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 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.

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, playgrounds, or gazebos.

Common Wall. Means a wall or set of walls in a single structure shared by two or more dwellings. The common wall must be shared for at least 25 percent of the length of the side of the building of the dwellings. The common wall may be any wall of the building, including the walls of attached garages.

Cottage. Means an individual dwelling that is part of a cottage cluster.

Cottage cluster project. Means a development site with one or more cottage clusters. Each cottage cluster as part of a cottage cluster project must have its own common courtyard.

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].

Courtyard apartment project. Means a development site with one or more courtyard apartments. Each courtyard apartment as part of a courtyard apartment project must have its own common courtyard.

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, multi-unit, also called Multi-unit housing *means 5 or more dwelling units located on the same lot or development site, not including middle housing.*

Dwelling. 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, duplex. Means a detached building, including a manufactured housing unit containing two dwellings. Two dwellings on a lot or parcel. This includes any configuration of two detached or attached dwellings on one lot or parcel. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling with an ADU.

Dwelling, cottage cluster. Means a grouping of no fewer than four detached dwellings per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard.

Dwelling, courtyard apartment. Means a grouping of no fewer than four attached dwellings per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard.

Dwelling, one-plex. Means a detached structure on a lot or parcel that is comprised of a single dwelling. One-plexes may be constructed off-site, e.g., manufactured dwellings or modular homes.

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

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

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

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

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.

Frontage. Means the portion of a lot or parcel that abuts a street.

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].

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.

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 or parcel. Means any legally created unit of land.

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 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. Highest permissible number of dwellings allowed on a specific property or in a given area. 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. Lowest permissible number of dwellings allowed on a specific property or in a given area. 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].

Middle housing. Means duplexes, triplexes, quadplexes, cottage clusters, courtyard apartments, and townhouses.

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 seasonable 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 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 **slope angle starting point,** the side yard height plane slopes up at a specified angle (**slope angle**) until it reaches the maximum allowed building height or intersects with the side yard height plane from an opposite side of the lot.

Figure 1.030(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].

Site area. Means the total area of a development site calculated after subtracting any required or planned dedication of public rights-of-way and/or designation of private rights-of-way.

Story. Means a portion of a building between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, the space between such floor and the ceiling next above it, provided that the following shall not be deemed a story:

- A basement or cellar if the height from finished grade at the exterior perimeter of the building to the finish floor elevation above is six (6) feet or less for at least 50 percent of the perimeter and does not exceed twelve (12) feet above grade at any point;

- An attic or similar space under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such space.

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.

Townhouse project. Means one or more townhouse structures constructed, or proposed to be constructed, together with the development site where the land has been divided, or is proposed to be divided, to reflect the townhouse property lines and any commonly owned property.

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.

Window area. Means the aggregate area of the glass within each window, including any interior grids, mullions, or transoms.

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. In instances where a lot has more than one street-facing frontage, such as a corner lot, the applicant shall specify at the time of application review which yard is the front. Other street-facing yards shall be defined as the street side yard or yards.

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.

Amended by Ord. No. 25-04, passed January 7, 2026.

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
Middle Housing 1	MH-1
Middle Housing 2	MH-2
Middle Housing 3	MH-3
Commercial	C-1
Limited Commercial	LC

[Amended by Ord. 95-4, passed March 6, 1996. Amended by Ord. No. 25-04, passed January 7, 2026.

Section 2.030 Location of Zones.

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.

ARTICLE 3. USE ZONES

Section 3.010 Middle Housing Zones, MH-1, MH-2, MH-3.

The following tables summarize the development standards and permitted uses for:

- Middle Housing 1, MH-1,
- Middle Housing 2, MH-2, and
- Middle Housing 3, MH-3.

Table 3.010(1) Development Standards

Development Standards	MH-1 (R-2)[1]	MH-2 (R-3, R-4, RMD, and R-2 areas east of Classic St.) [1]	MH-3 (SR-R) [1]
Minimum lot size for townhouse (square feet)	1,500	1,500	1,500
Minimum lot size for duplex, triplex, quadplex, cottage cluster, or courtyard apartment (square feet)	1,500	1,500	1,500
Maximum lot size for one-plex (square feet)	10,000	10,000	10,000
Maximum lot size for duplex, triplex, quadplex, cottage cluster, or courtyard apartment (square feet)	20,000	20,000	20,000
Front yard setback (feet)[2]	20	20	20
Minimum rear yard setback (feet)	5	5	5
Minimum side yard setback (feet)	5	5	5
Corner lot side yard setback (feet)	12	12	12
Floor area ratio (FAR), maximum	Max of .65:1	Max of .65:1	Max of .65:1

[1] Zoning designations in parentheses are previous zoning designations, which may appear in maps and other documents prepared before MH zones took effect.

[2] The street side yard setback of a corner lot shall be 12 feet.

Development Standards	MH-1 (R-2)[1]	MH-2 (R-3, R-4, RMD, and R-2 areas east of Classic St.) [1]	MH-3 (SR-R) [1]
Maximum building height (feet) [3]	28.5	28.5	28.5
Side yard height plane, front of lot (feet) [4]			
- Maximum height of **slope angle starting point** at minimum side yard depth (feet)	10	10	10
- **Slope angle** (degrees)	45	45	45
- Secondary **side yard height plane** setback (feet)	8	8	8
- Max. height at secondary side yard depth (feet)	28.5	28.5	28.5
- Secondary **slope angle** (degrees)	0	0	0
Side yard height plane, rear of lot (feet) [5]			
- Maximum height of **slope angle starting point** at minimum side yard depth (feet)	10	10	10
- **Slope angle**(degrees)	45	45	45
- **One-plex driveway standards (feet|)** - **(Reference Ordinance 94-2)**	25	25	25

[3] 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]

[4] **Side yard height plane** for first 60 feet from front property line.

[5] **Side yard height plane** for rear of lot, between 60 feet from the front property line (feet) and the rear

setback line.

Table 3.010(2) Uses

Key: P – Permitted outright | C – Conditional Use

Uses	MH-1 (R-2) [6]	MH-2 (R-3, R-4, RMD, and R-2 areas east of Classic St.) [6]	MH-3 (SR-R) [6]
One-plex	P	P	P
Accessory dwelling (ADU)	P	P	P
Duplex	P	P	P
Triplex	P	P	P
Quadplex	P	P	P
Cottage Cluster	P	P	P
Courtyard Apartment	P	P	P
Townhouse	P	P	P
Dwelling, multi-unit	-	-	P[9]
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[7]	P	P	P
Manufactured dwelling park[8]	-	P	-
Park and publicly owned recreation area	P	P	-

[6] Zoning designations in parentheses are previous zoning designations, which may appear in maps and other documents prepared before MH zones took effect.

