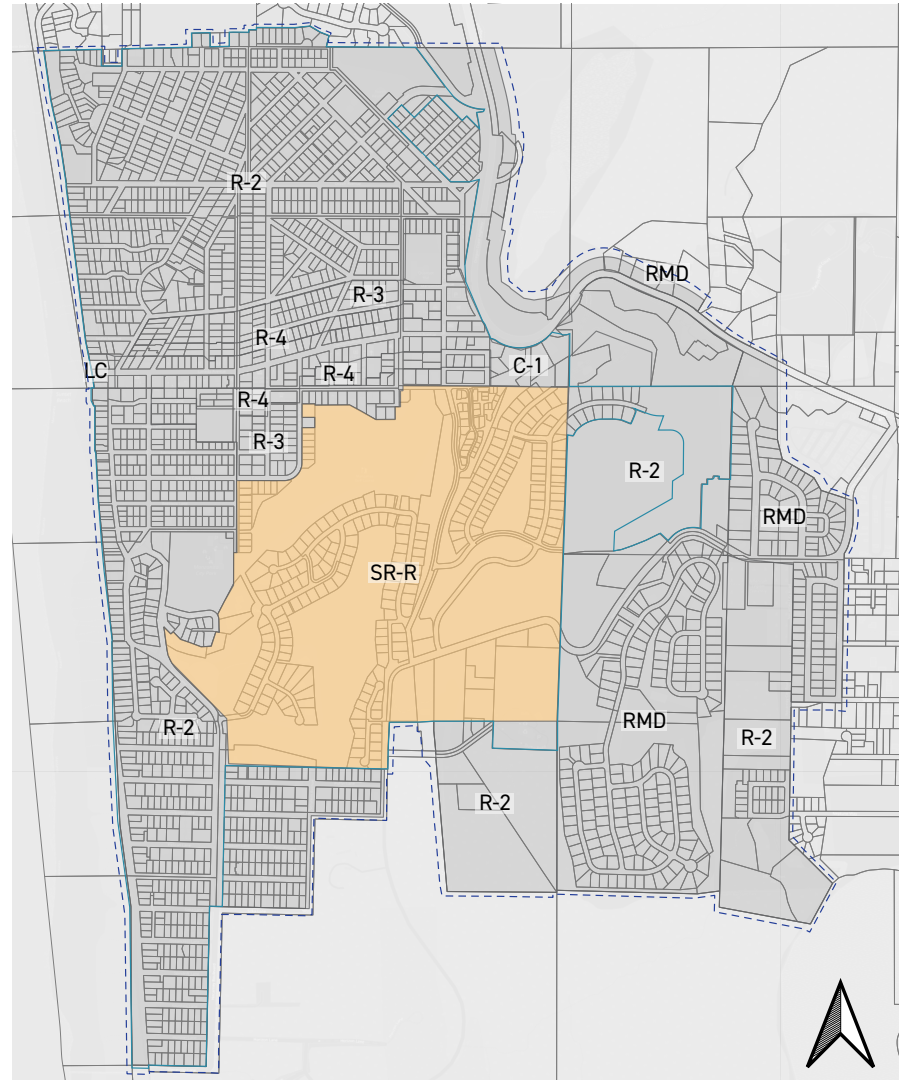




Manzanita Zoning Map

CityLimits Manzanita MH-2 (Middle Housing 2)  
UGB Manzanita

*Middle Housing 2 Zone Map  
(MH-2 = R-3, R-4, and RMD)*



Manzanita Zoning Map

CityLimits Manzanita MH-3 (Middle Housing 3)  
UGB Manzanita

*Middle Housing 3 Zone Map  
(MH-3 = SR-R)*

DRAFT

Date 28 April 2025  
Subject Manzanita Draft Code Amendments  
To Leila Aman, City Manager, City of Manzanita  
From Marcy McInelly, AIA, Urbsworks, Inc.

MANZANITA MIDDLE HOUSING CODE & COMPREHENSIVE PLAN AMENDMENT PROJECT

Attachment B – New Zones

The following tables summarize the development standards and permitted uses in the three new middle housing zones.

The new zones are:

- Middle Housing 1, MH-1 (replaces R-2);
- Middle Housing 2, MH-2 (replaces R-3, R-4, RMD), and
- Middle Housing 3, MH-3 (replaces SR-R).

In Article 3 the following use zones will be struck through and replaced:

- Section 3.010 Medium Density Residential Zone, R-2
- Section 3.020 High Density Residential Zone, R-3
- Section 3.025 High Density Residential / Limited Commercial Zone, R-4
- Section 3.030 Special Residential/Recreational Zone, SR-R
- Section 3.060 Residential Manufactured Dwelling, RMD

NEW ZONES DEVELOPMENT STANDARDS

Development Standards	MH-1 (R-2)	MH-2 (R-3, R-4, RMD)	MH-3 (SR-R)
Lot size, minimum (square feet)	1,250	1,250	1,250
Front yard setback (feet)	20	20	20
Minimum rear yard setback (feet)	10	10	10
Minimum side yard setback (feet)	5	5	5
Floor area ratio (FAR), maximum <sup>1</sup>	Max of .65:1	Max of .65:1	Max of .65:1
Maximum building height (feet)	35	35	35

**Commented [MM1]:** Current minimum lot size is 5,000 square feet. Many current lots are smaller than the required minimum. Proposing to eliminate the required lot width and depth standards (40 feet and 90 feet /85 feet, respectively). Housing type-specific standards combined with FAR, setbacks, and parking requirements will have greater determinative effect on lot size. For example, to comply with state middle housing rules, the minimum lot size for townhouses is 1,500 sf, although townhouses can be built on smaller lots.

**Commented [MM2]:** No change from current standard.

**Commented [MM3]:** No change from current standard.

**Commented [MM4]:** No change from current standard.

**Commented [MM5]:** Proposing to use the current FAR limitation that applies to C-1 (.65:1)

**Commented [MM6]:** Current maximum height: 28.5 feet.

<sup>1</sup> First dwelling limited to 3,000 square feet maximum; additional dwellings granted additional FAR up to the maximum FAR permitted for the lot.

Key: P – Permitted outright | C – Conditional Use

Uses	MH-1 (R-2)	MH-2 (R-3, R-4, RMD)	MH-3 (SR-R)
One-family dwelling	P	P	P
Accessory dwelling unit	P	P	P
Two-family dwelling	P	P	P
Triplex dwelling	P	P	P
Quadplex dwelling	P	P	P
Townhouse	P	P	P
Cottage Cluster	P	P	P
Multi-family dwelling	P	P	P
Adult foster home (24 hour care is provided for five or fewer adults)	P	P	-
Residential home (residential care alone or in conjunction with treatment or training for 5 or fewer individuals)	-	P	-
Residential facility (residential care alone or in conjunction with treatment or training for 6-15 or fewer individuals)	-	P	-
Home occupation and cottage industries	P	P	P
Manufactured dwelling <sup>2</sup>	P	P	P
Manufactured dwelling park <sup>3</sup>	-	P	-
Park and publicly owned recreation area	P	P	-
Public or private park or recreation facilities	-	-	P <sup>4</sup>
Utility lines necessary for public service.	P	P	-
Utility substation and lines <sup>5</sup>	-	C	C

**Commented [MOU7]:** Footnote(s): Subject to the requirements of Section 4.160 – Middle Housing Supplemental Provisions.

**Commented [MOU8]:** Permitted outright in R-2, R-3, and R-4

**Commented [MOU9]:** Permitted outright in RMD

**Commented [MOU10]:** Permitted outright in R-3 and R-4

**Commented [MOU11]:** Currently only permitted in RMD, however, State law includes various protections to allow the siting of manufactured and prefabricated homes in zones that allow detached single-family dwellings, either on an individual lot or in a manufactured home park.

<sup>2</sup> Subject to the requirements of Section 4.135

<sup>3</sup> Subject to the requirements of Section 4.096.

<sup>4</sup> Does not include a recreation vehicle parking area.

<sup>5</sup> Necessary for public service



Uses	MH-1 (R-2)	MH-2 (R-3, R-4, RMD)	MH-3 (SR-R)
Recreation / recreational vehicle <sup>6</sup>			
Signs <sup>7</sup>			
Short term rental <sup>8</sup>			
Church or community hall <sup>9</sup>	C	C	C
Nursery	C	C	
Golf course	C	C	C <sup>10</sup>
Fire station	C	C	C
Schools and daycare centers	C	C	C
Government structure	C <sup>11</sup>	C <sup>12</sup>	-
Radio or TV transmitting tower	-	C	-
Parking lot <sup>13</sup>	-	C	-
Temporary real estate sales office <sup>14</sup>	-	-	C
Bed & Breakfast establishments <sup>15</sup>	C	C	-
Motels, hotels and tourist courts		C	P <sup>16</sup>
Personal or business service establishments.		C <sup>17</sup>	

<sup>6</sup> Used during the construction of a permitted use for which a building permit has been issued for a period of six months, with one extension of six months if required.

<sup>7</sup> Subject to the provisions of Article 4, Section 4.070 - Sign Requirements

<sup>8</sup> Subject to the restrictions of Section 6.030 – General Provisions Regarding Accessory Use, (3) Short Term Rental

<sup>9</sup> Subject to the requirements of Section 5.040 Church, Meeting Hall, Community Center, Health Facility or Retirement Home

<sup>10</sup> Includes a club house, eating or drinking establishment or related commercial enterprise such as a pro shop.

<sup>11</sup> Including Utility substation.

<sup>12</sup> Excluding a storage or repair facility.

<sup>13</sup> Subject to Section 4.080 – Off-Street Parking and Off-Street Loading Requirements

<sup>14</sup> Office maintained in a model home in a legally recorded subdivision for a period not to exceed one year.

<sup>15</sup> Applies to Bed & Breakfast establishments in R-2 zones, plus any other conditions specified Planning Commission to preserve the residential character of the neighborhood: Shall limit the number of guest rooms to 2; Establishment shall be owner occupied; One off-street parking space shall be provided for each rental unit plus the 2 spaces for the residential unit; Building meets fire and life safety code with annual inspection required by City; Signing is subject to Article 4, Section 4.070.

<sup>16</sup> Includes an eating and drinking establishment in conjunction therewith.

<sup>17</sup> Limited to [R-4-zoned area; defined boundaries]. Applicable to all Personal or Business Services Establishments in the R-4 zone: (1) Signing is subject to Article 4, Section 4.070; (2) Off-street parking shall meet the requirements of Section 4.080 and shall be screened along any adjacent residential property or zone boundary by a sight- obscuring fence, wall or hedge; (3) Establishment shall employ no more than 2 persons in addition to the proprietor; (4) Hours of operation open to the public shall be limited to the period between

Uses	MH-1 (R-2)	MH-2 (R-3, R-4, RMD)	MH-3 (SR-R)

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8:00 a.m. and 6:00 p.m.; (5) Establishment at all times shall adhere to the following performance standard: (a) Noise levels shall be maintained at a low level compatible with a residential neighborhood. (b) There shall be no offensive odors emitted from the establishment. (c) No flashing lights or other unusual illumination shall be permitted. (d) No accumulation of garbage or trash will be permitted on the premises. (e) No outdoor storage of materials or goods will be permitted on the premises. (6) The characteristics of the structure to be used shall be compatible with the residential character of the neighborhood and appropriate landscaping shall be utilized to help achieve this compatibility. (7) Standards contained in subsection (3) of this section shall be met as well as the standards for Conditional Uses as contained in Section 5.031 and any other applicable requirements of this Ordinance.

Date 28 April 2025  
Subject Manzanita Draft Code Amendments  
To Leila Aman, City Manager, City of Manzanita  
From Marcy McInelly, AIA, Urbsworks, Inc.

MANZANITA MIDDLE HOUSING CODE & COMPREHENSIVE PLAN AMENDMENTS

## Attachment C

### Section 4.160 Supplemental Standards

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#### 4.161 Design standards

##### Section 4.161 Purpose

The design standards for plexes, townhouses, cottage clusters, and courtyard apartments require a minimum level of design on every dwelling. These standards are intended to promote neighborhood character, attention to detail, human-scale and pedestrian-oriented design, while affording flexibility to use a variety of architectural styles.

Residential development is intended to implement following goals, consistent with the Comprehensive Plan community vision:

- Housing choice - Support a diverse range of housing options for all residents, and their unique needs and preferences at each stage of life
- Neighborhood character - Supports the unique character of neighborhood, quiet residential streets and development that harmonizes with the beauty of nature, quiet residential streets and
- Pedestrian priority- Residential development that prioritizes the pedestrian and creates a safe bicycling environment.

##### Design standards - objectives

Dwellings must address the following design objectives:

- Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
- Eyes on the street – A certain percentage of the area of each street-facing façade must be windows.
- Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
- Detailed design – All street-facing buildings must include several features selected from a menu.