[7] Subject to the requirements of Section 4.135

[8] Subject to the requirements of Section 4.096.

[9] Subject to the requirements of Section 3.020.

Uses	MH-1 (R-2) [6]	MH-2 (R-3, R-4, RMD, and R-2 areas east of Classic St.) [6]	MH-3 (SR-R) [6]
Public or private park or recreation facilities	-	-	P[9]
Utility lines necessary for public service.	P	P	-
Utility substation and lines[10]	-	C	C
Recreation / recreational vehicle[11]	P	P	P
Signs[12]	-	P	P
Short term rental[13]	P	P	P
Church or community hall[14]	C	C	C
Nursery	C	C	
Golf course	C	C	C[15]
Fire station	C	C	C
Schools and daycare centers	C	C	C
Government structure	C[16]	C[17]	-
Radio or TV transmitting tower	-	C	-
Parking lot[18]	-	C	-

[9] Does not include a recreation vehicle parking area.

[10] Necessary for public service

[11] 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.

[12] Subject to the provisions of Article 4, Section 4.070 - Sign Requirements

[13] Subject to the restrictions of Section 6.030 – General Provisions Regarding Accessory Use, (3) Short Term Rental

[14] Subject to the requirements of Section 5.040 Church, Meeting Hall, Community Center, Health Facility or Retirement Home

[15] Includes a club house, eating or drinking establishment or related commercial enterprise such as a pro shop.

[16] Including Utility substation.

[17] Excluding a storage or repair facility.

[18] Subject to Section 4.080 – Off-Street Parking and Off-Street Loading Requirements

Uses	MH-1 (R-2) [6]	MH-2 (R-3, R-4, RMD, and R-2 areas east of Classic St.) [6]	MH-3 (SR-R) [6]
Temporary real estate sales office[19]	-	-	C
Bed & Breakfast establishments[20]	C	C	-
Motels, hotels and tourist courts		C	P[21]
Personal or business service establishments.		C[22]	

Amended by Ord. No. 25-04, passed January 7, 2026.

[19] Office maintained in a model home in a legally recorded subdivision for a period not to exceed one year.

[20] 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 dwelling Building meets fire and life safety code with annual inspection required by City; Signing is subject to Article 4, Section 4.070.

[21] Includes an eating and drinking establishment in conjunction therewith.

[22] Applicable to all Personal or Business Services Establishments in the MH-2 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 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. € 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.

Section 3.020 MH-3 Multi-unit Dwelling Requirements

The provision in this Section shall apply to all new projects and to an addition or remodeling of existing structures that creates additional dwelling units. Areas provided to satisfy the minimum useable open space requirement shall be designated (including area calculation) on the development site plan and shall be preserved as open space.

(1) Permitted. Multiple-dwellings are permitted within the MH-3 zone at a density of 6.5 units per gross acre.

(2) Density Bonus. Multiple-dwelling density in the MH-3 Zone may increase to 13 units per gross acre provided a minimum of 40% of the site includes open space.

(3) Open Space. To comply with the 40% requirements in item (2), the open space shall conform to the following:

(a) Open space areas shall be available to all residents of the development.

(b) A minimum of 50% of the open space requirement shall be developed as permanent open area. The permanent open area shall either be landscaped and permanently maintained **or** remain in its natural vegetative state. Decorative design elements such as fountains, pools (excluding swimming pools and hot tubs), benches, sculptures, planters, and similar elements may be placed within the permanent open area.

(c) Not more than 20 percent of the common open space requirement shall be on land with slopes greater than 15 percent, and/or on delineated sustained wetlands.

(d) In addition to the decorative design elements noted above, open space may include such recreational amenities as children's play areas, basketball courts, tennis courts, swimming pools, and community buildings. These identified recreational amenities shall not be located within the required permanent open area.

(e) The open space calculation shall exclude fenced or secluded areas for individual dwelling units, driveways, parking areas, and required setbacks.

(f) Any part of a designated open space operated by a public agency is exempt from the above requirements.

(g) Example:

Total Gross Area:	60,000 square feet
Required 40% Open Space:	24,000 square feet (0.4 x

60,000)

No more than 4,800 square feet (24,000 x 0.2) may be located on slopes exceeding 20%.

Minimum Permanent Open Area: 12,000 square feet (0.5 x 24,000)

*The permanent open area shall either be landscaped and permanently maintained **or** remain in its natural vegetative state. Decorative design elements such as fountains, pools (excluding swimming pools and hot tubs), benches, sculptures, planters, and similar elements may be placed within the permanent open area.*

Remaining Open Space: 12,000 square feet

Improvements in this area may include the decorative design elements allowed in the permanent open area as well as recreational amenities as children's play areas, basketball courts, tennis courts, swimming pools, and community buildings.

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 MH-1 and MH-2 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.

(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 MH-1 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]

Amended by Ord. No. 25-04, passed January 7, 2026.

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 MH-1 and MH-2 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.

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 dwellings 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.

(e) [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.

(1) 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 hall 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]

(e) 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 revent 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 inspect 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]

(e) 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 Foredune 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 Foredune 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 Foredune 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 Foredune 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 (Horizonal Surface).

10. Horizonal 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 dwellings, mobile homes, duplexes, and multi-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 radio communication between the airport and aircraft.

    b. Making it difficult for pilots to distinguish between airport lights and lighting from nearby land uses.

    c. Impairing visibility.

d. Creating bird strike hazards.

e. Endangering interfering with the landing, taking off or maneuvering of aircraft intending to use airport.

f. 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 Deleted by Ord. No. 25-04, passed January 7, 2026.

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- 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-dwelling residences, duplexes and short term rentals, one (1) permanent sign is allowed without issuance of a permit for each dwelling provided the sign does not exceed 1 ½ 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. 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.

5. 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.

6. 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.

7. Except for parking to serve dwelling uses, 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.

8. Artificial lighting which may be provided shall not create or reflect glare in a residential zone or on any adjacent dwelling.

9. 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.

10. 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.

11. 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.

12. 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]

13. 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]

14. 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]

15. Parking spaces within a structure shall be on no more than one level. [Added by Ord. 11-04, passed November 9, 2011]

Amended by Ord. No. 25-04, passed January 7, 2026.

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)	One-plex dwelling	Two spaces for each dwelling.
(b)	One-plex dwelling, under 500 square feet	One space for each dwelling. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8).
(c)	Triplexes and quadplexes on lots or parcels of less than 3,000 square feet	One space in total. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8).
(d)	Triplexes and quadplexes on lots or parcels greater than or equal to 3,000 square feet and less than 5,000 square feet	Two spaces in total. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8).
(e)	Triplexes and quadplexes on lots or parcels greater than or equal to 5,000 square feet and less than 7,000 square feet	Three spaces in total. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8).
(f)	Triplexes and quadplexes on lots or parcels of greater than or equal to 7,000 square feet	Four spaces in total. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8).

(g)	Cottage clusters and courtyard apartments	One space for each dwelling. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8), and 4.164.
(h)	Townhouse	One space for each dwelling. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8), and 4.165.
(i)	One-plex dwelling on lots 5000 square feet or smaller in the C-1 or L-C zones	One space for each dwelling. Off-street parking spaces must comply with Sections 4.163(6), (7), and (8).
(j)	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 ¼ spaces per unit for all other units; and 2 spaces for a manager's unit.
(k)	Hospital, nursing home, assisted living facility, or similar institution	One space for each 3 beds.
(l)	Church, club, or similar place of assembly	1 space for each 50 square feet of floor area used for assembly.
(m)	Retail, restaurant, and library	One space for each 400 square feet of gross floor area.
(n)	Service or retail shop, retail store handling bulky merchandise such as automobiles and furniture	One space for each 600 square feet of gross floor area.
(o)	Bank, office and medical clinic	One space for each 400 square feet of gross floor area.

Amended by Ord. No. 25-04, passed January 7, 2026.

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 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.

2. The manufactured dwelling shall have exterior siding and roofing material commonly used on residential dwellings within the community.

3. 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.

4. These standards shall be applicable to all manufactured dwellings located in the MH-1, MH-2, MH-3 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 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.

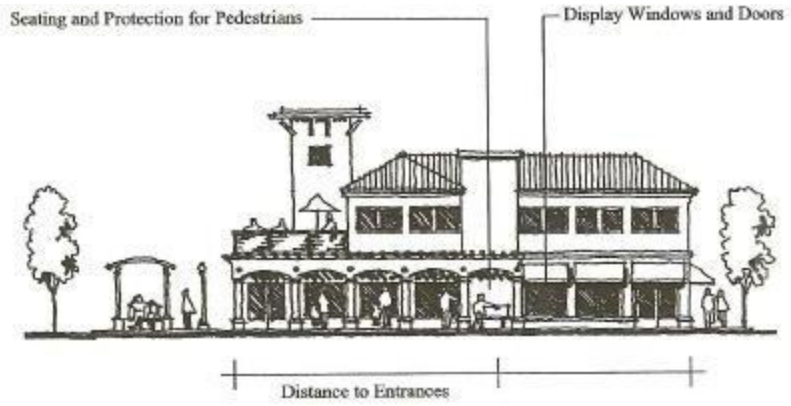
    a. There is compatibility in building sizes between new and existing commercial and mixed use buildings;

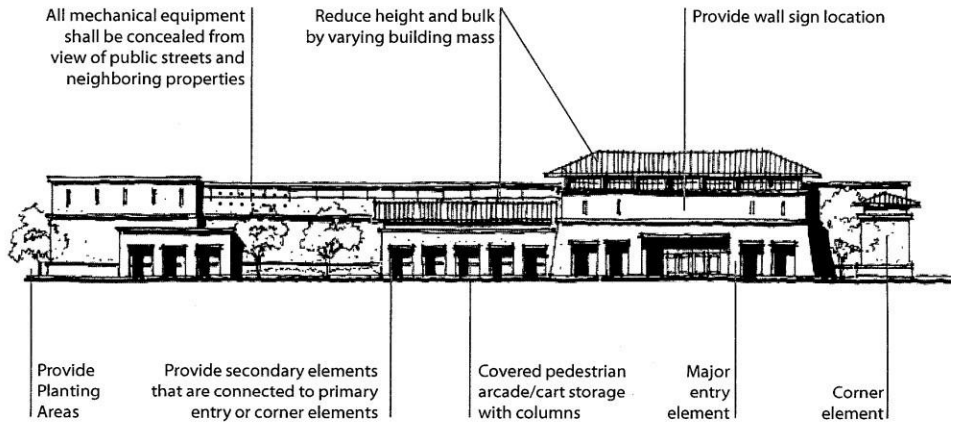
    b. The size, shape and scale of the structures are architecturally compatible with the site and with the village character of the surrounding neighborhood. Particular attention will be paid to addressing the visual impact of the structures on residential uses that are adjacent or on the opposite side 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]

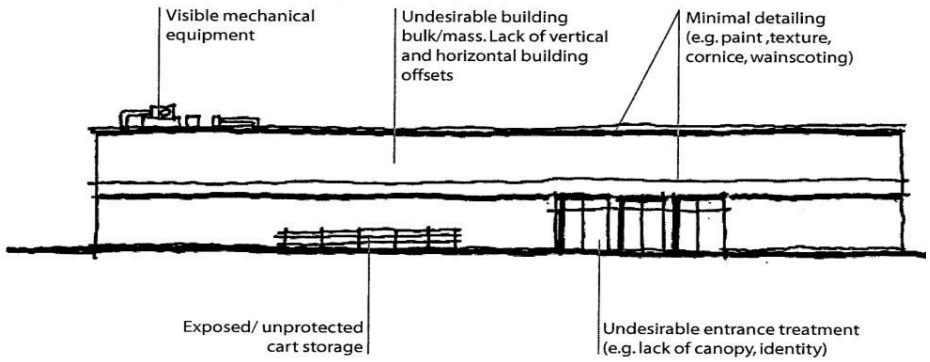
[Section 4.156 renumbered and amended by Ord. 06-04, passed September 18, 2006]

Figure 4.156(A). Examples of design elements





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 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]

Section 4.160 Middle Housing Supplemental Development and Design Standards.

Subsections

Section 4.161 Purpose and Objectives

Section 4.162 Applicability

Section 4.163 Fundamental Design Standards

Section 4.164 Cottage Cluster and Courtyard Apartment Design and Development Standards

Section 4.165 Townhouse Design and Development Standards

Section 4.161 Purpose and Objectives

1. The design standards for, duplexes, triplexes, quadplexes, townhouses, cottage clusters, and courtyard apartments require a minimum level of design on every dwelling. These standards are intended to promote attention to detail and human-scale and pedestrian-oriented design while affording flexibility to use a variety of architectural styles.
2. Residential development is intended to implement following goals:
    a. Housing choice - Support a diverse range of housing options for all residents, and their unique needs and preferences at each stage of life, and
    b. Pedestrian priority- Residential development that prioritizes the pedestrian and creates a safe bicycling environment.
3. Dwellings must address the following design objectives:
    a. Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
    b. Eyes on the street – A certain percentage of the area of each street-facing façade must be windows.
    c. Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
    d. Detailed design – All street-facing buildings must include several features selected from a menu.