## Section 4.161 Applicability

Table. Applicability by housing type

Design Standard	Applicability		
	Plexes (1 -4 units)	Cottage clusters and courtyard apartments	Townhouses
1. Articulation	[2]	[2]	[2]
2. Windows	[2] [3]	[2] [3]	[2] [3]
3. Main entrance	[2] [3]	[2] [3]	[2] [3]
4. Detailed design	[2]	[2] [3]	[2] [3]
5. Transitional space	[7]	[2] [7]	<b>Error! Reference</b>
6. Common open space		[1]	
7. Pedestrian circulation	[1] [5]	[1] [5]	
8. Off-street parking		[1] [4]	[1] [4]

- [1] Applicable to the entire site
- [2] Applicable to dwellings facing the street
- [3] Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
- [4] Applicable to clustered parking where parking spaces exceed 4
- [5] Applicable only for additions or new buildings
- [6] Applicable only for new buildings
- [7] Applicable to ground floor dwellings with access from the street or shared open space (e.g. a common courtyard), and access entry door is:
  - (a) Within 10 feet of the street-facing property line, or
  - (b) Within the front yard setback, or
  - (c) Within 10 feet of a shared open space common tract or easement.

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 feet of a front or street side lot line.

1. New dwellings.
2. Expansions of structures in that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
  - a. Expansions that add 75 square feet or less of street-facing façade area are exempt from all design standards.

- b. Expansions that add more than 75 square feet and less than 200 square feet of street-facing façade area are subject to Subsection 4.161 (1), Eyes on the Street. The expanded façade area must meet the standards of Section 4.161 (1), Eyes on the Street, without consideration of the original street-facing façade area.
  - c. Expansions that add 200 square feet or more of street-facing façade area are subject to the following design standards:
- 3. The entire street-facing façade shall comply with Subsection 4.161(2) Windows.
- 4. Subsection 4.161(3) Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
- 5. Subsection 4.161(1) Articulation is applicable for expansions that add 20 lineal feet or more to the length of the street-facing façade.
- 6. Subsection 4.161(4) Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
- 7. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
- 8. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:
  - a. Subsection 4.161(3) Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
  - b. Subsection 4.161(4) Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

## Section 4.161 Standards

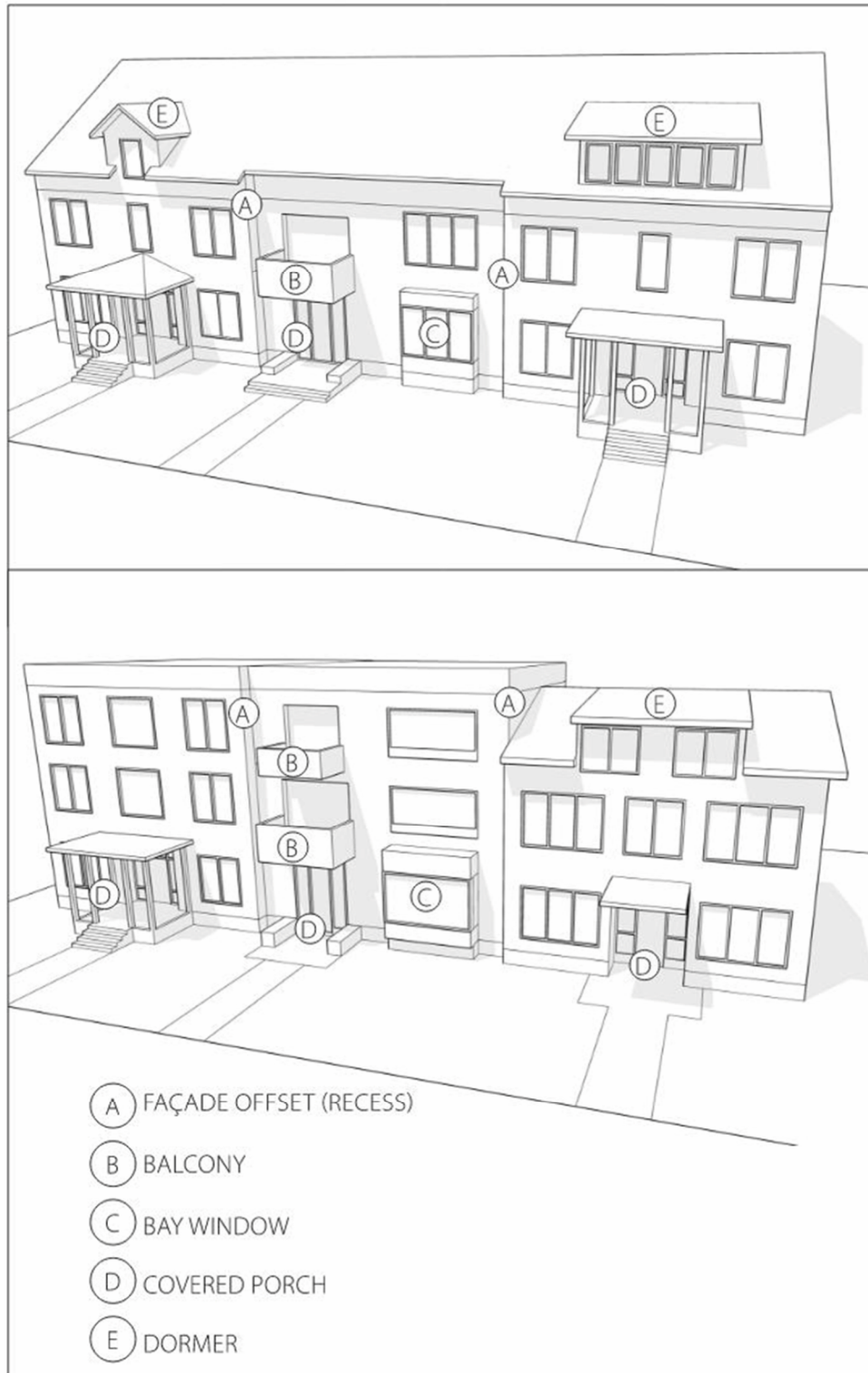
All buildings that meet the applicability provisions in Section 4.161 Applicability shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

An applicant may request a variance to the Detailed Design standards in 4.161 Design standards through a [Type II review](#), pursuant to [Subsection \\_\\_\\_\\_ Variances](#) to any other design standards requires a variance through a [Type III review](#), per [Subsection \\_\\_\\_\\_](#).

- 1. Articulation. All buildings shall incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 4.161(4) Articulation for illustration of articulation.
  - a. For buildings with 25 to 50 feet of street frontage, a minimum of 1 of the following elements shall be provided along the street-facing façades.

- i. A porch at least 5 feet deep.
  - ii. A balcony that is at least 2 feet deep and is accessible from an interior room.
  - iii. A bay window that extends at least 2 feet wide.
  - iv. A section of the façade that is recessed by at least 2 feet deep and 6 feet long.
  - v. A gabled dormer.
- b. For buildings with over 50 feet of street frontage, at least 1 element in Subsection 4.161(1) i.-v. above shall be provided for every 25 ft of street frontage.
- c. Elements shall be distributed along the length of the façade so that there are no more than 25 feet between 2 elements.
- d. For buildings with less than 25 feet of street frontage, the building articulation standard is not applicable.

Figure 4.161(4) Articulation



2. Windows. At least 15% of the area of each street-facing façade must be windows. See *Figure 4.161 (2) Windows* for illustration of eyes on the street.

- a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.
- b. Window area is considered the entire area within the outer window frame, including any interior window grid. Glazed portions of entrance doors count as window area.
- c. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.
- d. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

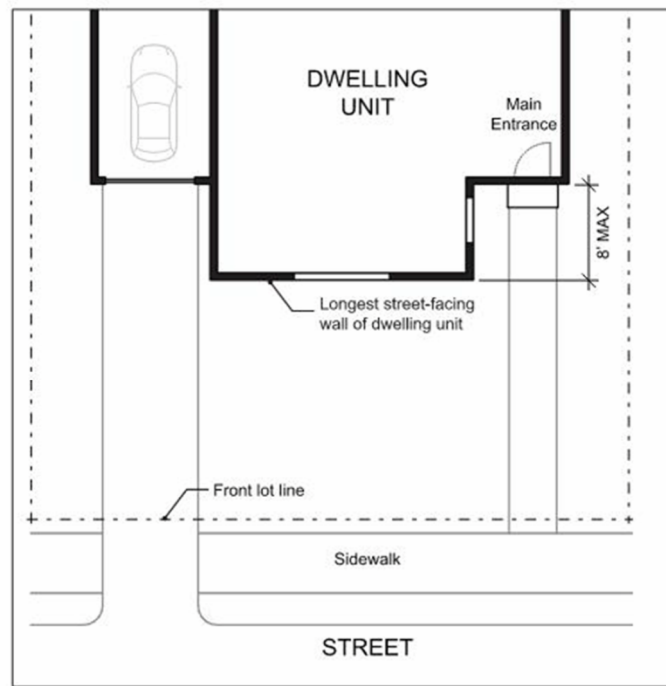
Figure 4.161(2) Windows



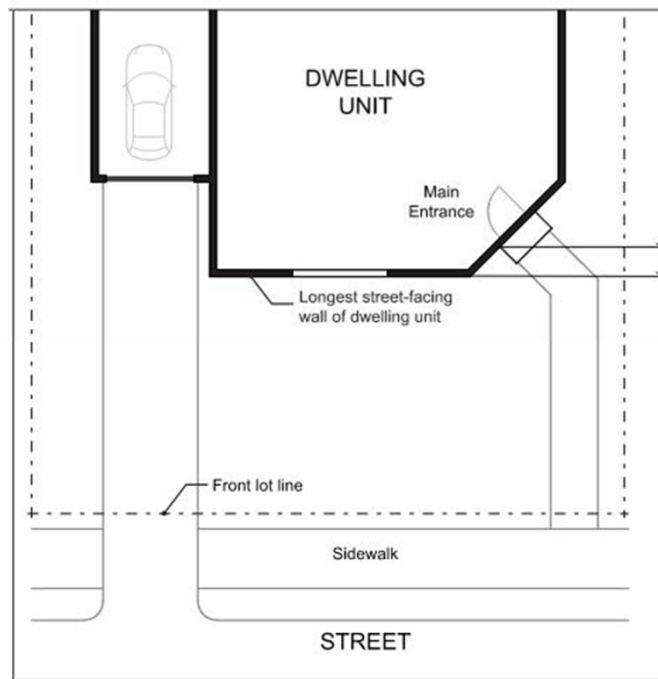
3. Main entrance. At least 1 main entrance must meet both of the following standards. See *Figure 4.161(3) Main Entrance* for illustration of main entrances.
  - a. Be no further than 8 ft behind the longest street-facing wall of the building.
  - b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.
    - i. Be at least 25 sq ft in area with a minimum 4-ft depth.
    - ii. Have at least 1 porch entry facing the street.
    - iii. Have a roof that is no more than 12 ft above the floor of the porch.
    - iv. Have a roof that covers at least 30% of the porch area.



Figure 4.161(3) – Main Entrance



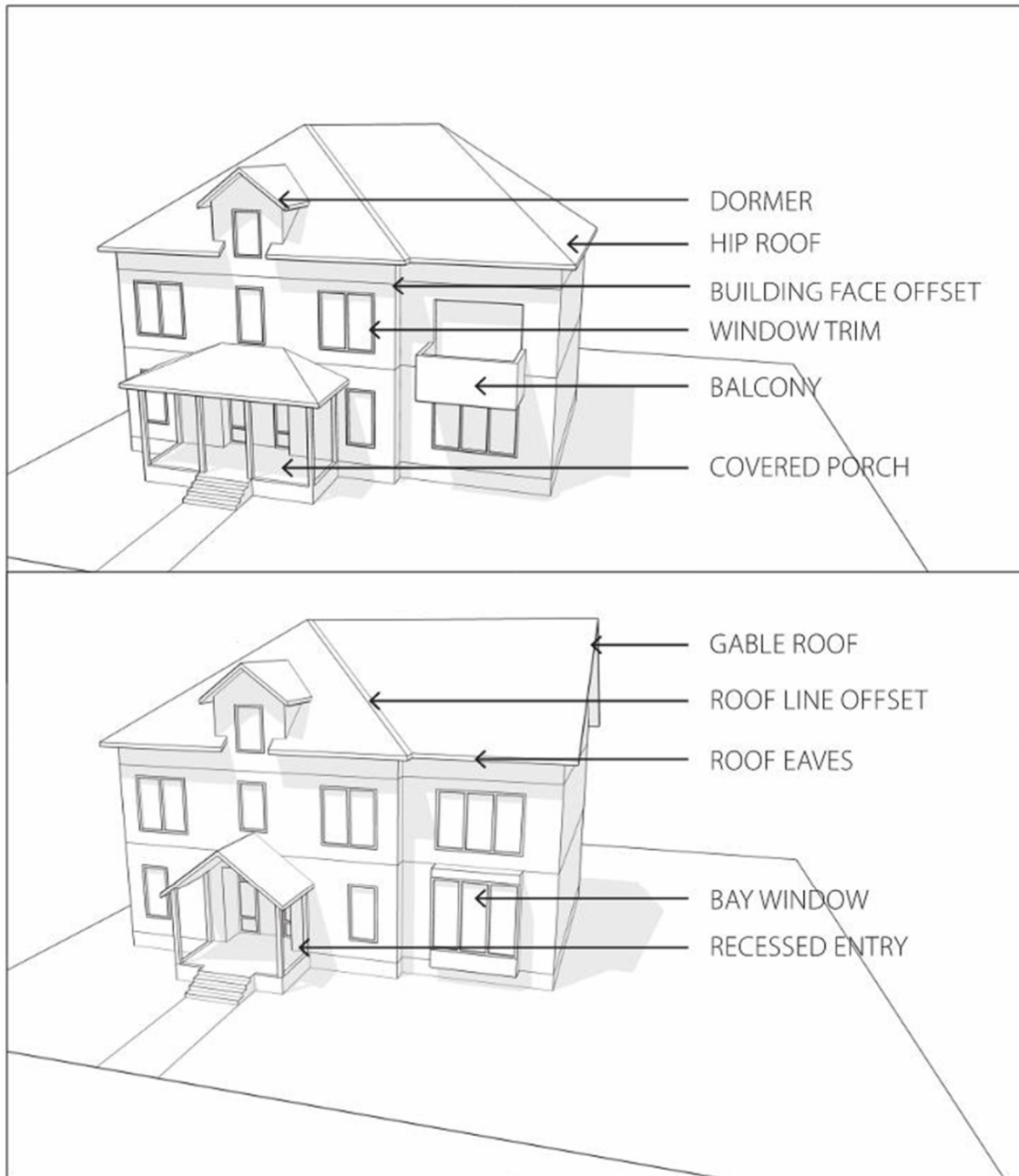
[FIGURE 18.30.190\(3\) - MAIN ENTRANCE AT 45° ANGLE FROM THE STREET](#)



4. Detailed design. All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 4.161(4) for illustration of detailed design elements.