Section 4.162 Applicability

1. The design standards in Section 4.160 apply as follows:

Table 4.162(1) Design Standard Applicability

Design Standard	Where it applies
4.163 – Fundamental Design Standards Applicable to, duplexes, triplexes, quadplexes, cottage clusters, courtyard apartments, and townhouses.	
Articulation – 4.163(1)	Applicable to dwellings facing the street when the closest wall of the street-facing façade is within 50 feet of a front or street side lot line.

Design Standard	Where it applies
4.163 – Fundamental Design Standards Applicable to, duplexes, triplexes, quadplexes, cottage clusters, courtyard apartments, and townhouses.	
Windows – 4.163(2)	Applicable to dwellings facing the street, when the closest wall of the street-facing façade is within 50 feet of a front or street side lot line, and Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
Main Entrance – 4.163(3)	Applicable to dwellings facing the street, when the closest wall of the street-facing façade is within 50 feet of a front or street side lot line, and Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
Detailed Design – 4.163(4)	Applicable to dwellings facing the street, when the closest wall of the street-facing façade is within 50 feet of a front or street side lot line, and Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
Pedestrian Circulation – 4.163(5)	Applicable to the entire site, and Applicable only for new buildings.
Off-Street Shared Parking – 4.163(6)	Applicable to clustered parking where parking spaces are 5 or more.
Garage Setback – 4.163(7)	Applicable to dwellings facing the street, when the closest wall of the street-facing façade is within 50 feet of a front or street side lot line, and Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
On-site Parking Options – 4.163(8)	Apply in addition to 4.163(6) and (7).

Design Standard	Where it applies
4.163 – Fundamental Design Standards Applicable to, duplexes, triplexes, quadplexes, cottage clusters, courtyard apartments, and townhouses.	
	Applicable to, duplexes, triplexes, quadplexes, cottage clusters, courtyard apartments, and townhouses.

4.164 – Cottage Cluster and Courtyard Apartment Design and Development Standards In addition to applicable design standards in 4.163, the following development and design standards apply to Cottage Clusters and Courtyard Apartments.
4.164(1) – Applicability 4.164(2) – Numerical standards 4.164(3) – Development standards 4.164(4) – Design Standards

4.165 – Townhouse Design and Development Standards In addition to applicable design standards in 4.163, the following development and design standards apply to Townhouses.
4.165(1) – Applicability 4.165(2) – Numerical standards 4.165(3) – Development standards 4.165(4) – Design Standards

2. The design standards in Section 4.160 further apply to the types of development listed below.
   a. New dwellings.

b. Expansions of structures 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(2), Eyes on the Street. The expanded façade area must meet the standards of Section 4.161 (2), 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:

        i. The entire street-facing façade shall comply with Subsection 4.161(2) Windows.

        ii. Subsection 4.161(2) 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.

        iii. Subsection 4.161(2) Articulation is applicable for expansions that add 20 lineal feet or more to the length of the street-facing façade.

        iv. Subsection 4.161(2) 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.

        v. 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.

    b. 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:

        i. Subsection 4.163(1) Articulation 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.

        ii. Subsection 4.163(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.

iii. Subsection 4.163(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.

b. All buildings that meet one or more of the applicability provisions in Section 4.161 shall meet the corresponding design standards in Section 4.163. The graphics provided in this Section 4.163 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.

c. An applicant may request a variance to the design standards in 4.160 through Design Review, pursuant to Subsection 4.150 or Variances pursuant to Article 8.

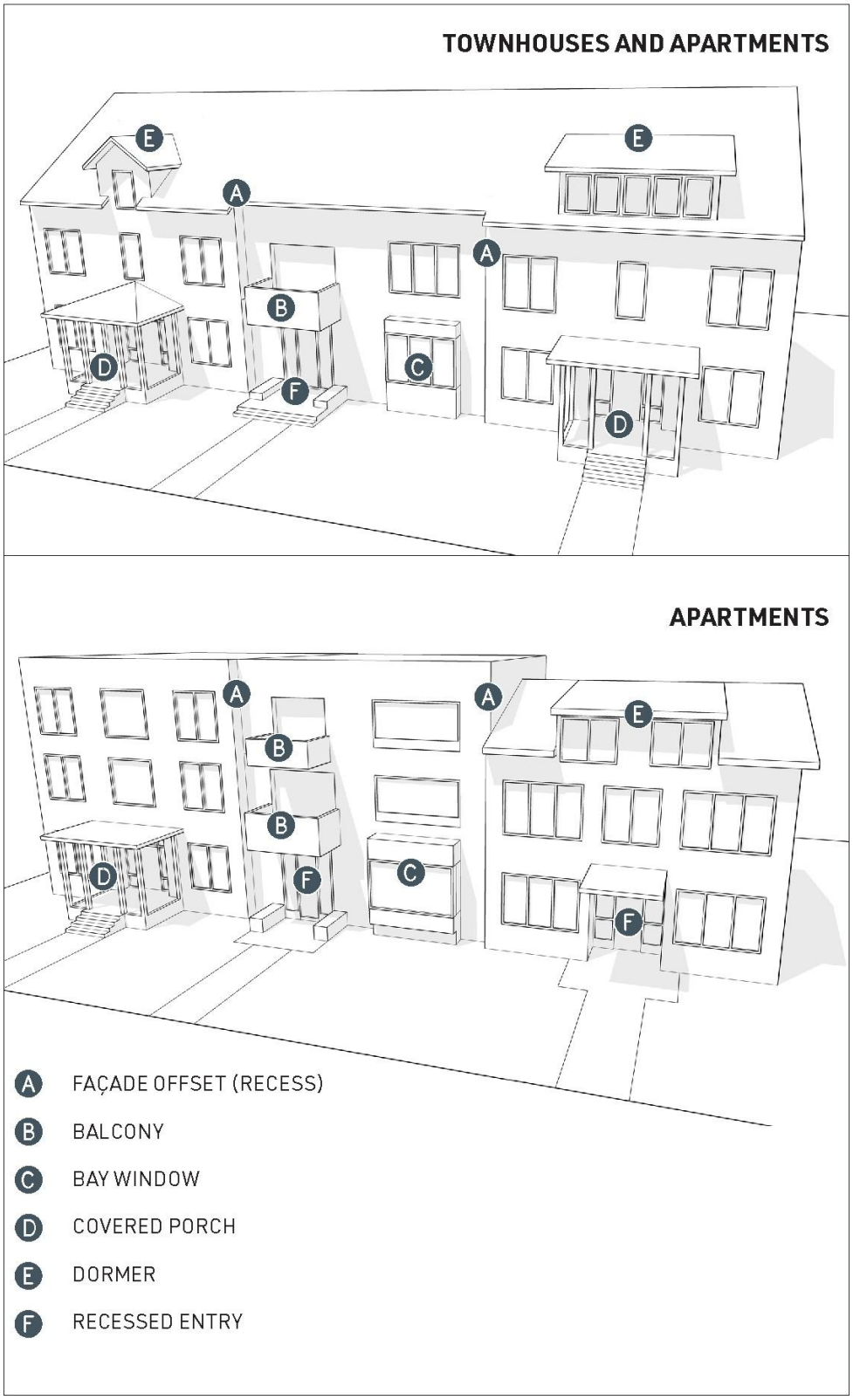
Section 4.163 Fundamental Design Standards.

1) **Articulation.** All buildings shall incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 4.163(1) 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 4.163(1)(a)(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 unless the frontage-facing building façade includes a garage, then 4.163(8) applies.

Figure 4.163(1) Articulation

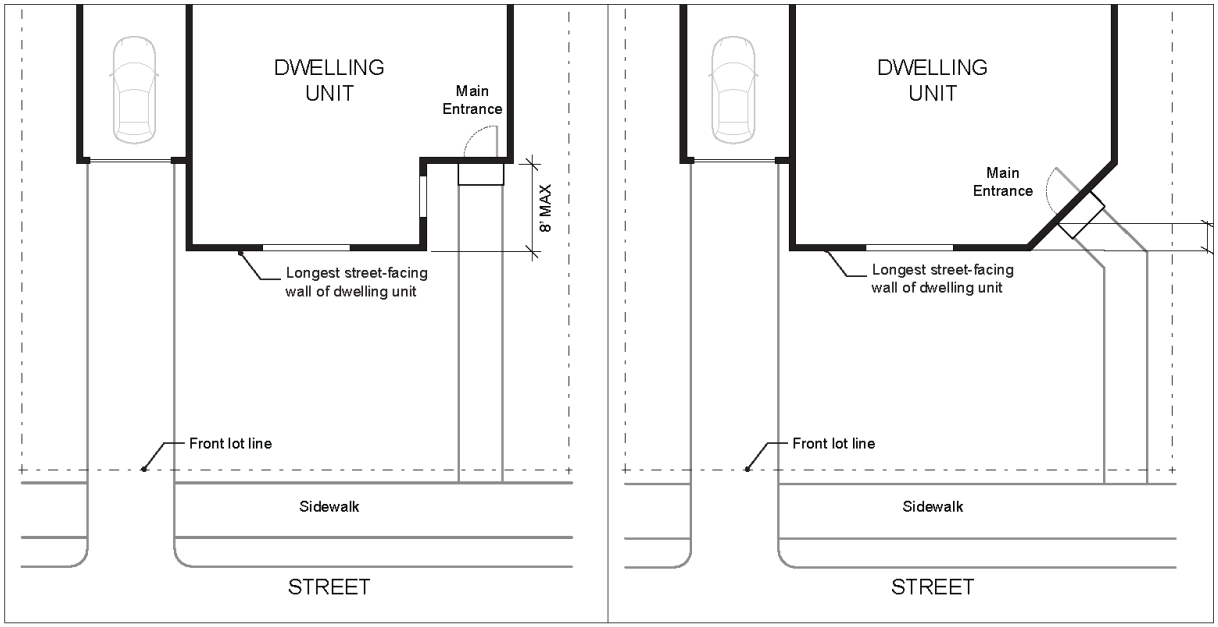
FIGURE 4.163(1) ARTICULATION



2) **Windows.** At least 15% of the area of each street-facing façade must be windows.
    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.
3) **Main entrance.** At least 1 main entrance must meet both of the following standards. See Figure 4.163(2) 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 4.163(2) – Main Entrance

FIGURE 4.163(2) MAIN ENTRANCE



MAIN ENTRANCE FACING THE STREET

MAIN ENTRANCE AT 45 DEGREE ANGLE

4) **Detailed design.** All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 4.163(3) Detailed Design 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) Gable roof, hip roof, or gambrel roof design.

   h) Window trim around all windows at least 3 in wide and 5/8 in deep.

   i) Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.

   j) 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.

k) 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.

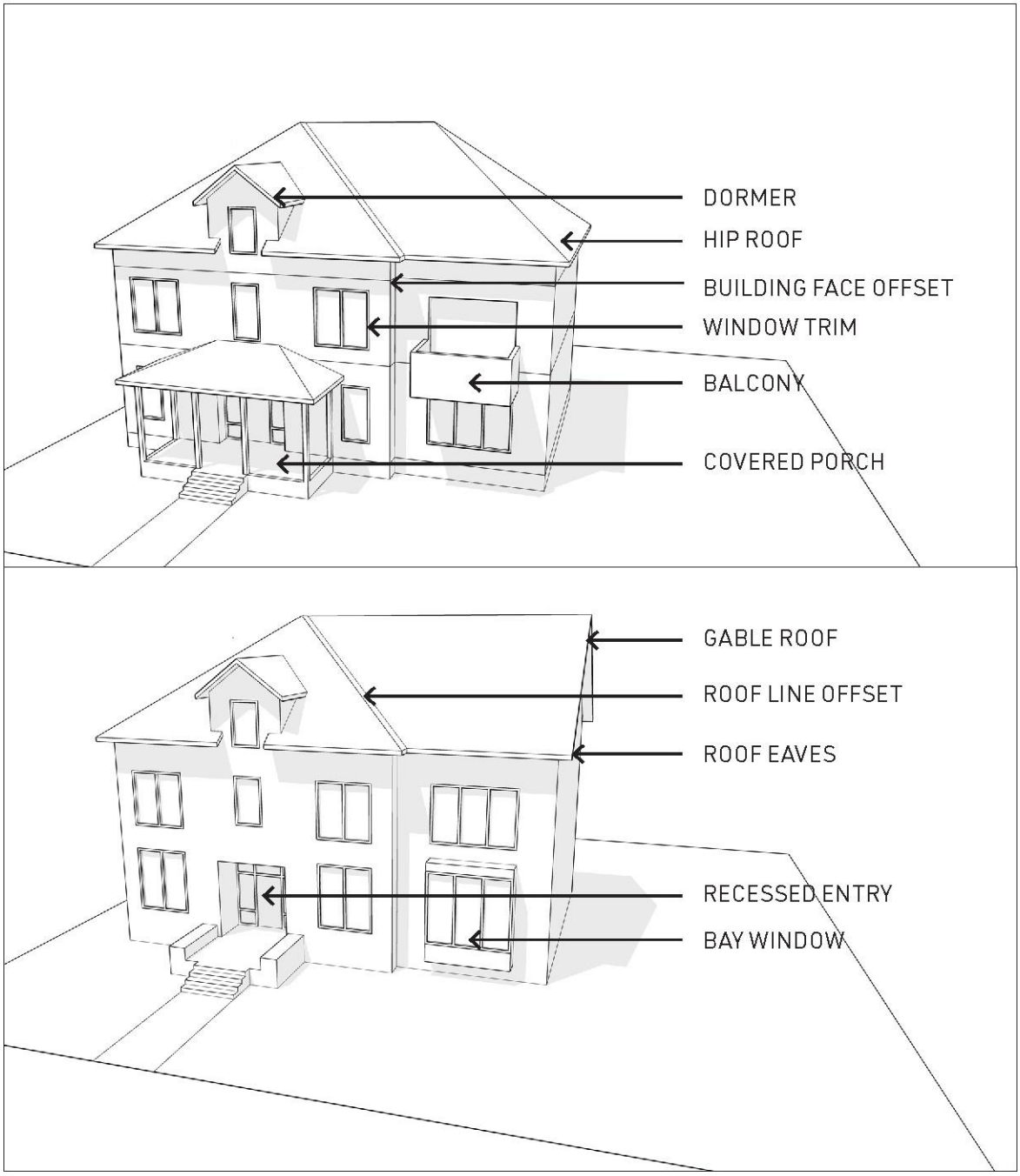
l) Bay window at least 2 ft deep and 5 ft long. For Townhouses this standard is 2 ft deep by 4 ft wide.