- a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
- b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 ft wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
- f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.
- g. Tile or wood shingle roofs.
- h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.
- j. Gable roof, hip roof, or gambrel roof design.
- k. Window trim around all windows at least 3 in wide and 5/8 in deep.
- l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.
- m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room. For Townhouses this standard is 2 ft deep and 4 ft wide.
- n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- o. Bay window at least 2 ft deep and 5 ft long. For Townhouses this standard is 2 ft deep by 4 ft wide.
- p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade.
- q. For Townhouses, balconies and bay windows may encroach into a required setback area.

Figure 4.161(4) Detailed Design



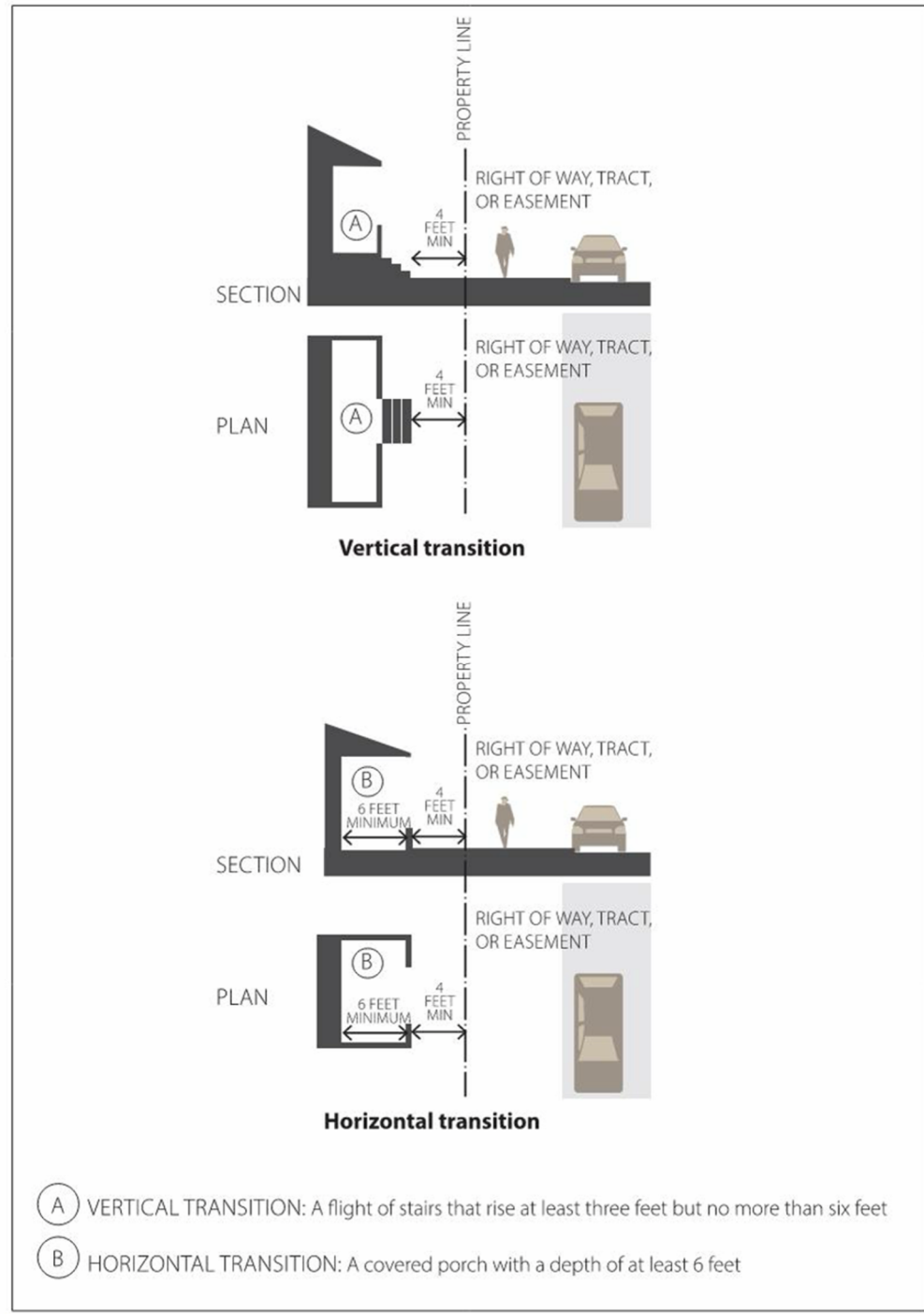
5. Transitional space. Ground floor dwellings which have their entry access from the street or a shared open space (e.g. a common courtyard) must include an area of transition between the public realm of the right-of-way (or tract or easement). The standards below apply when the private dwelling entry access door is within 10 feet of the street-facing property line; within the front yard setback, or within 10 feet of a shared open space common tract. The transitional space between the public realm and the entry door may be either vertical or horizontal, as described below.

- a. A vertical transition must be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft,

from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft from the front lot line.

- b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it must be at least 4 ft from the front lot line.

Figure 4.161(5) Transitional space





6. Pedestrian circulation. The on-site pedestrian circulation system must include the following:
  - a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.
  - b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.
  - c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.
  - d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.
7. Off-street parking.
  - a. Off-street parking may be arranged in clusters, subject to the following standards:
    - i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
    - ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
    - iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
  - b. Clustered parking areas may be covered.
  - c. Off-street parking spaces and vehicle maneuvering areas must not be located:
    - i. Within of 20 feet from any street property line, except alley property lines;
    - ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
  - d. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines.
  - e. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.
  - f. Garages and carports (whether shared or individual) must not abut common courtyards.
  - g. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.
  - h. Individual detached garages must not exceed 400 square feet in floor area.
  - i. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

Additional standards applicable to Townhouses (or cross reference to Cottage Cluster additional standards:

## 4.162 Cottage cluster and courtyard apartment design and development standards

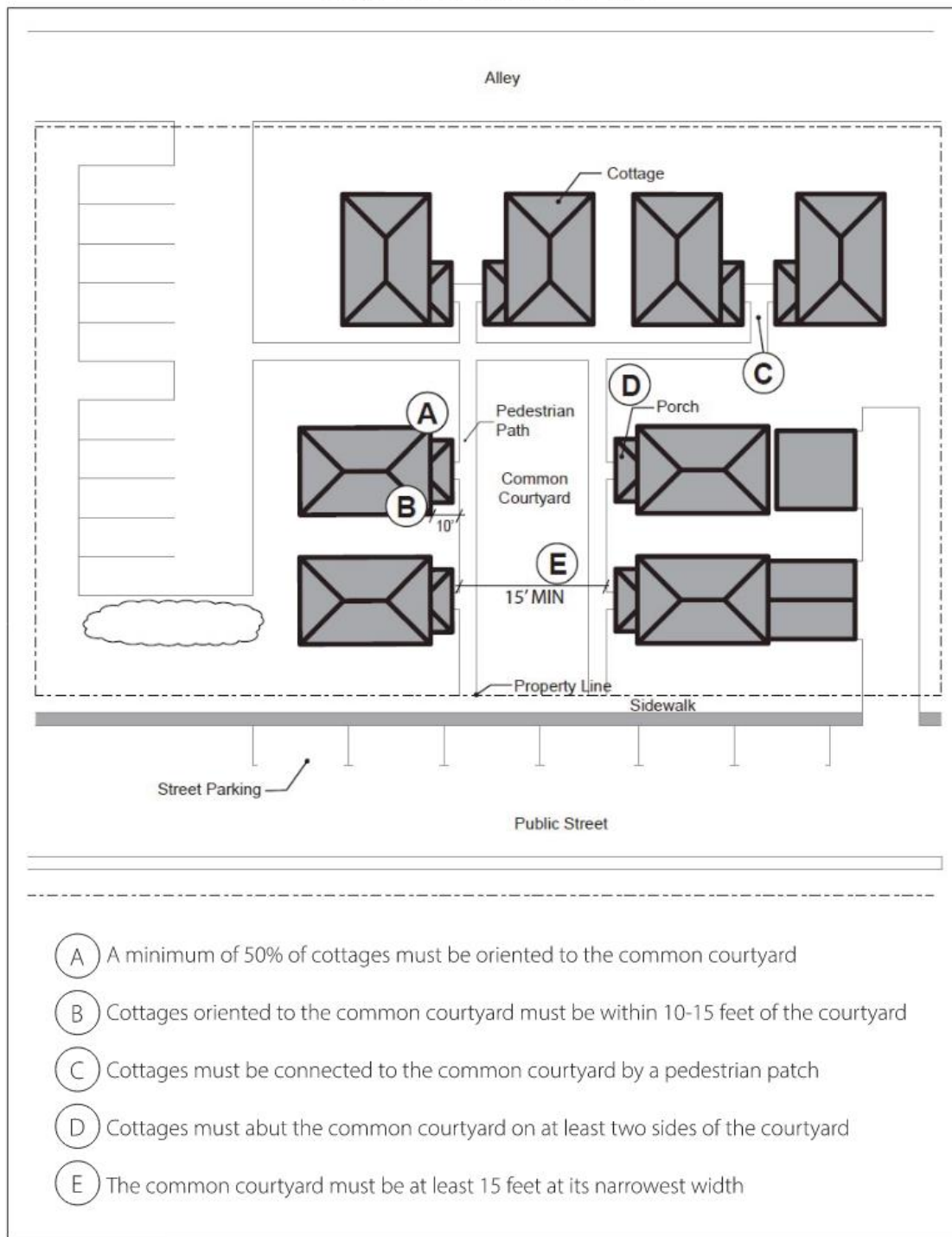
1. Applicability. Cottage clusters developments must comply with this section.
2. Approval process. Cottage clusters are permitted through a **Type II procedure**. Cottage clusters that include land divisions must also comply with applicable land division procedures and criteria except as modified herein.
3. Numerical standards.
  - a. Minimum number of cottages: Three
  - b. Maximum number of cottages in a cluster.
    - i. In MH-1, 4.
    - ii. In MH-2, and MH-3: 16 in all zones.
4. Development standards.
  - a. Minimum lot size: Same as base zone
  - b. Minimum lot width: N/A
  - c. Density, maximum: N/A
  - d. Density, minimum: 16
  - e. Setbacks: Same as base zone.
  - f. Building separation: Six feet minimum between cottages, with minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.
  - g. Courtyard apartment dwelling units may attached.
  - h. Cottage cluster separation: 20 feet is required between cottage clusters that occupy a single lot unless permitted to be attached.
  - i. Unit size, average, in square feet.
    - i. The maximum building footprint is 900 square feet per dwelling unit. The building footprint does not include porches, decks, etc. The maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit. Community buildings shall not be included in the average floor area calculation for a cottage cluster, but shall not exceed the square footage of the largest cottage. Up to 200 square feet may be exempted in the calculation of a cottage's footprint for an attached garage or carport.
  - j. Cottages on individual lots:
    - i. The minimum lot area for a cottage lot is 125% of the footprint of the cottage located on the cottage lot.
    - ii. The maximum lot area for a cottage lot is 200% of the footprint of the cottage located on the cottage lot.