m) 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.

n) For Townhouses, balconies and bay windows may encroach into a required setback area.

Figure 4.163(3) Detailed Design

FIGURE 4.163(3) DETAILED DESIGN



5) **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.

6) Off-street shared parking.

   a) Off-street parking may be arranged in clusters, subject to the following standards:

      i) Cottage cluster or courtyard apartment projects with fewer than 16 dwellings are permitted parking clusters of not more than five (5) contiguous spaces.

      ii) Cottage cluster, courtyard apartment projects with 16 dwellings 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 dwellings located closest to the street property line. This standard does not apply to alleys.

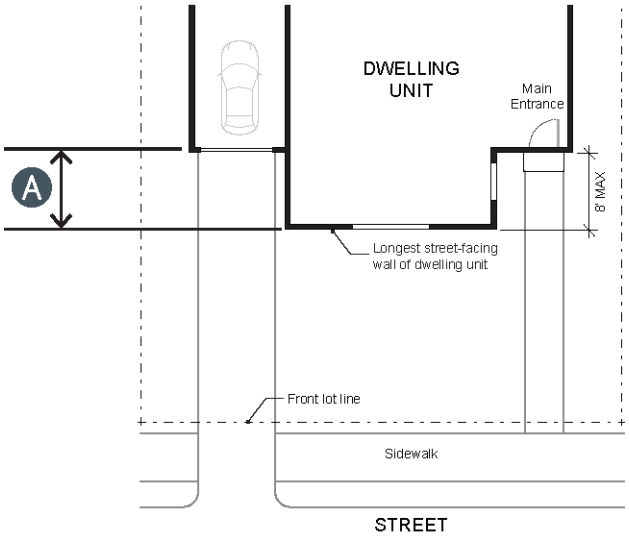
   d) Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines. Driveways and drive aisles are permitted within 10 feet of other property lines. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets. Garages and carports (whether shared or individual) must not abut common courtyards.

7) Garage setback.

   a) Garage must be set back a minimum of five feet from the longest street-facing wall of the dwelling, see Figure 4.163(4).

Figure 4.163(4) Garage Setback

FIGURE 4.163(4) GARAGE SETBACK



A GARAGE SETBACK: Minimum of five feet from the longest street-facing wall of the dwelling

8) **On-site parking options.** To satisfy off-street parking requirements of Section 4.090, parking may be located in a driveway or in a parking pocket.

   a) Driveways. A driveway must meet the following dimensional and location standards:

      i) Driveways are limited to 12 feet in width;

      ii) Driveways must be no less than 3 feet from the side lot line;

      iii) Driveways must be 20 feet minimum in length, measured from the property line, and

      iv) If a driveway is shared with an adjacent lot, the total driveway width may be a maximum of 15 feet and no 3-foot side setback is required.

      v) If a garage exists, the front wall or door of the garage must be minimum of 20 feet from the property lines and is subject to 4.163(7).

   b) Parking pocket. A parking pocket is a single, parallel parking space adjacent to the public street or right of way and located entirely on private property. A driveway or parking pocket must meet the following dimensional and location standards:

i) Only one parking pocket is permitted for every 50 feet of street frontage.

ii) Parking pockets are limited to 10 feet in width;

iii) Parking pockets must be no less than 3 feet from the side lot line;

iv) Parking pockets must be a minimum of 20 feet and a maximum of 30 feet in length;

v) Parking pockets must be no closer than 4 feet from a driveway or another parking pocket;

vi) Parking pockets and driveways must be separated by 3 feet of planting.

Section 4.164 Cottage Cluster and Courtyard Apartment Standards.

1. Applicability. Cottage clusters, cottage cluster developments, courtyard apartments, and courtyard apartment developments must comply with this section.
2. Numerical standards.
    a. Minimum number of cottages in a cottage cluster development: Three (3)
    b. Maximum number of cottages in a cluster.
        i. In MH-1: Four (4).
        ii. In MH-2, and MH-3: Sixteen (16).
    c. Minimum number of dwellings in a courtyard apartment development: Three (3).
    d. Maximum number of dwellings in a courtyard apartment development.
        i. In MH-1: Four (4).
        ii. In MH-2, and MH-3: Sixteen (16).
3. Development standards.
    a. Minimum lot size: Same as base zone
    b. Minimum lot width: N/A
    c. Density, maximum: N/A
    d. Density, minimum: 4
    e. Setbacks: Same as base zone.
    f. Building separation: Six feet minimum between cottages. Minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.
    g. Courtyard apartment dwellings may be attached.
    h. Cottage cluster separation: 20 feet is required between cottage cluster developments or courtyard apartment developments that occupy a single lot.

i. Dwelling size, average, in square feet.

    i. The maximum building footprint is 900 square feet per dwelling. The building footprint does not include porches, decks, etc. The maximum average floor area for a cottage cluster or a courtyard apartment is 1,400 square feet per dwelling. Community buildings shall not be included in the average floor area calculation for a cottage cluster or courtyard apartment but shall not exceed the square footage of the largest dwelling. Up to 200 square feet may be exempted in the calculation of a dwelling'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. 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 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 single family dwelling may remain on a lot with a cottage cluster, if it is converted as follows.

        1. The preexisting single family dwelling may be nonconforming with respect to the requirements of the base zone.

        2. The preexisting single family dwelling may be expanded up to the maximum height in 4.162(4)(k) or the maximum building footprint in 4.162(4)(i) however, existing dwellings that exceed

the maximum height and/or footprint for a cottage or courtyard apartment may not be expanded; however, a preexisting single detached dwelling that exceeds the maximum height, footprint, or dwelling size of the applicable code for cottage clusters may not be expanded.