- iii. (iii) All cottage lots must be served by individual services from a private or public distribution/collection mains. Any deviations from City standards must be approved by the Public Works Director. Private service lines, franchises, sewer and water collection/mains, must not cross property lines unless there is no means of providing private service laterals from a distribution main, as approved by the Public Works Director. Where private services are permitted to cross property lines, the services must be placed in an easement acceptable to City.
  - k. Building height, in feet: The maximum building height for all structures is 25 feet.
  - l. Off-street parking.
    - i. One off-street parking space per dwelling unit is required. Off-street parking may be provided as a garage or carport.
    - ii. If cottages or courtyard apartments are less than 500 square feet in size, no off-street parking is required.
    - iii. Garages and carports (whether shared or individual) must not abut common courtyards.
  - m. Conversions
    - i. A preexisting detached single-unit detached dwelling may remain on a lot with a cottage cluster. The preexisting single-unit detached dwelling may be nonconforming with respect to the requirements of the base zone. The preexisting single-unit detached dwelling may be expanded up to the maximum height, footprint, or unit size allowed by the applicable code; however, a preexisting single-unit dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded. The preexisting single-unit detached dwelling shall count as a unit in the cottage cluster, and the floor area of the preexisting single-unit detached dwelling shall not count towards any cottage cluster average or cottage cluster project average or total unit size limits.
    - ii. The time limit for conversion of a single-family dwelling to a cottage cluster cannot exceed five years.
- 5. Design Standards. Cottage clusters are subject to 4.161 Design Standards Residential Design Standards. Additional design standards that apply to cottage clusters are listed below.
  - a. Cottage orientation.
    - i. A minimum of 50% of cottages within a cluster must be oriented to the common courtyard and must:
    - ii. Have a main entrance facing the common courtyard;
    - iii. Be within 10 to 15 feet of the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard;
    - iv. Be connected to the common courtyard by a pedestrian path;
  - b. Cottages within 20 feet of a street property line may have their entrances facing the street; and

- c. Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.
- d. Common courtyard design.
  - i. The common courtyard must be a single, contiguous area or unit of land.
  - ii. At least two sides of the courtyard must abut cottages.
  - iii. The common courtyard must contain a minimum of 150 square feet per cottage in the cottage development.
  - iv. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
  - v. The common courtyard must abut a public street for a minimum of 15 feet.
  - vi. The common courtyard may be developed with only the following elements: landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 75 percent of the total common courtyard area.
  - vii. Areas such as utility vaults, perimeter setbacks and common parking areas and driveways do not qualify toward common courtyard area.
  - viii. Common courtyards may contain drainage swales and utilities, provided the area is otherwise usable for open space purposes.
  - ix. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.
  - x. Common courtyard area must be either located within common tracts or subject to a recorded instrument acceptable to the City to ensure the common open space will perpetually benefit all residents of the cottage cluster development.
  - xi. Common open space areas must be constructed and landscaped prior to filing a final plat or, in the case of a site plan, construction and landscaping will be tied to final occupancy of the first cottage.

Figure 4.162 – COTTAGE CLUSTER DESIGN STANDARDS



- e. Community buildings. Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community

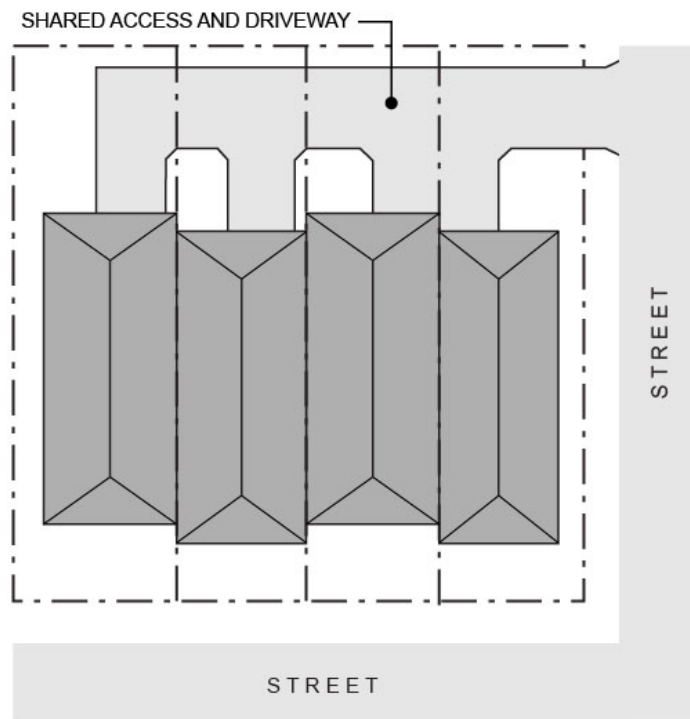
meeting rooms, guest housing, exercise rooms, day care, or community eating areas. Community buildings must meet the following standards:

- i. Each cottage cluster is permitted one community building, which shall count towards the maximum average floor area.
- ii. A community building that meets the development code's definition of a dwelling unit is permitted notwithstanding the maximum number of dwellings permitted in a cottage cluster provided it is subject to a recorded instrument acceptable to the City restricting the community dwelling unit from being used for long term (i.e. 30 days or more residential use by any particular party).
- f. Existing structures. On a lot or parcel to be used for a cottage cluster or courtyard apartment project, an existing detached single dwelling on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area under the following conditions:
  - i. The existing dwelling may be nonconforming with respect to the requirements of this code.
  - ii. The existing dwelling may be expanded up to the maximum height in 4.1 62(4)(k) or the maximum building footprint in 4.1 62(4)(i) however, existing dwellings that exceed the maximum height and/or footprint for a cottage or courtyard apartment may not be expanded.
  - iii. The existing dwelling shall be excluded from the calculations of orientation toward the common courtyard and average cottage or courtyard apartment footprint.

## 4.162 Townhouse design and development standards

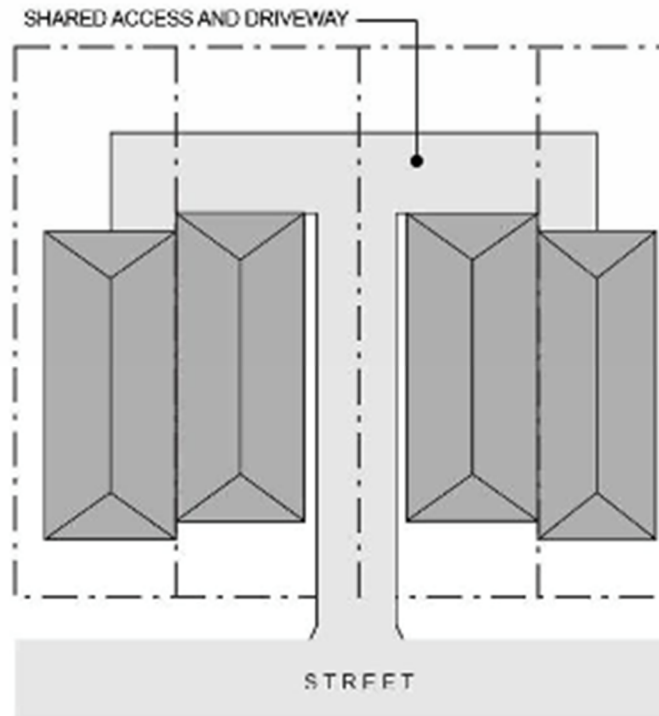
1. Design Standards. Townhouses are subject to 4.161 Design Standards Residential Design Standards. Additional design standards that apply to townhouses are listed below.
  - a. Driveway access and parking.
    - i. Off-street parking areas shall be accessed on the back façade or located in the rear yard. These parking areas shall meet the standards in either 4.162(1)(a)(ii) or 4.162(1)(a)(iii). No off-street parking shall be allowed in the front yard or side yard of a townhouse unless the standards in 4.162(1)(a)(v) are met.
    - ii. A townhouse project that includes a corner lot shall take access from a single driveway approach on the side of the corner lot. See Figure 4.162(1).

Figure 4.162(1). Townhouses on corner lot with shared access



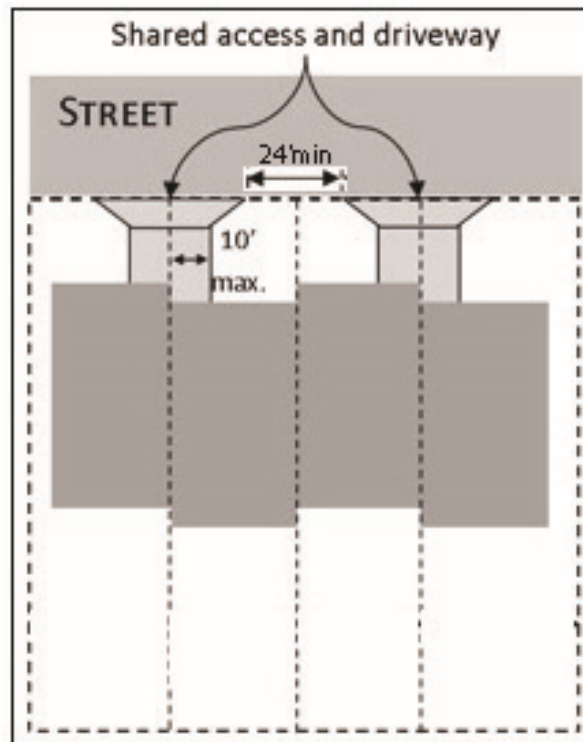
- iii. Townhouse projects that do not include a corner lot shall consolidate access for all lots into a single driveway. See Figure 4.162(2).

Figure 4.162(2). Townhouses with consolidated access



- iv. A townhouse project that includes consolidated access or shared driveways shall grant access easements to allow normal vehicular access and emergency access.
- v. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless the following standards are met. See Figure 4.162(3).
  - 1. Development of two rowhouses has at least one shared access between the lots, and development of four rowhouses has two shared accesses.
  - 2. Shared accesses are spaced a minimum of 24 feet apart.
  - 3. Outdoor on-site parking and maneuvering areas do not exceed ten feet wide on any lot.
  - 4. The garage width does not exceed 12 feet, as measured from the inside of the garage door frame.

Figure 4.162(3). Townhouse minimum driveway separation



## Ordinance 95-5 - LAND DIVISIONS

### Articles:

<b>Article 1</b>	<b>General Information</b>
<b>Article 2</b>	<b>Design Standards</b>
<b>Article 3</b>	<b>Street Standards</b>
<b>Article 4</b>	<b>Property Boundary Adjustments</b>
<b>Article 5</b>	<b>Partitions</b>
<b>Article 6</b>	<b>Subdivisions</b>
<b>Article 7</b>	<b>Administration</b>
<b>Article 8</b>	<b>Expedited and Middle Housing Land Divisions</b>

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## Article 1 GENERAL INFORMATION

### Sections:

#### **1.010 Ordinance.**

#### **1.020 Purpose.**

#### **1.030 Applicability and Relationship to Ordinance 95-4.**

#### **1.040 Administration.**

#### **1.050 Scope of Regulations**

#### **1.060 Serial Partitions.**

#### **1.070 Planned Unit Developments.**

#### **1.080 Variances.**

#### **1.090 Definitions.**

#### **1.100 Fees.**

#### **1.010 Ordinance.**

This Ordinance shall be known as the Manzanita Land Division Ordinance and may also be referred to the “Ordinance” or the “MLDO.”

#### **1.020 Purpose.**

The purpose of this Article is to establish standards and procedures for the dividing of land in the City. These regulations are necessary to provide uniform procedures and standards for land divisions, to assure adequate width and arrangements of streets, to coordinate proposed development with plans for utilities and other public facilities, to avoid undue congestion of population, to assure adequate sanitation and water supply to provide for the protection, conservation, and proper use of land, and to protect the public health, safety, and welfare.

#### **1.030 Applicability and Relationship to Ordinance 95-4.**

Unless otherwise exempted or specified by provisions in this Ordinance, the following shall apply:

- (A) Zones. Unless otherwise specifically prohibited by the underlying zone, land division regulations contained in Ordinance 95-5 shall apply to all zones listed in Ordinance 95-4.
- (B) Appeals. Land divisions are administrative decisions appealable to the Planning Commission. An appeal of the Planning Commission to the City Council is subject to provisions in Section 10.150 to 10.200 of Ordinance 95-4.
- (C) Variances. The Planning Commission shall review land divisions involving a variance, subject to provisions in Article 10 of Ordinance 95-4.

#### **1.040 Administration.**

The City Manager of the City of Manzanita shall administer this Ordinance. Unless otherwise specifically prohibited by Charter, the City Manager is granted the authority to delegate his/her duties under this Ordinance.

### **1.050 Scope of Regulations.**

The regulations contained in this Ordinance shall govern property boundary adjustments, partitions, subdivisions, and replats. These shall be administrative decisions and subject to procedures in Article 7 – Administration. The following shall determine the appropriate process:

- (A) Property Line Adjustments. Property line adjustments do not divide land but adjust boundaries between properties or consolidate property by eliminating a boundary. These are subject provisions in Article 4 and subject to Type I application procedures in Article 7.
- (B) Partition. The City shall process a land division creating two or three parcels within a calendar year as a Partition, subject to the general design standards in Article 2, street design requirements in Article 3, and improvement standards for a Partition in Article 5. Partitions are subject to the Type II application procedures in Article 7.
- (C) Subdivision. A land division creating four or more lots within a calendar year shall be processed as a Subdivision and subject to the general design provisions in Article 2, street design requirements in Article 3, and the design standards and improvement requirements for a Subdivision in Article 6. Subdivisions are subject to the Type II application procedures in Article 7.
- (D) Replat. A replat alters the platted lots and easements of existing subdivisions. It differs from a property boundary adjustment in that it reconfigures more than two lots in an existing subdivision plat. For this reason, this Ordinance classifies replats as subdivisions and subject to the provisions noted in (C) above. Replats are subject to the Type II application procedures in Article 7.
- (E) Expedited Land Divisions and Middle Housing Land Divisions. These include processes and requirements to provide affordable, in-fill housing with all requirements contained in Article 8.

### **1.060 Serial Partitions.**

If a Partition results in the creation of a large parcel that can be subsequently divided so that there is the potential to create more than three parcels from the original, the request is classified as a Subdivision and subject to provisions in 1.040(C) above.

### **1.070 Planned Unit Developments.**

A planned unit development can divide property but allow greater flexibility in such design factors as lot size, street width, and specific amenity requirements. Ordinance 95-4, Section 4.136 contains the specific requirements and procedures for a Planned Unit Development.