3. The preexisting single dwelling shall count as a dwelling in the cottage cluster, and the floor area of the preexisting single dwelling shall not count towards any cottage cluster average or cottage cluster project average or total dwelling size limits.
4. The existing dwelling shall be excluded from the calculations of average cottage or courtyard apartment footprint.

ii. The time limit for conversion of a single dwelling to a cottage cluster cannot exceed five years.

4. 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.

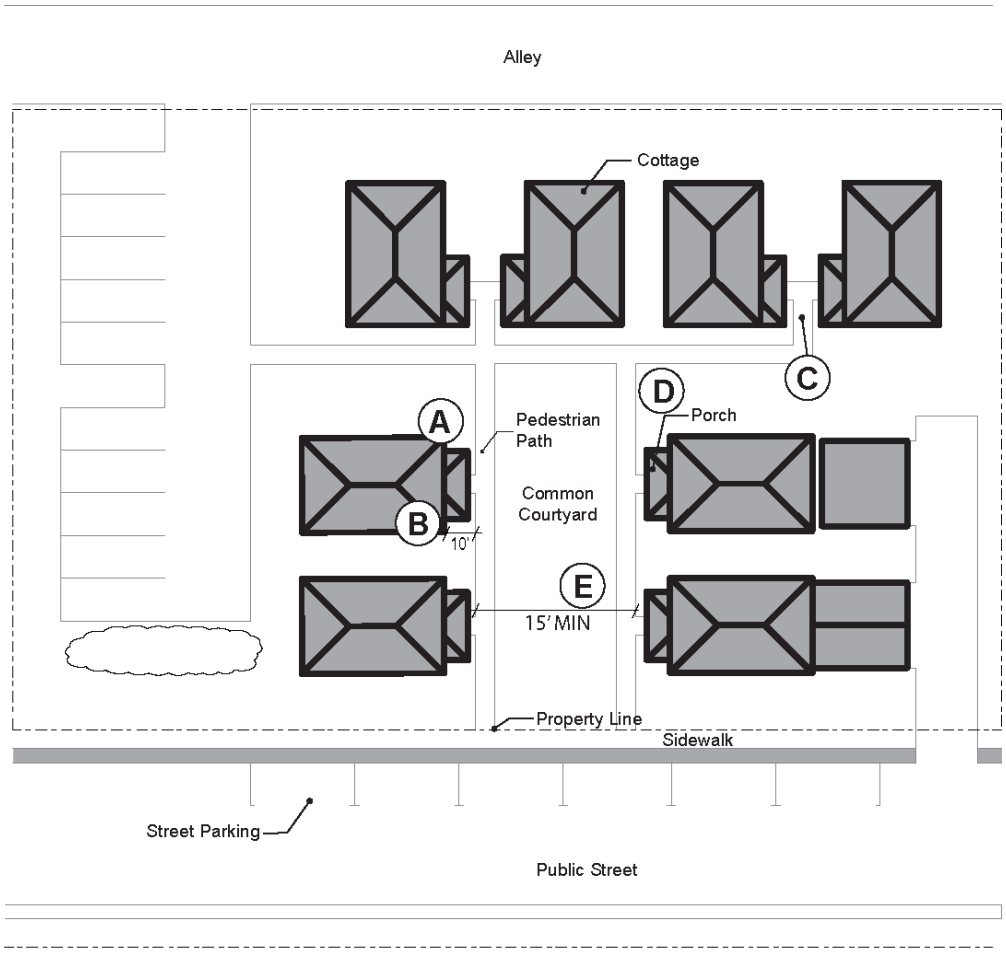
viii. Common courtyards may contain drainage swales and utilities, provided the area is otherwise usable for open space purposes.

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 4.164(1) – COTTAGE CLUSTER DESIGN STANDARDS



(A) A minimum of 50% of cottages must be oriented to the common courtyard.

(B) Cottages oriented to the common courtyard must be within 10 feet of the courtyard.

(C) Cottages must be connected to the common courtyard by a pedestrian path.

(D) Cottages must abut the courtyard on at least two sides of the courtyard.

(E) The common courtyard must be at least 15 feet wide at it narrowest width.

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 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 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 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 in accordance with 4.162(4)(m). The existing dwelling shall be excluded from the calculations of the orientation toward the common courtyard.

g. Garages.

i. When individual attached garages are provided for dwellings in a cottage cluster or a courtyard apartment, up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.

ii. Individual detached garages must not exceed 400 square feet in floor area.

iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

Section 4.165 Townhouse Standards.

1. Applicability. Townhouses and townhouse developments must comply with this section.
2. Numerical standards
   a. Minimum number of townhouses in a townhouse development: Two (2).
   b. Maximum number of townhouses in a townhouse development:
      i. In MH-1: Two (2)
      ii. In MH-2 and MH-3: Four (4)
3. Development standards
   a. Minimum lot size: Same as base zone
   b. Minimum lot width: N/A
   c. Density, maximum: 25
   d. Density, minimum: 16

e. Setbacks: Same as base zone.

f. Building separation: Six feet minimum between townhouse projects: 10 feet.

g. Required street frontage, minimum: 20 feet.

h. Flag lot limitations: Townhouses are not permitted on a flag lot.

4. Design Standards. Townhouses are subject to 4.161 Design Standards Residential Design Standards. Additional design standards that apply to townhouses are listed below.

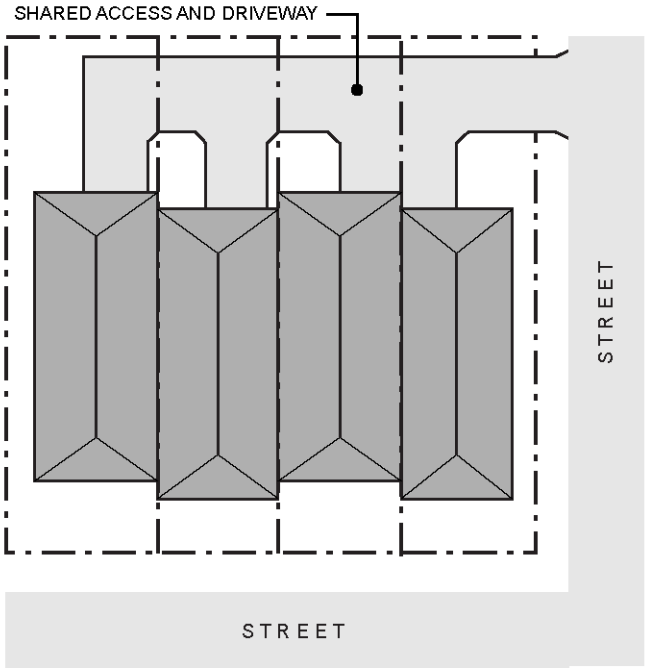
   a. Driveway access and parking.