### **1.080 Variances.**

Any request to vary or modify the quantitative standards in Ordinance 95-5 shall be subject to the variance provisions outlined in Ordinance 95-4, Article 8. The Planning Commission shall review land divisions involving a variance, subject to provisions in Section 10.150 to 10.200 of Ordinance 95-4.

### **1.090 Definitions.**

As used in this Ordinance, unless it is apparent from the context that it intends a different meaning, the words and phrases below shall have the following meaning.

**Abut** means to border on a given line, e.g., a given street right-of-way.

**Applicant** means any person who makes application to the City for approval of a subdivision or partition plan.

**Building lines** means the lines indicated on the subdivision plat or otherwise described, limiting the area upon which structures may be erected.

**City** means the City of Manzanita, Oregon.

**Comprehensive Plan** means a plan adopted by Ordinance No. 350 as a guide in the growth and improvement of the City.

**Cottage Cluster** is a grouping of no fewer than four detached dwelling units per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard.

**Easements** means a grant of the right to use a strip of land for specific purposes.

**Master Plan** means a map or layout that establishes the long-term development of a subdivision, planned unit development or future partitioning potential of larger parcels.

**Middle Housing** means duplexes, triplexes, quadplexes and cottage cluster housing as well as townhouses.

**Owner** means the owner of record of real property as shown on the latest tax rolls of Manzanita County or by the deed records of said county or a person who is purchasing a parcel of the property under contract.

**Parcel** means a unit of land created by a partitioning of land.

**Partitioning** means the division of an area or tract of land into two or three parcels within a calendar year and 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. **Partitioning land** does not include division of land resulting from lien, foreclosure; divisions of land resulting from the creation of cemetery lots; and divisions of land made pursuant to a court order, including, but not limited to, court orders in proceedings involving testate or intestate successions; and partition land does not include any adjustment of a lot line by the relocation of a common boundary where an additional parcel is not created and where the existing parcel reduced in size by the adjustment is not reduced below the minimum lot size established by any applicable zoning requirement.

**Partitioning plat** means and includes a final map and other writing containing all the descriptions, locations, specifications, provisions, and information concerning a partition.

**Pedestrian way** means a right-of-way for pedestrian traffic.

**Planning Commission** means the Planning Commission of the City of Manzanita.

**Plat** means the final map, diagram, drawing, replat, and other writing containing the description, location, specifications, dedications, provisions, and other information concerning a subdivision, replat, or partition plat.

**Property line** means the division line between two units of land.

**Property boundary adjustment** means the relocation of a common property line between two abutting properties.

**Replat** means the act of platting the lots, parcels, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

**Right-of-way** means the area between boundary lines of a street or dedicated easement.

**Roadway** means the portion or portions of a street right-of-way developed for vehicle traffic.

**Sidewalk** means a pedestrian walkway with permanent surfacing.

**Street** means the entire width between the boundary lines of a public way provided for vehicular and pedestrian traffic, and the placement of utilities and including road, highway, lane, place, avenue, alley, or similar designations.

- (1) **Alley** means a narrow street through a block primarily for access by service vehicles to the back or side of properties that front another street.
- (2) **Arterial** means a street of considerable continuity which is primarily for intercommunication 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; used partly by through traffic and partly for access to abutting properties.
- (4) **Cul-de-sac (dead-end street)** means a short street with one end open to traffic and the other terminated by a vehicle turn-around.
- (5) **Half-street** means a portion of the width of a street, usually along the edge of a subdivision where a future subdivision or development provides the remaining portion of the street.
- (6) **Marginal access street** means a minor street parallel and adjacent to a major arterial street providing access to abutting properties but protected from through traffic. Also known as a frontage road.
- (7) **Minor street** means a street intended primarily for access to abutting properties.

**Subdivide land** means to divide land into four or more lots within a calendar year.

**Subdivision** means either an act of subdividing land of an area or a tract of land subdivided.

**Subdivision plat** means and includes a final map and other writing containing all the descriptions, locations, specifications, dedications, provisions, and information concerning a subdivision.

### **1.100 Fees.**

- (A) The City shall charge a fee for the review of the tentative and final plans as required by this Ordinance. The City Council shall establish fees by Council resolution.
- (B) The above-mentioned fees shall be in addition to any required State or County fees and/or charges.

## Article 2 LOTS AND PARCELS.

### Sections:

#### 2.010 Design Standards.

##### 2.010 Design Standards.

The following standards shall apply to both proposed Partitions and Subdivisions.

- (A) Minimum Area. Minimum lot or parcel area shall conform to the requirements of the zoning district in which the parcel is located. Where the slope of the ground exceeds 10% in any direction for more than 60% of the buildable area of a lot or parcel, the area shall increase according to the following table:

11 to 15% slope	Minimum area plus 20%
16 to 20% slope	Minimum area plus 50%
21 to 25% slope	Minimum area plus 100%
Over 25% slope	Minimum area plus 200%

- (B) Access.

- (1) All new residential lots or parcels shall provide a minimum of 20-feet of frontage on an existing or proposed public street, or 25-feet of frontage along a cul-de-sac. A private street or private access easement may access a residential lot or parcel when developed in accordance with the provisions of Section 3.020 when it is determined that a public street access is:
- (a) Infeasible due to parcel shape, terrain, or location of existing structures; and
  - (b) Unnecessary to provide for the future development of adjoining property.
- (2) All new lots or parcels for commercial, industrial, or public uses must provide, at a minimum, street frontage wide enough for a driveway. Alternatively, a commercial, industrial, or public property may use a private street or private access easement when in compliance with items (a) and (b) in subsection (B)(1) above.

- (C) Flag Lots. A flag lot shall be subject to the following development standards:

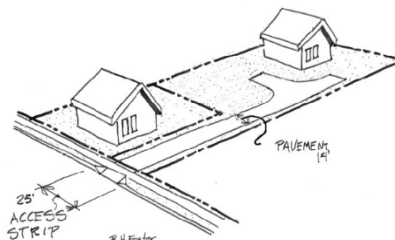


Figure 1 - Flag Lot Access

- (1) The access strip shall be a minimum of 20-feet in width. The improved surface shall be a minimum of 14-feet in width.
  - (2) If the length of the access strip exceeds 150-feet, the parcel or lot shall include a turn-around area per local Fire District requirements.
  - (3) The lot area calculation shall not include the access strip.
- (D) Residential Through Lots. The layout shall avoid through lots except where essential to provide separation of residential development from traffic arteries, adjacent non-residential activities, or to overcome specific disadvantages of topography.
- (E) Lot/Parcel Side Lines. The side lines of lots, as far as practicable, shall run at right angles to the public street, private street, or private access easement upon which the lot or parcel faces.
- (F) Utility Easements. Where necessary to accommodate public utilities, the lot or parcel shall include an easement within the easement width conforming to the applicable public and/or private utility standards.
- (G) Lot Averaging. All lots must meet the minimum lot size requirements of the zone; lot averaging is prohibited.

## Article 3 STREET STANDARDS

### Sections

#### 3.010 Street Design Standards.

#### 3.020 Private Streets and Easements.

#### 3.030 Improvements Required.

#### 3.010 Street Design Standards

##### (A) General Provisions for Public Streets.

- (1) General. The location, width, and grade of streets shall relate to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land served by the proposed streets. Where the Comprehensive Plan does not show the arrangement of streets, the street system shall either:
  - (a) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  - (b) Conform to an adopted neighborhood plan to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
- (2) Minimum Right-of-Way and Roadway Widths. The width of streets and roadways shall be adequate to fulfill City Public Works specifications of this Ordinance and, unless otherwise indicated in the Comprehensive Plan, shall not be less than the minimum widths in feet shown in the following table:

	Applicability	Right of Way	Travel Lanes	Min. Lane Width	Center Turn Lane	On-street Parking	Bike Facility	Sidewalk	Planter/ Buffer (one side)
<u>Major Collector</u>	<u>See Map 6 in TSP</u>	<u>58 feet</u>	<u>2</u>	<u>11 feet</u>	<u>n/a</u>	<u>8 feet</u>	<u>n/a</u>	<u>6 feet</u>	<u>n/a</u>
<u>Minor Collector</u>	<u>See Map 6 in TSP</u>	<u>40 feet</u>	<u>2</u>	<u>10 feet</u>	<u>n/a</u>	<u>8 feet</u>	<u>12 feet<sup>2</sup> (one side)</u>		<u>2 feet</u>
<u>Local</u>	<u>See Map 6 in TSP</u>	<u>40 feet</u>	<u>1</u>	<u>20 feet</u>	<u>n/a</u>	<u>8 ft</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
<u>Local with Sharrows</u>	<u>See Figure 12 in TSP</u>	<u>40 feet</u>	<u>1</u>	<u>20 feet</u>	<u>n/a</u>	<u>8ft</u>	<u>Sharrows</u>	<u>n/a</u>	<u>n/a</u>
<u>Local with Advisory Bike Lane</u>	<u>See Figure 12 in TSP</u>	<u>40 feet</u>	<u>1</u>	<u>10 feet</u>	<u>n/a</u>	<u>n/a</u>	<u>6 feet Advisory Bike Lanes</u>	<u>n/a</u>	<u>n/a</u>

- (3) Alignment. As far as practical, streets other than minor streets shall align with existing streets by continuations of the center lines. Staggered street alignment resulting in "T" intersections shall, wherever practical, leave a minimum distance of 200-feet between the center lines of streets having the same direction and shall not be less than 125-feet.
- (4) Future Extension of Streets. Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, the street layout shall extend streets to the boundary of the subdivision. In addition, the City may approve a resulting dead-end street without a turn-around.
- (5) Intersection Angles.
  - (a) Street intersection angles shall be as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 degrees unless there is a special intersection design approved by Public Works.
  - (b) The intersection of an arterial or collector street with another street shall have at least 100-foot tangent adjacent to the intersection unless topography requires a lesser distance.
  - (c) Other streets, except alleys, shall have at least 50-foot tangent adjacent to the intersection unless topography requires a lesser distance.
  - (d) Intersections which contain an acute angle of less than 80 degrees, or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway radius of 20-feet and maintain a uniform width between the roadway and the right-of-way line.
- (6) Existing Streets. Whenever existing streets adjacent to, or within a tract, are inadequate width, the proposed development shall provide additional right-of-way where feasible.
- (7) Half-Streets. The development may include half-streets where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the City finds it will be practical to require the dedication of the other half when development occurs on the adjoining property.
- (8) Cul-de-Sacs. The use of cul-de-sacs is permitted only where no other design alternative exists. When allowed, a cul-de-sac shall have a maximum length of 400-feet, serve no more than 18-dwelling units, and shall terminate with a turn-around.
- (9) Street Names. Except for extensions of existing streets, a proposed street name shall not duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the City.
- (10) Grades and Curves.
  - (a) Grades shall not exceed six percent on arterials, 10% on collector streets, or 12% on any other street.
  - (b) Center line radii of curves shall not be less than 300-feet on major arterials, 200-feet on secondary arterials, or 100-feet on other streets, and shall be to an even 10-feet.



- (c) Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the City may accept steeper grades and sharper curves.
  - (11) Marginal Access Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the City may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a nonaccess reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (B) Construction Specifications. Construction specifications for all public streets shall comply with the standards of the most recently adopted public works/street standards of the City of Manzanita.

### **3.020 Private Streets and Easements.**

- (A) Private Streets.
- (1) A private street may serve no more than six, lots or parcels. These standards shall also apply if at least three, and no more than six, parcels may be created through a series of separate partitions.
  - (2) Construction Standards. Private streets shall be subject to the following construction standards:
    - (a) Width. Private streets shall have a minimum easement width of 25-feet and a minimum paved surface width of 20-feet. Paving shall be either asphalt or concrete.
    - (b) Construction Standards. All private streets shall be constructed to the same cross-sectional specifications required for public streets and shall include provisions for adequate drainage in conformance with Public Works Standards.
    - (c) On-Street Parking. Private streets shall provide one on-street parking space per lot or parcel. The parking spaces may be located along the private street, designed as a “parking pocket,” or a combination of both. The provision for on-street parking may require a wider private street easement.
    - (d) Public Dedication. Any private street designed, or has the potential capacity, as a collector or an arterial street shall be dedicated as a public right-of-way.
    - (e) Private streets shall be named in conformance with the street name and numbering pattern established in the City.
  - (3) Private streets shall not connect two existing public streets. Such a connection shall require the dedication of a public street.
  - (4) Provision for the maintenance of a private street shall require a maintenance agreement, homeowner’s association, or similar instruments acceptable to the City. The applicable document shall be recorded against the deed record of each lot or parcel, and if appropriate, placed on the final plat.

- (5) A private street, which is the sole access, shall include a turn-around when the street is either more than 150-feet in length or which serves more than two dwellings. Turn-arounds shall comply with the design provisions of the local Fire District.
- (B) Private Access Easement. A private access easement created as the result of an approved land division shall conform to the following:
  - (1) No more than two lots or parcels shall have their sole access to the easement. Easements serving more than two lots or parcels shall comply with provisions for a private street in (A), above.
  - (2) The minimum easement width shall be 20-feet with a minimum paved width of 16-feet.
  - (3) The surface width noted in item (2) above shall be improved with either asphalt or concrete for the entire length of the access easement.
  - (4) A private access easement, which is the sole access, shall include a turn-around when the easement exceeds 150-feet in length or serves more than one lot or parcel. Turn-arounds shall comply with the design provisions of the Fire District. In no case shall the easement length exceed 200-feet.
  - (5) All private access easements shall be designated fire lanes and signed for "no parking."
  - (6) Provision for the maintenance of an improved private access easement shall be provided in the form of a maintenance agreement, homeowner's association, or similar instrument acceptable to the City. The applicable document shall be recorded against the deed record of each parcel, and if appropriate, placed on the final partitioning plat.
- (C) Lots and Parcels Served by Private Streets or Easements. The following shall apply to all lots and parcels that are accessed by either a private street or private access easement:
  - (1) Lot and Parcel Size. The easement containing the private street or access easement shall be excluded from the lot or parcel size calculation.
  - (2) Setbacks. The line fronting along a private street or access easement shall be considered a property line with all subsequent setbacks measured from this easement line.
  - (3) Lot Depth and Width. Where required by the underlying zone, the lot width shall be measured along the easement boundary and the lot depth shall be measured from the easement boundary to the rear lot line.

### **3.030 Improvements Required**

- (A) Generally. Except as otherwise provided, land divisions subject to this Ordinance containing, or abutting, an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way on the final plat, or prior to the issuance of building permits. Right-of-way requirements are based on functional classification of the street network as established in the Transportation System Plan.

- (B) Existing Streets. Except as otherwise provided, when a development abuts an existing street, the improvements requirement shall apply to that portion of the street right-of-way located between the centerline of the right-of-way and the property line of the lot proposed for development. In no event shall a required street improvement for an existing street exceed a pavement width of 30-feet.
- (C) Proposed Streets
- (1) Except as otherwise provided, when a development includes or abuts a proposed street, in no event shall the required street improvement exceed a pavement width of forty (40) feet.
  - (2) Half Streets: When a half street is created, a minimum of 22 feet of driving surface shall be provided by the developer.
- (D) Extent of Improvements
- (1) Streets required pursuant to this Chapter shall be dedicated and improved in compliance with the Transportation System Plan and applicable City specifications included in the City of Manzanita Ordinance 91-2 Creating Street Improvement Standards. Improvements shall also include any bikeways designated on the Transportation System Plan map. An applicant may be required to dedicate land for required public improvements only when the exaction is directly related to and roughly proportional to the impact of the development.
  - (2) If the applicant is required to provide street improvements, the City Manager may accept future improvements guarantee in lieu of street improvements if one or more of the following conditions exist, as determined by the City:
    - (a) A partial improvement is not feasible due to the inability to achieve proper design standards;
    - (b) A partial improvement may create a potential safety hazard to motorists or pedestrians.
    - (c) Due to the nature of existing development on adjacent properties it is unlikely that street improvements would extend in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;
    - (d) The improvement would conflict with an adopted capital improvement plan;
    - (e) The improvement is associated with an approved land partition on property zoned residential use and the proposed land partition does not create any new streets; or
    - (f) Additional planning work is required to define the appropriate design standards for the street and the application is for a project that would contribute only a minor portion of the anticipated future traffic on the street.
- (E) Transportation Facilities Modifications
- (1) A modification to a standard contained within this Article and the standard

cross sections contained in Chapter 3 of the adopted TSP may be granted in accordance with the procedures and criteria set out in this section.

- (2) A modification request concerns a deviation from the general design standards for public facilities, in this Article or Chapter 3 in the adopted Transportation System Plan. The standards that may be modified include but are not limited to:
  - (a) Reduced sight distances.
  - (b) Vertical alignment.
  - (c) Horizontal alignment.
  - (d) Geometric design (length, width, bulb radius, etc.).
  - (e) Design speed.
  - (f) Crossroads.
  - (g) Access policy.
  - (h) A proposed alternative design which provides a plan superior to these standards.
  - (i) Low impact development
  - (j) Access Management Plans

(F) Modification Procedure

- (1) A modification must be proposed with the application for land use approval.
- (2) A modification is a Type II application and processed in conjunction with the underlying development proposal.
- (3) When a modification is requested to provide a green street element that is not included in the Engineering Design Manual, the modification process will apply, but the modification fee will be waived.

(G) Criteria for Modification. Modifications may be granted for street improvements when any one of criteria are met:

- (1) Consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors to advance the goals of the adopted Manzanita Comprehensive Plan and Transportation System Plan as a whole. Any modification shall be the minimum necessary to alleviate the hardship or disproportional impact.
- (2) Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the applicant, and an equivalent alternative which can accomplish the same design purpose is available.
- (3) A minor change to a specification or standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship. Self-imposed hardships shall not be used as a reason to grant a modification request.
- (4) An alternative design is proposed which will provide a plan equal to or superior to the existing street standards.
- (5) Application of the standards of this chapter to the development would not be roughly proportional to the impacts created by the development.

## Article 4 PROPERTY BOUNDARY ADJUSTMENTS

### Sections:

#### 4.010 Adjustments Provisions.

##### 4.010 Adjustment Provisions.

- (A) Purpose. A property boundary adjustment is a change to a property boundary that only modifies existing lots or parcels and does not create a new lot or parcel. A property boundary adjustment is also the elimination of a property boundary line that converts two properties into one.
- (B) Review Process. A property boundary adjustment is subject to review and decision by City staff as a Type I application (Section 7.010).
- (C) Submittal Requirements. The applicant(s) must submit the following information and material:
  - (1) Applications for a property boundary adjustment shall be submitted on forms provided by the City and accompanied by the appropriate fee. The owners of all property affected by the request must sign the application:
  - (2) The application shall include the following information:
    - (a) Copies of the officially recorded Ordinance transfer instrument (deed, warranty deed, or contract) that shows the legal description for the affected parcels.
    - (b) Copies of the County Assessor's maps for both properties.
    - (c) A written statement explaining the purpose for the property boundary adjustment and demonstrating that the request conforms to City land use regulations of the applicable zone, such as lot size and setbacks for existing buildings.
    - (d) The applicant(s) shall certify in writing that the application does not violate any deed restrictions attached to, or imposed upon, the subject properties.
- (D) Review Criteria. Approval or denial of a property boundary adjustment shall be based on the following criteria:
  - (1) A property boundary adjustment cannot create a parcel; creation of a parcel requires approval of a land division.
  - (2) Following the property boundary adjustment, all lots or parcels must comply with lot size and dimensional standards of the applicable land use district. For nonconforming lots, the adjustment shall not increase the degree of nonconformance of the subject property.
  - (3) The adjustment shall not result in a setback violation for existing structures.

- (E) Completion of a Property Boundary Adjustment. After approval of a property boundary adjustment, the new boundary becomes effective only after completion of the following steps:
- (1) Recording of the metes and bounds legal descriptions of the adjusted properties with the Tillamook County Clerk.
  - (2) If required by ORS Article 92, a final map and boundary survey are prepared, and all new boundaries are monumented as required by ORS Articles 92 and 209. If so required, the applicant(s) shall submit a final map to the City for approval and signature prior to recording the document in the County Clerk's office. The applicant(s) shall return a copy of the recorded document to the City.

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## Article 5 PARTITIONS

### Sections

#### **5.010 Application and Review.**

#### **5.020 Improvement Requirements and Final Plat.**

#### **5.010 Application and Review.**

- (A) Purpose. A partition is a land division that creates two or three parcels within a calendar year.
- (B) Review Process. A partition is subject to review and decision by City staff as a Type II application (Section 7.020).
- (C) Submittal Requirements. The following provisions shall apply to the submittal of a partition application:
  - (1) Application Process. Applications for partitions shall be submitted on forms provided by the City and accompanied by the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Article.
  - (2) Submittal Requirements. Each application shall be accompanied by a preliminary partition plat drawn to scale of not less than one-inch equals 50-feet, nor more than one-inch equals 200-feet, and containing at a minimum, the following:
    - (a) Appropriate identification stating the drawing is a preliminary plan.
    - (b) North point, scale, and date.
    - (c) Name and addresses of landowner, applicant, engineer, surveyor, planner, architect, or other individuals responsible for the plan.
    - (d) Map number and tax lot or tax account number of subject property.
    - (e) The boundary lines and approximate area of the subject property.
    - (f) Dimensions and size in square feet of all proposed parcels.
    - (g) The approximate location of existing streets, easements, or rights-of-way adjacent to, or within, the subject property, and existing improvements on the property.
  - (3) The City Manager may waive some of the requirements in item (2) above, provided there is sufficient information to process the application.
- (D) Decision Criteria. Approval of a partitioning shall require compliance with the following:
  - (1) Each parcel shall satisfy the dimensional standards of applicable zone unless the Planning Commission approves a variance to the standards.
  - (2) Each parcel shall meet the general design standards of Article 2.
  - (3) The partition shall not reduce setbacks for existing structures unless the Planning Commission approves a variance from these standards.
  - (4) Adequate public facilities shall be available to serve the existing and newly created parcels.

## **5.020 Improvement Requirements and Final Plat.**

- (A) Improvement Requirements. During the review of Partition proposals, the City shall require, as a condition of approval, the following improvements:
- (1) Street Improvements.
    - (a) Consistent with the adopted transportation plans, the final plat shall dedicate sufficient land establishing the appropriate right-of-way width.
    - (b) Improvement requirements shall comply with provisions in MLDO Section 3.030.
  - (2) Public Facilities. In addition to street improvements, necessary public facilities – water, sanitary sewer, storm lines - shall extend to the property and available for connection.
  - (3) Connection Fees. In the circumstance where existing improved streets, sanitary sewer, water, and/or storm lines are adjacent to or within the project, a connection charge is required in accordance with the City's adopted Connection Charges ordinance.
  - (4) Completion Requirements. All required improvements shall be completed prior to recording the final partition plat and the issuance of any building permits for the subject property. Alternatively, improvements required under this Section may be assured through a performance bond or other instrument acceptable to the City prior to the approval of the final plat of the Partition.
- (B) Improvement Procedures. In addition to other requirements, improvements installed by a developer shall conform to the requirements of this Article and improvement standards and specifications adopted by the City, and installed in accordance with the following procedure:
- (1) Plan Review. Improvement work shall not commence until plans are checked for adequacy and approved by the City Engineer. Plans shall be prepared in accordance with requirements of the City Public Works Department.
  - (2) Notification. Improvement work shall not commence until the City Public Works Department has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City Public Works Department has been notified.
  - (3) Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and the Director of Public Works. The City Engineer or Public Works Department may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.
  - (4) Underground Facilities. All underground utilities, sanitary sewers, and storm drains installed in streets by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the



necessity for disturbing the street improvements when service connections are made.

- (5) Final Engineering Plans. Upon completion of the public improvements and prior to final acceptance of the improvements by the City Engineer, the developer shall provide certified as-built drawings of all public utility improvements to the City Public Works Department. The as-built drawings shall be submitted to the City Engineer by the developer's engineer.
  - (6) Sanitary Sewer Exception. Procedures (1) to (5) above shall apply to the installation of sanitary sewer service except that Nehalem Bay Wastewater Agency is the reviewing agency.
- (C) Process for Final Plat Approval. The following provisions shall apply to the approval of any final partitioning plat:
- (1) Survey. Within two years of the final decision approving a preliminary plat, the applicant shall record the final survey of the approved plat. The preliminary approval shall lapse if not recorded within two years.
  - (2) Final Approval. If the partition plat is consistent with the approved preliminary plat, and if the conditions of approval have been satisfied, the City Manager or designee shall sign the final plat.
  - (3) Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred, or assigned until the recording of the final approved plat with the County Recorder and returning a copy of the record plat to the City. The applicant shall be responsible for all recording fees.

## Article 6 SUBDIVISIONS

### Sections:

#### **6.010 Application and Review Process.**

#### **6.020 Subdivision Design Requirements.**

#### **6.030 Improvement Requirements and Final Plat.**

#### **6.010 Application and Review Process.**

- (A) Purpose. A subdivision is the process of dividing land into four or more lots within a calendar year.
- (B) Review Process. A subdivision is subject to review and decision by City staff as a Type II application (Section 7.020).
- (C) Submittal Requirements. The following submittal requirements shall apply to all preliminary plan applications for subdivisions and planned unit developments.
- (1) All applications shall be submitted on forms provided by the City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application that addresses the review criteria of this Article.
  - (2) Submittal Requirements. Each application shall be accompanied by a preliminary plat drawn to scale of not less than one-inch equals 50-feet, nor more than one-inch equals 200-feet, and containing at a minimum, the following:
    - (a) Appropriate identification stating the drawing is a preliminary plan.
    - (b) Proposed name of the subdivision.
    - (c) North point, scale, and date.
    - (d) Vicinity sketch showing location of the proposed land division.
    - (e) Name and addresses of landowner, applicant, engineer, surveyor, planner, architect, or other individuals responsible for the plan.
    - (f) Map number and tax lot or tax account number of subject property.
    - (g) The boundary lines and approximate area of the subject property along with gross acreage.
    - (h) The approximate location of existing streets, easements, or rights-of-way adjacent to, or within, the subject property, and existing improvements on the property.
    - (i) Contour lines at two-foot intervals if 10% slope or less, five-foot intervals if exceeding 10% slope, and a statement of the source of contour information.
    - (j) Dimensions and size in square feet of all proposed lots.
    - (k) Identification of each lot by number.
    - (l) Preliminary information on connection location to existing water, sanitary sewer, and storm water facilities.
    - (m) Direction of drainage and approximate grade of abutting streets.
    - (n) Streets proposed and their names, approximate grade, and radius of curves.