      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 4.163(1).

Figure 4.165(1). Townhouses on corner lot with shared access

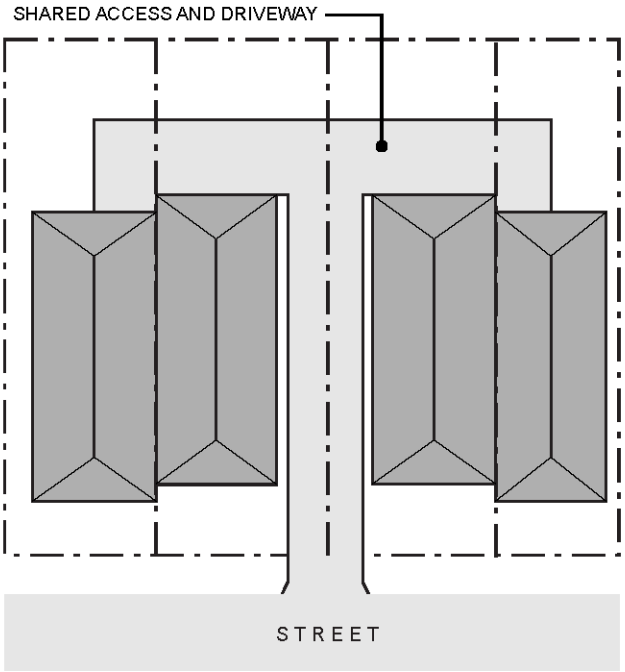
FIGURE 4.165(1) TOWNHOUSES ON CORNER LOT WITH SHARED ACCESS



iii. Townhouse projects that do not include a corner lot shall consolidate access for all lots into a single driveway. See Figure 4.163(2).

Figure 4.165(2). Townhouses with consolidated access

FIGURE 4.165(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.

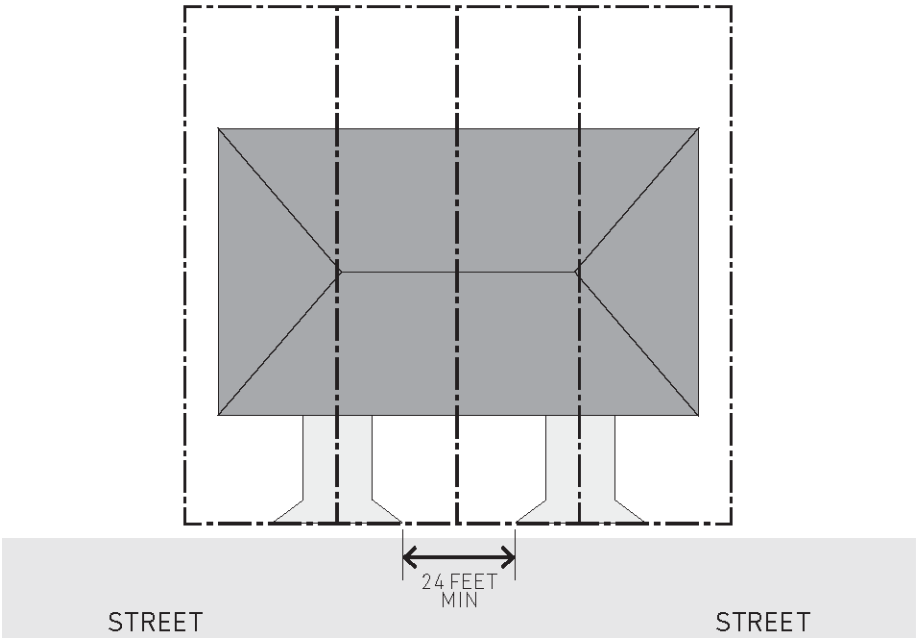
v. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless the following standards are met. See Figure 4.163(3).

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 4.165(3). Townhouse minimum driveway separation

FIGURE 4.165(3) TOWNHOUSE MINIMUM DRIVEWAY SEPARATION



Section 4.170. Accessory Dwelling Units - Where permitted, an accessory dwelling unit may be sited on a lot with an existing or under-construction single-family home (one-plex) or duplex, shall conform to all building code requirements, and shall meet the following use and development standards:

(A) Location.

1. Detached. The accessory dwelling unit, if freestanding, shall be located within the side or rear yard and physically separated from the primary residence by a minimum distance of six feet. A covered walkway which contains no habitable space may connect the two buildings without violation of the separation requirement.
2. Attached. An accessory dwelling may be integrated into an existing or under-construction single-family home (one-plex). A structure with an attached ADU shall not have more than one front entry facing the same direction. Entries on

different building frontages, or a shared entry, shall be required.

(B) Design Limitations. The following design limitations shall apply.

1. Single Family Home (One-plex) – An accessory dwelling unit may either be detached or attached.
2. Duplex – The accessory dwelling unit shall be detached.

(C) Number. Only one accessory dwelling unit shall be permitted per lot or parcel.

(D) Public Facilities. All accessory dwelling units shall be connected to domestic sewer and water. A separate address may be required for the residence.

(E) Area. The floor area of a detached accessory dwelling unit, or an addition to an existing residence to add an accessory dwelling unit, shall not exceed 75% of the floor area of the primary residence or 800 square feet, whichever is less. An accessory dwelling unit created by a remodel of an existing residence may not occupy more than one floor of the residence regardless of size.

(F) Setbacks. An accessory dwelling unit, either detached or attached, shall comply with the applicable setbacks of the underlying zone.

(G) Parking. There are no additional parking requirements.

(H) Height. The maximum height of a detached accessory dwelling unit shall be 20 feet but in no case shall the height exceed the height of the primary residence. Accessory dwelling units built within or as additions to the primary dwelling unit shall not exceed the maximum height limit of the underlying zone.

(I) Floor Area Ratio. The accessory dwelling unit, detached or attached, shall be included in the floor area ratio (FAR) calculation.

(J) Rentals. Accessory dwelling units may be used as long-term housing rentals (no less than 30 days per month) or as a property owner's residence.

(K) Short-term Rental Prohibition. Short-term rentals are prohibited on property containing an accessory dwelling unit. This prohibition applies to both the primary residence and accessory dwelling unit.

Amended by Ord. No. 25-04, passed January 7, 2026

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-obscuring 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 enrolment.

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.

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 other wise 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.

Not withstanding 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 MH-1, MH-2, and MH-3 zones. This cap shall be 17.5% of the dwelling within these zones. This percentage cap is based on the ratio of registered short term rentals to the total number of dwelling in the MH-1 and MH-2 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 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 publish 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, prejudgment, 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 reasonable 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.