- (o) Any other legal access to the subdivision other than a public street.
  - (p) All areas offered for public dedication.
- (D) **Subdivision Review Criteria.** Approval of a subdivision shall require compliance with the following:
  - (1) Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless the Planning Commission approves a variance from these standards.
  - (2) Adequate public facilities shall be available to serve the existing and newly created lots.
  - (3) The proposed subdivision complies with the design and layout standards in Section 6.020.
- (E) **Phased Development.**
  - (1) Schedule. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time for any phase be greater than two years without reapplying for a tentative plat, and all phases of the subdivision shall be platted within 10 years of the original date of the final decision.
  - (2) Criteria. The criteria for approving a phased subdivision (in addition to all standard subdivision criteria) review proposal are:
    - (a) The public facilities shall be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;
    - (b) The development and occupancy of any phase shall not be dependent on the use of temporary public facilities.
      - (i) For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable City or district standard; and
      - (ii) The phased development shall not result in requiring the City or other property owners to construct public facilities as a part of the approval of the preliminary plat.

#### **6.020 Subdivision Design Requirements.**

- (A) All lots shall comply with applicable design standards in Article 2.
- (B) In addition, the subdivision shall comply with the following layout design standards, where applicable.
  - (1) General. The length, width, and shape of blocks shall provide adequate building sites for the use contemplated; consideration of needs for convenient access, circulation, control, and safety of street traffic - including pedestrian and bicyclist - and recognition of limitations and opportunities of topography.
  - (2) Street. The street system shall comply with applicable public and private street standards in Article 3, including required improvements.

- (3) Block length and access spacing. Proposed block length and access spacing shall extend the existing grid pattern where present. A grid pattern shall be established for new development.

Functional Class	Maximum Block Length	Minimum Block Length and Width	Minimum Driveway Spacing	Minimum Intersection Set Back
Arterial	1,000 feet	100 feet	100 feet	150 feet
Collector	500 feet	100 feet	75 feet	75 feet
Residential	500 feet	100 feet	None	feet

- (4) Access and Spacing for Highway 101. Access and spacing standards for Highway 101 within the City and arterials shall conform to the current Oregon Highway Plan (OHP) access management spacing standards for highways, as indicated below.

Roadway	Speed Limit	Spacing Standard (urban)
U.S. 101	55 or higher	1,320 feet
	50	1,100 feet
	40 & 45	800 feet
	30 & 35	500 feet
	25 & lower	350 feet

- (5) Traffic Circulation. The subdivision layout shall provide safe, convenient, and direct vehicles, bicycle, and pedestrian access to nearby residential areas; neighborhood activity centers (e.g., schools and parks); shopping areas; and employment centers; and provide safe, convenient, and direct traffic circulation. At a minimum, “nearby” means the distance from the subdivision boundary – quarter mile for pedestrians and one mile for bicyclists.
- (6) Connectivity. To achieve the objective in item (4) above, the City shall require the following:
- (a) Stub-End Streets: Where the potential exists for additional residential development on adjacent property.
  - (b) Accessways: Public accessways to provide a safe, efficient, and direct connection to cul-de-sac streets, to pass through oddly shaped or blocks longer than 600-feet, to provide for public paths accessing nearby residential areas, neighborhood activity centers (e.g., schools and parks); shopping areas; and employment centers.

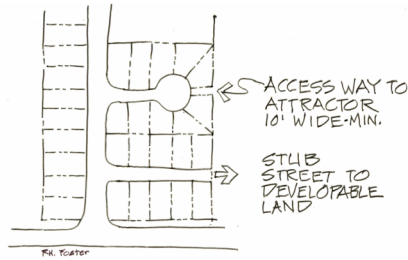


Figure 2 - Connectivity

- (7) Design Standards for Accessways. Pedestrian/bicycle accessways at the ends of cul-de-sacs shall meet the following design standards:
  - (a) Minimum dedicated width: 10-feet
  - (b) Minimum improved width: 8-feet
  - (c) The accessway shall be designed to prohibit vehicle traffic.
- (8) Collector and Arterial Connections. Accessway, bikeway, or sidewalk connections with adjoining arterial and collector streets shall be provided if any portion of the site's arterial or collector street frontage is over 600-feet from either a subdivision access street or other accessway. The accessway placement may be modified or eliminated if natural features (e.g., adverse topography, streams, wetlands) preclude such a connection.

#### **6.030 Improvement Requirements and Final Plat.**

- (A) Improvements and Bonding. Before the City certifies approval of the final plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision; or execute and file with the City an agreement between specifying the period for the completion of the required improvements and repairs.
  - (1) Bonding. The subdivider shall file a financial instrument with the agreement to assure installation of the necessary improvements. The agreement shall provide that if the work is not completed within the specified period, the City may complete the work and recover the full cost and expense thereof from the subdivider. The agreement may provide for the construction of the improvements in units and for an extension of time under specified conditions. The amount shall be a sum determined by the City Engineer as sufficient to cover the cost of the improvements and repairs, including related City expenses. In no case shall bonding exceed ten percent of the total construction costs of the subdivision as determined by the City Engineer. The financial instrument may include one of the following:
    - (a) A surety bond executed by a surety company authorized to transact business in the state of Oregon on a form approved by the City Attorney.
    - (b) A personal bond cosigned by at least one additional person, together with evidence of financial responsibility and resources of those

signing the bond sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement.

(c) Cash.

- (2) Liability. If the subdivider fails to comply with provisions of the agreement, and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expenses incurred by the City, the City shall release the remainder. If the amount of the bond or cash deposit is less than the cost and expense incurred by the City, the subdivider shall be liable to the City for the difference.

(B) Improvement Requirements. The following improvements shall apply:

- (1) Frontage Improvements. The City shall require half-street improvements designed to the City's Engineering Standards for all public streets on which a proposed Subdivision fronts. Improvements shall include sidewalks, curbing, storm sewer, sanitary sewer, water lines, and such other improvements necessary to serve the development or the immediate neighborhood.
- (2) Project Streets. Public or private streets within the subdivision shall comply with City Engineering Standards.
- (3) Water System. The Subdivision shall install water lines with valves and fire hydrants serving the Subdivision and connecting to the City mains in conformance with the Engineering Design Standards. The design shall consider provisions for extension beyond the Subdivision to adequately grid the City system and to serve the area within which the development is located when the area is fully developed. However, the City will not expect the developer to pay for the extra cost of mains exceeding eight inches in size.
- (4) Surface Drainage and Storm Sewer System. The Subdivision shall include drainage facilities within the Subdivision and connect to drainageways or to storm sewers outside the Subdivision. Design of drainage within the Subdivision shall be constructed in accordance with the Engineering Design Standards.
- (5) Sanitary Sewers. The Subdivision shall include sanitary sewer serving the Subdivision and connecting to existing mains both on and off the property being subdivided conforming to applicable design standards of the Nehalem Bay Wastewater Agency. The Agency may require that the developer construct sewage lines of a size exceeding that necessary to adequately service the development in question, where such facilities are or will be necessary to serve the entire area within which the development is located when the area is fully developed.
- (6) Sidewalks. Sidewalks shall be installed along both sides of each public street and in any pedestrian walkways within the Subdivision. This improvement may be deferred until prior to the occupancy of a dwelling.
- (7) Streetlights. The installation of streetlights at required locations and complying with City standards.

- (8) Street Signs. The installation of street name signs and traffic control signs is required at locations determined to be appropriate by the City and shall comply with City standards.
  - (9) Curb Cuts. Curb cut and driveway installations are not required at the time of development, but if installed, it shall be according to the City standards.
  - (10) Completion of Improvements. All improvements required under this Article shall be completed to City standards or assured through a performance bond or other instrument acceptable to the City Attorney, prior to the approval of the Final Plat of the Subdivision. In no case shall the bond exceed 5% of the remaining project improvements as determined by the City Engineer.
- (C) Improvement Procedures. In addition to other requirements, improvements installed by a developer shall conform to the requirements of this Article and improvement standards and specifications adopted by the City, and shall be installed in accordance with the following procedure:
- (1) Plan Review. Improvement work shall not commence until plans have been checked for adequacy and approved by the City Engineer. Plans shall be prepared in accordance with requirements of the City Public Works Department.
  - (2) Notification. Improvement work shall not commence until the City Public Works Department has been notified in advance; and, if work has been discontinued for any reason, it shall not be resumed until the City Public Works Department has been notified.
  - (3) Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City Engineer and the Director of Public Works. The City Engineer or Public Works Department may require changes in typical sections and details in the public interest, if unusual conditions arise during construction to warrant the change.
  - (4) Underground Facilities. All underground utilities, sanitary sewers, and storm drains installed in streets by the developer shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to a length eliminating the necessity for disturbing the street improvements when service connections are made.
  - (5) Final Engineering Plans. Upon completion of the public improvements and prior to final acceptance of the improvements by the City Engineer, the developer shall provide certified as-built drawings of all public utility improvements to the City Public Works Department. The as-built drawings shall be submitted to the City Engineer by the developer's engineer.
  - (6) Sanitary Sewer Exception. Procedures (1) to (5) above shall apply to the installation of sanitary sewer service except that the Nehalem Bay Wastewater Agency is the reviewing agency.

(D) Form of Final Subdivision.

- (1) Final Plat Requirements. The final plat shall be prepared in a form and with information consistent with ORS 92.010 through 92.160 and approved by the County Surveyor.
- (2) Owners Association. *Where applicable*, the City Attorney shall review all owners' agreements, articles, and by-laws concurrently with the final plat.
  - (a) The City shall not approve the final plat, until the City Attorney approves the owner's association agreement, articles, and by-laws.
  - (b) A certificate of formation of a non-profit corporation, with a state seal, for the owner's association, shall be submitted with the final plat.
  - (c) Signed, original documents of the owner's association agreement, articles and by-laws and the certificate of formation described in subsection (B)(3) above, shall be recorded with the final plat.
- (3) Subdivision Names. All plat names shall conform to ORS 92.090 and be approved by the County Surveyor.

(E) Final Plat Review of Subdivisions.

- (1) Final Review. If the City Engineer determines that the final plat conforms fully with all applicable regulations and standards, the City Engineer shall advise the City Manager. If the final plat complies with the preliminary plan and applicable regulations and standards, the City Manager shall sign the plat.
- (2) Filing the Final Plat. The final subdivision plat shall be filed with the Tillamook County Clerk's Office and a copy of the final recorded document shall be returned to the City Recorder.
- (3) Time Limit. Approval of any preliminary plans for a subdivision shall be valid for two years after the date of the final decision. A Final Plat shall be recorded within this period, or the approval shall lapse.
- (4) Time Extension. The City may extend the approval period for any subdivision for not more than one additional year. An applicant must submit a written request for an extension of approval time 30-days prior to the expiration date of the approval.
- (5) Reapplication Required. If the approval period lapses, the applicant must resubmit the proposal, including all applicable fees and the applicant will be subject to all applicable standards currently in effect.



## Article 7 APPLICATION AND REVIEW PROCEDURES

### Sections

#### **7.010 Procedure for Type I Action.**

#### **7.020 Procedure for Type II Action.**

#### **7.030 Procedure for Appeals.**

#### **7.040 Conditions of Approval – Type I and Type II Applications.**

#### **7.010 Procedure for Type I Action.**

- (A) Decision Authority. Applications subject to a Type I review shall be reviewed and decided by the City Manager.
- (B) Application. Upon receipt of an application for Type I land use action, the City shall review the application for completeness.
  - 1. If determined to be complete, the 120-day time period shall begin.
  - 2. If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit the necessary supplemental information.
  - 3. An applicant may request additional time to submit the requested information. The City will not process the application if an applicant fails to submit the information within 180 days, and the applicant shall forfeit all applications fees.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
  - 1. Upon receipt of the requested acceptable additional information; or refusal by the applicant to submit the requested information;
  - 2. On the 31st day after the original application submittal.
- (D) Decision. The City Manager shall review the application and shall render a decision based on an evaluation of the proposal and on applicable clear and objective standards contained in this Ordinance. Notice of the decision shall only be sent to the applicant(s).
- (E) Appeals. A Type I land use decision may be appealed to the Planning Commission. The appeal shall be submitted within 14 days of the date the decision is mailed. The appeal process shall follow the procedures in Section 7.030.

#### **7.020 Procedure for Type II Action.**

- (A) Decision Authority. Applications subject to a Type II procedure shall be reviewed and decided by the City Manager.
- (B) Application. Upon receipt of an application for Type II land use action, the City staff shall review the application for completeness.
  - 1. If determined to be complete, the 120-day time period shall begin.

2. If determined to be incomplete, the applicant shall be notified and provided an additional 30 days to submit the necessary supplemental information.
  3. An applicant may request additional time to submit supplemental information up to 180-days from submittal date of the application. The City will not process the application if an applicant fails to submit the information within 180 days, and the applicant shall forfeit all applications fees.
- (C) Completeness. The application shall be deemed complete for the purposes of scheduling and all related timing provisions either:
1. Upon receipt of the requested acceptable additional information; or refusal by the applicant to submit the requested information;
  2. On the 31st day after the original application submittal.
- (D) Hearing Option. The applicant has the option to request a public hearing before the Planning Commission. The procedures for notice and conducting the public hearing shall comply with the standards in Ordinance 95-4, Article 10.
- (E) Application Notice. Before making a Type II decision, the City shall mail notice of the application to:
1. All owners of record of real property within 100-feet of the subject site for a partition and 300-feet for a subdivision.
  2. Any person who submits a written request to receive a notice.
  3. Any governmental agency that is entitled to notice under an intergovernmental agreement or required by State statute.
  4. The road authority when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of decision for the application.
  5. The City may notify other affected agencies, as appropriate, for review of the application.
- (F) Notice Information. The notice of a pending Type II decision in item (E) above shall include the following:
1. Identify the applicant, specific land use decisions or decisions requested.
  2. Describe the street address or other easily understandable reference to the location of the site.
  3. List the relevant decision criteria by name and number of Ordinance sections.
  4. Provide a 14-day period for submitting written comments before a decision is made on the land use application. The City shall only accept written comments either by letter or e-mail.
  5. State the place, date, and time the comments are due, and the person to whom the comments should be addressed.
  6. Include the name and telephone number of a contact person regarding the Administrative Decision.

7. State that if any person fails to address the relevant decision criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments based on the decision criteria are considered relevant evidence.
  8. State that all evidence relied upon by the City to make this decision is in public records and available for public review. Copies of this evidence can be obtained at a reasonable cost from the City.
  9. State that after the comment period closes, the City shall issue a decision. The decision shall be mailed to the applicant and to anyone who submitted written comments or who is otherwise legally entitled to notice.
- (G) Decision. The City Manager shall review the application and shall render a decision based on an evaluation of the proposal and on applicable criteria contained in this Ordinance. Further, the written decision shall address relevant comments submitted by the parties noticed.
- (H) Notice of Decision. Within five working days after the City decides, a Notice of Decision, including information on appeals, shall be sent by mail to:
1. The applicant and all owners or contract purchasers of record of the site that is the subject of the application.
  2. Any person who submits a written request to receive notice or provides comments during the application review period.
  3. Any governmental agency entitled to notice under an intergovernmental agreement, and other agencies that provided comments during the application review period.
- (I) Appeals. Except as modified by provisions in Article 8, anyone receiving notice of a Type II land use decision may appeal the decision to the Planning Commission. The appeal shall be submitted within 14 days of the date the decision is mailed. The appeal process shall follow the procedures in Section 7.030.

### **7.030 Procedure for Appeals.**

- (A) Commission Hearing and Notice of Appeal. If a Type I or Type II decision is appealed, City staff shall schedule a hearing before the Planning Commission. The Commission hearing shall comply with procedures set forth in Ordinance 95-4, Article 10. Written notice of a public hearing on the appeal shall be mailed only to the applicant and those who received notice of the original decision. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in item 7.020(F), above.
- (B) Commission Action. The Commission action on an appeal shall be in the form of a decision. Within 7 days of the Commission decision, the applicant and all individuals who participated in the public hearing, or requested notice of the decision, shall be mailed written Notice of the Decision. The notice shall specify

the findings justifying the decision to approve or deny the request, any conditions of approval, and appeal procedures.

- (C) Appeals. All appeals of land use decisions by the Planning Commission may be appealed to the City Council. The appeal shall be submitted within 14 days of the date the decision is mailed. Notice requirements shall comply with provisions in Section 7.020(F).
- (D) Council Hearing and Notice of Appeal. If the Commission decision on a Type II decision is appealed, City staff shall schedule a hearing before the City Council. The Council shall conduct the hearing following the procedures set forth in Ordinance 95-4, Article 10. Written notice of a public hearing on the appeal shall be mailed to the applicant and those who received notice of the Commission decision on appeal. This notice shall be mailed at least 10 days prior to the public hearing on the appeal and shall contain the information required in Section 7.020(F).
- (E) Notice of Council Decision. Within 7 days of the final City Council decision, the applicant and those who attended the hearing or requested notice, shall be mailed written notice of the Council decision. The notice shall specify findings justifying the approval or denial of the request and any applicable conditions of approval. A decision by the City Council on a Type II application shall serve as the City's final decision. The decision shall be final on the date that notice of the decision is mailed to all parties who participated in the proceedings.

#### **7.040 Conditions of Approval – Type I and Type II Applications.**

- (A) Authorization for Conditions. Approval of a Type I or Type II action may be granted subject to conditions. Conditions shall be designed to protect public health, safety and general welfare from potential adverse impacts caused by the proposed land use described in an application. Conditions shall either ensure compliance with the standards of this Ordinance or fulfill the need for public service demands created by the proposed use.
- (B) Timing of Conditions. Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City Manager may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions. Bonding shall comply with adopted City regulations and procedures.
- (C) Modify Conditions. A request to change or alter conditions of approval shall be processed as a new Type I or Type II action, as per the original request.

## Article 8 EXPEDITED AND MIDDLE HOUSING LAND DIVISIONS

### Sections:

**8.010 Applicability.**

**8.020 Process.**

**8.030 Submittal Requirements.**

**8.040 Criteria of Approval – Expedited Land Division.**

**8.050 Criteria of Approval – Middle Housing Land Division.**

**8.060 Conditions of Approval - Expedited and Middle Housing Land Division.**

**8.070 Final Plat - Expedited and Middle Housing Land Division.**

**8.080 Appeals.**

### **8.010 Applicability.**

(A) Expedited Land Divisions. An expedited land division may be submitted when it complies with the following:

- (1) Includes only land zoned for residential uses.
- (2) Is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.
- (3) Does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goals that protect open spaces, scenic and historic areas and natural resources.
- (4) Satisfies minimum street or other right-of-way connectivity standards established by Article 3 of this Ordinance.
- (5) Will result in development that either:
  - (a) Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
  - (b) All dwellings will be sold or rented to households with incomes below 120 percent of the median family income for Tillamook County. A copy of a deed restriction or other legal mechanism approved by the City shall be submitted.

(B) Middle Housing Land Divisions.

- (1) A middle housing land division applies to duplexes, triplexes, quadplexes, or cottage developments.
- (2) A middle housing land division may be submitted when the parent site is developed with middle housing, has an active building permit to construct middle housing or the application for a land division must be reviewed concurrently with a building permit application for construction of middle housing.

- (C) Land Use Decision. An expedited land division and middle housing land division as described in this section is not a land use decision or a limited land use decision under ORS [197.015](#).

## **8.020 Process.**

- (A) Completeness. An application for an expedited land division or middle housing land division is subject to the completeness review and 120-day rule requirements except as follows:
- (1) The timeline for the completeness check in Section 7.020(C) is twenty-one days, rather than thirty days.
  - (2) The notice of decision must be provided to the applicant and parties entitled to receive notice under Section 7.020(H) within sixty-three days of a completed application.
- (B) Application Notice. Mailed notice of an application for an expedited land division or middle housing land division must be provided in the same manner as for a Type II decision, as specified Section 7.020(F), to the following persons:
- (1) The applicant.
  - (2) Owners of record of property, as shown on the most recent property tax assessment roll, located within one-hundred feet of the property that is the subject of the notice.
  - (3) Any state agency, other local government, or special district responsible for providing public facilities or services to the development area.
- (C) Decision Notice. A notice of decision must be provided to the applicant and to all parties who received notice of the application. The notice of decision must include:
- (1) A written determination of compliance or non-compliance with the criteria of approval in Section 8.040 for an expedited land division or Section 8.050 for a middle housing land division.
  - (2) An explanation of the right to appeal the community development director's decision to a city-appointed hearings referee, as provided in ORS 197.375.
- (D) Appeal. An appeal must be based solely on one or more of the allegations:
- (1) The decision violates the substantive provisions of the applicable land use regulations;
  - (2) The decision is unconstitutional;
  - (3) The application was not eligible for review under this section, Expedited and Middle Housing Land Divisions, and should be reviewed as a land use decision or limited land use decision.
  - (4) The appellant's substantive rights were substantially prejudiced by a procedural error.

### **8.030 Submittal Requirements.**

- (A) Expedited Land Division Submittal Requirements. An application for an expedited land division must submit the items listed in Section 6.010(C) and a letter or narrative report documenting compliance with the applicable approval criteria contained in Section 8.040 of this Article.
- (B) Middle Housing Land Division Submittal Requirements. An application for a middle housing land division must include the following:
  - (1) Items listed in Section 6.010(C) and a letter or narrative report documenting compliance with the applicable approval criteria contained in Section 8.050.
  - (2) Remodels, additions and alterations to existing buildings and structures require evidence in the form of a written statement provided by a design professional licensed in the State of Oregon and including such professional's stamp/seal and a site plan that demonstrates that all of the buildings and structures on a resulting lot or parcel comply with applicable building code provisions relating to the proposed property lines, and that all of the buildings and structures located on the lots or parcels comply with the Oregon Residential Specialty Code. Any structure built or building permit applied prior to application for a middle housing land division is considered existing for the purpose of this section.
  - (3) A plan showing the following details:
    - (a) Separate utility connections for each dwelling unit.
    - (b) Existing or proposed easements for each dwelling unit.

### **8.040 Criteria of Approval – Expedited Land Division.**

The City Manager will approve or deny an application for expedited land division within sixty-three days of receiving a complete application, based on whether it satisfies the applicable criteria of approval. The City Manager may approve the land division with conditions to ensure the application meets the applicable land use regulations.

- (A) The land subject to the application is within the R-2, R-3, R-4, and S-R/R zones.
- (B) The land will be used solely for residential uses, including recreational or open space uses that are accessory to residential use.
- (C) The land division does not provide for dwellings or accessory buildings located in the Beaches and Dunes Overlay Zone.
- (D) The land division satisfies the minimum public improvement and design standards for development in Article 2 and Article 3.
- (E) The land division satisfies the following development standards contained in Ordinance 95-4:

- (1) Applicable lot dimensional standards;
  - (2) Applicable standards that regulate the physical characteristics of permitted uses, such as building design standards;
  - (3) Applicable standards in this Ordinance for transportation, sewer, water, drainage and other facilities or services necessary for the proposed development, including but not limited to right-of-way standards, facility dimensions and on-site and off-site improvements.
- (F) The land division will result in development that either:
- (1) Creates enough lots to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
  - (2) Will be sold or rented to households with incomes below 120 percent of the median family income for Clackamas County.

**8.050 Criteria of Approval – Middle Housing Land Division.**

The City Manager will approve a tentative plan for middle housing land division based on whether it satisfies the following criteria of approval:

- (A) The application provides for the development of middle housing in compliance with the Oregon residential specialty code and land use regulations applicable to the original lot allowed under ORS 197.758 (5).
- (B) Separate utilities are provided for each dwelling unit.
- (C) The applicant provides easements necessary for each dwelling unit on the plan for:
  - (1) Locating, accessing, replacing, and servicing all utilities;
  - (2) Pedestrian access from each dwelling unit to a private or public road;
  - (3) Any common use areas or shared building elements;
  - (4) Any dedicated driveways or parking; and
  - (5) Any dedicated common area.
- (D) The applicant proposes exactly one dwelling unit on each resulting lot, except for lots, parcels or tracts used as common areas.
- (E) The applicant demonstrates that buildings or structures on a resulting lot will comply with applicable building codes provisions relating to new property lines and, notwithstanding the creation of new lots, that structures or buildings located on the newly created lots will comply with the Oregon residential specialty code.
- (F) The original lot dedicated and improved the abutting street right of way sufficient to comply with minimum right of way and improvement standards of Article 3, or dedication and/or improvements of the abutting street right of way are proposed that meet the standards of Article 3.



- (G) The type of middle housing developed on the original lot shall not be altered by a middle housing land division. For example, cottage cluster units within a cottage cluster do not become single-family detached residential units after a middle housing land division.

#### **8.060 Conditions of Approval - Expedited and Middle Housing Land Division.**

The City Manager may add conditions of approval of a tentative plan for a middle housing land division or expedited land division as necessary to comply with the applicable criteria of approval. Conditions may include but are not limited to the following:

- (A) A condition to prohibit the further division of the resulting lots or parcels.
- (B) A condition to require that a notation appear on the final plat indicating that the approval was given under Section 2 of Senate Bill 458 (2021) as a middle housing land division.
- (C) A condition to require recording of easements required by the tentative plan on a form acceptable to the City, as determined by the City Attorney.

#### **8.070 Final Plat - Expedited and Middle Housing Land Division.**

- (A) An expedited land division or middle housing land division is subject to the final plat standards and procedures as specified in the applicable Article 5 (Partitions) or Article 6 (Subdivisions).
- (B) A notice of middle housing land division for each middle housing lot shall be recorded with the county recorder that states:
  - (1) The middle housing lot may not be further divided.
  - (2) No more than one unit of middle housing may be developed on each middle housing lot.
  - (3) The dwelling developed on the middle housing lot is a unit of middle housing and is not a single family detached residential unit, or any other housing type.
- (C) A final plat is not required prior to issuance of building permits for middle housing proposed with a middle housing land division.
- (D) A middle housing land division tentative plan is void if and only if a final plat is not approved within three years of the tentative approval.

#### **8.080 Appeals.**

Any appeal of an expedited land division or middle housing land division must be as provided in ORS 197.375. The Approval Authority for any appeal of an expedited land division or middle housing land division is a city-appointed hearings referee.